

DR. JAMES WHITFIELD,

Plaintiff,

v.

**GRAPEVINE-COLLEYVILLE
INDEPENDENT SCHOOL DISTRICT
and TAMMY NAKAMURA,**

Defendants.

IN THE 348th DISTRICT COURT

TARRANT COUNTY, TEXAS

DEFENDANT NAKAMURA'S PLEA TO THE JURISDICTION

Plaintiff bases his claims on an agreement that he alleges Defendants breached. Plaintiff does not allege the Grapevine-Colleyville Independent School District (“GCISD”) Board of Trustees, as a corporate body, has made any disparaging remarks about him. Instead, he bases his entire claim on comments he alleges Tammy Nakamura, an individual school board trustee, made about him. But Nakamura was not a trustee at the time the parties entered into the agreement. By its plain terms, she is not bound by its limitations and governmental immunity bars Plaintiff’s claims against her. The Court should grant this plea to the jurisdiction and dismiss Plaintiff’s claims against Nakamura as a result.

FACTUAL SUMMARY

GCISD is a public school district located in Tarrant County that educates over 13,000 students. Pursuant to Texas law, the GCISD Board of Trustees is a separate entity from the district and “constitute[s] a body corporate.” TEX. EDUC. CODE § 11.151(a). The board is charged governing the district and overseeing its management. TEX. EDUC. CODE § 11.051. Tammy Nakamura was elected to the Board of Trustees May 2022.

A few years prior to Nakamura's election, Plaintiff was named the principal at Colleyville Heritage High School at a board meeting on May 18, 2020. A few weeks later, Plaintiff sent an email, from an address that identified itself as from "Colleyville Heritage High School" to all of the families, faculty, and staff at the school. Plaintiff claimed to be writing the email at "4:30 in the morning" and it concerned the "recent deaths of George Floyd, Ahmaud Arbery, and Breonna Taylor." Because of the wide group of recipients and due to the national discussion surrounding those matters, GCISD leadership fielded a number of inquiries from parents and community members regarding the email.

Over a year later, in his June 6, 2021 end-of-year evaluation, Plaintiff's reviewer praised Plaintiff for "a high level of passion and commitment to the topic of equity for all students." *See* Evaluation; attached as Exhibit 1. However, the evaluation noted deficiencies for not routinely working with teachers and staff in given areas, failing to provide formal feedback to teachers, and failing to lead the development of initiatives for school improvement. Plaintiff's evaluation also noted Plaintiff's peers scored him lower in given areas than the year before. The evaluation further stated, "You demonstrated through words on social media but not through action that teachers and staff can have an impact on student learning."

At a board meeting in July 2021, Plaintiff was mentioned in comments from a citizen during the public comment portion of the meeting. The day after the meeting, Plaintiff wrote on social media to express his concern about the board meeting comments. He also republished the email he had sent one year prior to all CHHS families, faculty, and staff. Plaintiff also sat for media interviews during this time from a wide range of publications. Because of Plaintiff's actions, the incident generated a large amount of attention in the community.

GCISD administration began to work with Plaintiff and counsel him regarding the incident, his reaction to it, and the subsequent actions he was taking that had an effect on the GCISD community. The administration met with Plaintiff on several occasions, both formally and informally, regarding the events. Plaintiff also received written instructions directing him to comply with GCISD policies and protocols and to refocus on his school's staff, students, and the beginning of school year. Plaintiff often responded to these meetings in writing.

On August 29, 2021, Plaintiff wrote a memorandum to Robin Ryan, then GCISD's superintendent. *See* Memorandum; attached as Exhibit 2. He sent the email at 9:29 pm that evening and copied a representative from GCISD's human resources department. *See* Email; attached as Exhibit 3. In his memo, which Plaintiff labeled "Rebuttal to Review of Past Events and Directives for Future Behavior," Plaintiff:

- Told the superintendent he was "disappointed" in him and alleged "retaliation for my speaking about things that have happened to me while employed in GCISD."
- Accused the superintendent of "gas lighting" to a level that was "beyond comprehension."
- Claimed that the administration was "appeas[ing] a small group of hateful, intolerant, bigoted, racist people."
- Claimed evaluations of his behavior were "frivolous."
- Told the superintendent, "I find that in your leadership capacity as Superintendent you have violated the following provisions of the Educator's Code of Conduct and Board Policy..." and that even though the superintendent was Plaintiff's boss, Plaintiff said he "felt called to spell out these clear violations anyway."

Dr. Ryan placed Plaintiff on administrative leave with pay the next day. *See* Letter; attached as Exhibit 4. Plaintiff again commenced a series of media interviews relating to the incident and his employment.

In late September 2021, the GCISD Board voted to propose nonrenewal of Plaintiff's employment contract consistent with its policies and with the recommendation of the GCISD administration. Dr. Ryan informed Plaintiff of the same the day after the meeting via letter. *See* Letter; attached as Exhibit 5.

Plaintiff requested a hearing regarding the nonrenewal and, following a mediation, GCISD and Plaintiff entered into a Compromise, Settlement, and Release Agreement (the "Agreement") regarding his employment that is at the center of this current dispute. *See* Agreement; attached as Exhibit 6. Examination of the agreement's language is critically important to this motion and the case, given Plaintiff's allegations.

First, the Agreement is between Plaintiff and GCISD. While the terms "trustees" and "successors" are used in defining the parties, the term "successors" modifies District (as defined in the Agreement) and not "trustees." Exhibit 1, page 1.

THIS AGREEMENT is made by and between the Grapevine-Colleyville Independent School District, its agents, trustees, successors, representatives and employees ("District"), a political subdivision of the State of Texas located in Tarrant County, Texas, and Dr. James Whitfield, his representatives, heirs, executors, and assigns ("Whitfield").

From a plain reading, the Agreement only references the then-current trustees. Nothing in the Agreement contemplates or even references future trustees.¹

¹ GCISD's trustees are elected every May on a rolling basis. In some years, two positions stand for election. In other years, three positions stand.

Next, in the portion of the Agreement Plaintiff relies on to maintain his claims, the Agreement states:

... the District’s Board, Human Resources Department, and the Superintendent agree not to make any disparaging remarks about Whitfield, his family members, representatives and/or agents. Further, the above-named District employees agree not to harass, intimidate, or disparage Whitfield... directly or indirectly, personally or through a third party...

See Exhibit 6, para. 9.

Although this is the only time the Agreement uses the discrete term “District’s Board,” the Agreement does refer to “the Board of Trustees” in language pertaining to Plaintiff’s release of GCISD. See Exhibit 6, para. 3. Importantly, in that paragraph, the Agreement goes so far as to refer to “the individual members” of the Board of Trustees in connection with the release. *Id.* That language does not appear in the paragraph upon which Plaintiff relies for his claims here.

Thus, in places, the Agreement plainly contemplates GCISD successors and, in other places, individual trustees but, despite that recognition, made no provision for *successor trustees*. And, even if it did, the Agreement contains no language that applies the non-disparagement provisions to an individual trustee (whether current or future) but only applies to comments from the District’s Board (a distinct legal entity).

EXHIBITS IN SUPPORT

- | | |
|------------------|--|
| Exhibit 1 | June 6, 2021 Appraisal |
| Exhibit 2 | August 29, 2021 Transmittal Email |
| Exhibit 3 | Plaintiff’s Rebuttal to Review of Past Events and Directives for Future Behavior |
| Exhibit 4 | August 30, 2021 Administrative Leave Letter |
| Exhibit 5 | September 21, 2021 Notice of Proposed Nonrenewal |

LAW AND ARGUMENT

A plea to the jurisdiction challenges a court’s subject matter jurisdiction. *City of Georgetown v. Lower Colo. River Auth.*, 413 S.W.3d 803, 806 (Tex. App.—Austin 2013, pet. dism’d). Subject matter jurisdiction is a question of law for the court and cannot be waived. *Emps. Ret. Sys. v. Putnam, LLC*, 294 S.W.3d 309, 322 (Tex. App.—Austin 2009, no pet.); *see also Thayer v. Hous. Mun. Emps Pension Sys.*, 95 S.W.3d 573, 577 (Tex. App.—Houston [1st Dist.] 2002, no pet.). A plaintiff must “plead facts affirmatively showing that the trial court has jurisdiction.” *Layton v. City of Fort Worth*, No. 02-14-00084-CV, 2014 WL 6997350, *2 (Tex. App.—Fort Worth Dec. 11, 2014, pet. denied) (mem. op.) (citing *Tex. Ass’n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 443-44 (Tex. 1993)).

When reviewing a plea to the jurisdiction, a court must review the jurisdictional evidence in the pleadings, and if no fact issue exists because the evidence is undisputed, “the trial court must rule on the plea as a matter of law.” *Klumb v. Hous. Mun. Emps. Pension Sys.*, 458 S.W.3d 1, 8 (Tex. 2015). When a jurisdictional issue is raised, a court is required to look at evidence outside of the pleadings only if the evidence is necessary to resolve the jurisdictional issue. *Putnam*, 294 S.W.3d at 323. A trial court must dismiss a case and refrain from rendering a judgment on the merits when it learns that it lacks subject matter jurisdiction. *Thayer*, 95 S.W.3d at 577.

A. Plaintiff is trying to hold Nakamura—an individual trustee—to obligations the Agreement binds to only the “District’s Board”

The board of trustees of an independent school district is a “body corporate.” TEX. EDUC. CODE § 11.051(a). An individual trustee cannot act on behalf of the board unless authorized to do so by majority vote. TEX. EDUC. CODE § 11.051(a-1). Here, the obligation Plaintiff claims Nakamura breached pertains to the District’s Board *only*—not an individual trustee. Nakamura’s

comments, according to Plaintiff's Complaint, were made on her own and not even at a GCISD Board meeting. Plaintiff has made no allegation that the Board, by majority vote, authorized Nakamura's comments.

For that simple reason, the provision at issue does not apply to Nakamura individually and she retains the governmental immunity applicable to trustees.

B. Nakamura is entitled to governmental immunity absent a clear and unambiguous waiver by the Texas Legislature.

Governmental immunity protects governmental entities, such as school districts and their trustees, from lawsuits and liability for money damages. *Mission Consol. Indep. Sch. Dist. v. Garcia*, 253 S.W.3d 653, 655 (Tex. 2008). Thus, absent consent or a waiver by the Texas Legislature, trustees retain their governmental immunity. *Doe v. Hurst-Eules-Bedford Indep. Sch. Dist.*, 02-20-00132-CV, 2021 WL 210847, at *2 (Tex. App.—Fort Worth Jan. 21, 2021, no pet.). It is well-settled “that a waiver of governmental immunity must be clear and unambiguous” and, as such, the Texas Supreme Court “interpret[s] statutory waivers of immunity narrowly.” *Id.*, *City of Conroe v. San Jacinto River Auth.*, 602 S.W.3d 444, 457 (Tex. 2020), reh'g denied (June 12, 2020), as corrected (June 12, 2020); *Oncor Elec. Delivery Co. LLC v. Dallas Area Rapid Transit*, 369 S.W.3d 845, 849 (Tex. 2012); TEX. GOV'T CODE § 311.034.

Going further, the Legislature codified a trustee's immunity from suit. Nakamura is entitled to immunity pursuant to Texas Education Code § 22.0511 as Plaintiff's pleading alleges actions taken by Nakamura in her capacity as a board member of GCISD. Plaintiff has not directed the Court to any such waiver with regard to Nakamura's governmental immunity.

C. Governmental immunity bars Plaintiff's contract claim against Nakamura.

Plaintiff has the burden to affirmatively demonstrate the Court's jurisdiction, which “encompasses the burden of establishing a waiver of sovereign immunity in suits against the

government.” *Town of Shady Shores v. Swanson*, 590 S.W.3d 544, 550 (Tex. 2019), citing *Tex. Dep't of Transp. v. Jones*, 8 S.W.3d 636, 638 (Tex. 1999). A school board trustee “is not personally liable for any act that is incident to or within the scope of the duties of the [trustee’s position] and that involves the exercise of judgment or discretion on the part of the” trustee. TEX. EDUC. CODE § 22.0511(a); *see also* Tex. Educ. Code 22.051(a)(5) (including the term “a member of the board of trustees of an independent school district” within the definition of “professional employee of a school district” for immunity purposes).

Plaintiff has not demonstrated a clear and unambiguous waiver of immunity for the claims asserted in his Original Petition because Nakamura was not a party to the Agreement and its terms do not apply to her. As such, governmental immunity bars Plaintiff’s breach of contract claim against Nakamura.

D. Governmental immunity bars Plaintiff’s declaratory judgment claim.

Plaintiff alleges claims for breach of contract and declaratory judgment in his Original Petition. Pltf. Orig. Pet., ¶¶15-19. Specifically, Plaintiff asserts “GCISD and Defendant Nakamura breached the contract when Nakamura defamed Dr. Whitfield in violation of the ‘Mutual Non-Disparagement’ clause of the contract, and/or when she violated the terms of the ‘Joint Statement’ clause of the contract.” Pltf. Orig. Pet., para. 16. Plaintiff’s request for declaratory judgment asks the Court to declare “that all current and future Trustees are bound by the terms of the Settlement Agreement” and “that the statements by Nakamura regarding Plaintiff constituted disparaging remarks under the terms of the Settlement Agreement.” Pltf. Orig. Pet., ¶19. Plaintiff’s request for declaratory judgment is a merely an unauthorized attempt to impose liability on Nakamura for breach of a contract to which she is not a party.

The Uniform Declaratory Judgment Act (UDJA) “allows a person whose rights are affected

by a statute to ‘have determined any question of construction or validity arising under the [statute] and obtain a declaration of rights, status, or other legal relations thereunder.’” *Town of Shady Shores v. Swanson*, 590 S.W.3d 544, 552 (Tex. 2019); TEX. CIV. PRAC. & REM. CODE § 37.004(a). However, the UDJA does not contain a general waiver of sovereign immunity; it provides “only a limited waiver for challenges to the validity of an ordinance or statute.” *Town of Shady Shores*, 590 S.W.3d at 552. As such, “UDJA claims requesting other types of declaratory relief are barred absent a legislative waiver of immunity with respect to the underlying action.” *Id.* at 553. “[t]he UDJA does not enlarge the trial court’s jurisdiction but is ‘merely a procedural device for deciding cases already within a court’s jurisdiction.’” *Tex. Dep’t of Transp. v. Sefzik*, 355 S.W.3d 618, 621-622 (Tex. 2011).

Plaintiff asks this Court to declare that Nakamura is a party to the Agreement and that she engaged in conduct in violation of the Agreement. In other words, Plaintiff is requesting this Court establish the elements of his breach of contract claim—the existence of a contract between Plaintiff and Nakamura and find breaching conduct by Nakamura—through the requested declarations. Plaintiff is attempting to use the UDJA to circumvent the requirements to alleging a viable breach of contract claim against Nakamura. As the UDJA itself does not constitute a general waiver of immunity, Plaintiff must still demonstrate a clear and unambiguous waiver of immunity with respect to his breach of contract claim. By failing to plead a viable breach of contract claim, Plaintiff has not demonstrated such a waiver as the Texas Legislature has not waived immunity from suits asserting claims with no basis in law or fact. *See Mission Consol. Indep. Sch. Dist. v. Garcia*, 372 S.W.3d 629, 635-36 (Tex. 2012); *Andrade v. NAACP of Austin*, 345 S.W.3d 1, 11 (Tex. 2011) (noting the government retained immunity from suit if the plaintiffs failed to plead a viable constitutional claim) (Texas Commission on Human Rights Act waives governmental

employer’s immunity from suit, but only if the plaintiff pleads a prima facie case of prohibited discrimination or retaliation); *Nw. Indep. Sch. Dist. v. K.R.*, 02-20-00067-CV, 2020 WL 4907331, at *3 (Tex. App.—Fort Worth Aug. 20, 2020, no pet.) (“[b]ut for a court to have jurisdiction of constitutional claims against a governmental entity, the constitutional claims must be ‘viable.’”) *City of Houston v. Johnson*, 353 S.W.3d 499, 504 (Tex. App.—Houston [14th Dist.] 2011, pet. denied) (waiver of immunity for violations of the Texas Bill of Rights exists only to the extent the plaintiff has pleaded a viable constitutional claim).

As such, Nakamura retains immunity from Plaintiff’s claim for a declaratory judgment because Plaintiff has not demonstrated a clear and unambiguous waiver of her immunity. The UDJA does not provide such a waiver, and Plaintiff has not otherwise stated a viable claim against Nakamura.

CONCLUSION

Plaintiff has failed to demonstrate this Court’s subject matter jurisdiction because he has failed to identify a clear and unambiguous waiver of Nakamura’s governmental immunity. Rather, Plaintiff invokes the UDJA in an attempt to use the Court as a gap-filler for his deficient breach of contract claim. Absent the identification of a waiver of immunity and a cognizable claim, Nakamura retains her governmental immunity, which deprives this Court of subject matter jurisdiction. Defendant Nakamura respectfully asks the Court to grant her Plea to the Jurisdiction accordingly.

Respectfully submitted,

/s/Timothy Davis

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2023, a true and correct copy of this document was served on all counsel of record via electronic service/e-filing.

/s/Timothy Davis

Jackson Walker LLP



Task: Principal Summary Rating Form

PRINCIPAL SUMMARY RATING FORM

Instructions: The Principal Summary Rating Form is to be completed by the appraiser following the End-of-Year Conference where the principal is allowed the opportunity to share artifacts and evidence pertaining to his/her professional goal and performance throughout the year. The discussion of professional performance is collaborative between the principal and the appraiser.

- A final rating should be given for each indicator.
- Local policy will determine if a final overall rating should be given for each standard.
- The appraiser should use all data collected throughout the evaluation cycle, any completed rubrics, and submitted artifacts and evidence in this final performance evaluation.
- The appraiser should add comments, recommended actions for improvement, and resources needed to complete these actions to guide the principal toward continued growth.

Standard 1 - Instructional Leadership: The principal is responsible for ensuring every student receives high-quality instruction.

	Distinguished	Accomplished	Proficient	Developing	Not Demonstrated / Needs Improvement
a. The principal ensures implementation of state and district curricula and assessments aligned with state standards, including college and career readiness standards.					
b. The principal monitors and ensures high-quality instructional practices among teachers and staff that improve student performance.					
c. The principal monitors multiple forms of student data to inform instruction and intervention decisions to maximize student achievement.					
d. The principal ensures that effective instruction maximizes growth of individual students and student groups, supports equity, and eliminates the achievement gap.					
Overall Rating for Standard 1 (Only for districts that aggregate to the standard level)					

Comments:

Dr. Whitfield has worked with his team to ensure that students have been engaged in both the remote and in-person instructional models. Dr. Whitfield has demonstrated a high level of passion and commitment to

T-PESS Principal Evaluation w/Student Outcome Goal

the topic of equity for all students. He has worked to promote a higher level of understanding about the different learning needs of his students.

Areas for Growth and Resources Needed:

Evidence of documentation that may be used to support ratings:

- Campus Improvement Plan
- Student achievement and testing data
- Leadership teams
- Use of research-based school and classroom practices
- Campus master schedule
- Formative and summative assessments
- Education plans for identified sub-populations
- Stakeholder surveys
- Other

Standard 2 - Human Capital: The principal is responsible for ensuring there are high-quality teachers and staff in every classroom throughout the school.

	Distinguished	Accomplished	Proficient	Developing	Not Demonstrated / Needs Improvement
a. The principal recruits, selects, places, mentors, and retains diverse and highly effective teacher and staff.				<input type="checkbox"/>	
b. The principal coaches and develops teacher and staff by giving individual feedback and aligned professional development opportunities.				<input type="checkbox"/>	
c. The principal implements collaborative structure and provides leadership opportunities for effective teachers and staff.				<input type="checkbox"/>	
d. The principal provides clear expectations of performance and conducts rigorous evaluations of all staff using multiple data sources.				<input type="checkbox"/>	
Overall Rating for Standard 2 (Only for districts that aggregate to the standard level)				<input type="checkbox"/>	

Comments:

Dr. Whitfield has done a good job with hiring staff over the summer during the COVID shutdown. Many of the new hires at CHHS have made dramatic positive impacts to the campus as a whole.

Areas for Growth and Resources Needed:

You do not routinely work collaboratively with teachers and staff to assess the impact of research-based programs and interventions on student learning and achievement. You do not regularly provide teachers and staff with individual feedback. On the Gallup Employee Engagement Survey in the area of "I know what is expected of me at work," CHHS scored 4.28 compared to 4.54 in the previous year.

You have not defined a process for supporting and modeling leadership development and decision-making activities for teachers and staff members. You did not facilitate ongoing support for teachers and staff who took on new dew-decision making roles. On the Gallup Employee Engagement Survey in the area of "There is someone at work who encourages my development," CHHS scored 4.00 compared to 4.22 in the previous year. Additionally, in the area of "This last year, I have had the opportunities at work to learn and grow," CHHS scored 4.04 compared to the 4.34 in the previous year.

You did not create or adopt protocols to provide formal feedback to teachers concerning the effectiveness of their classroom instruction and ways to improve. You did not oversee the evaluation of teachers and staff according to the Board adopted calendar.

- Four new teachers at CHHS were outside of the timeline with district regulations that their appraisal must be completed by the end of their first semester. This expectation was a board adopted T-TESS guideline.
- 81% of summative evaluations were completed in the timeline set forth by the district HR department and state adopted T-TESS guidelines

As an extension of our conversation during your mid year appraisal growth of your administrative team. There were areas of organization and procedures that you could have had more oversight leading to a more successful implementation. Moving forward next year more close oversight and callibration through leadership team meetings, one-on-one instructional walks to ensure consistency between your team.

Evidence of documentation that may be used to support ratings:

- Campus Improvement Plan
- Student achievement and testing data
- Teacher retention data
- Teacher professional growth plans
- Site professional development plan
- National Board Certified Teachers
- Stakeholder surveys
- Other

Standard 3 - Executive Leadership: The principal models personal responsibility and a relentless focus on improving student outcomes.

	Distinguished	Accomplished	Proficient	Developing	Not Demonstrated / Needs Improvement
a. The principal is solutions-oriented, treats challenges as opportunities, and supports the school and community through continuous improvement.				<input type="checkbox"/>	
b. The principal proactively seeks and acts on feedback, reflects on personal				<input type="checkbox"/>	

growth areas, seeks development opportunities, and changes practice in ways that improves student outcomes.

c. The principal communicates with all audience and develops productive relationships.

d. The principal adheres to the Code of Ethics and Standard Practices for Texas Educators in such a way that it demonstrates a moral imperative to educate all children and follows practices and procedures of his or her respective district.

Overall Rating for Standard 3 (Only for districts that aggregate to the standard level)

Comments:

Dr. Whitfield and his staff worked to refine their practices in a difficult year with a great deal of adversity provided by the pandemic. Dr. Whitfield does a good job of connecting and relating to the students at CHHS.

Areas for Growth and Resources Needed:

Looking at the Gallup survey in the section of "I know what is expected of me at work," demonstrated -.26 drop. This drop illustrates a gap in effective communication with staff.

Evidence of documentation that may be used to support ratings:

- Campus Improvement Plan
- Campus leadership teams
- Stakeholder surveys
- Student achievement and testing data
- Visioning documents
- Staff professional development plan
- Teacher retention data
- Other

Standard 4 - School Culture: The principal is responsible for establishing and implementing a shared vision and culture of high expectations for all staff and students.

	Distinguished	Accomplished	Proficient	Developing	Not Demonstrated / Needs Improvement
a. The principal develops, implements, and sustains shared vision of high expectations for all students and staff.					<input type="text"/>
b. The principal establishes, reinforces,					<input type="text"/>

and monitors clear expectations for adult, staff, and student conduct, including social and emotional supports.

c. The principal purposefully engages families and community members in meaningful student learning experiences.

d. The principal creates a safe school environment that ensures the social, emotional, and physical well-being of staff and students.

e. The principal applies a variety of student discipline techniques to meet the behavioral and academic needs of individual students.

Overall Rating for Standard 4 (Only for districts that aggregate to the standard level)

Comments:

Dr. Whitfield and his staff work to provide a safe environment. Additionally, they worked to make sure that their students emotional support needs were addressed appropriately.

Areas for Growth and Resources Needed:

I find that you did not regularly use and apply the Campus Improvement Plan to inform and lead campus decisions. You did not lead the development of clear concise, and agreed-upon processes to empower routine and systematic decisions, activities and initiatives for school improvement. You demonstrated through words on social media but not through action that teachers and staff can have an impact on student learning. You attempted to demonstrate through your words that teachers and staff have an impact on student learning. On the Gallup Employee Engagement Survey in the area of "At work, my opinions seem to count," scored 3.52 compared to 3.90 in the previous year.

You did not implement systems to improve the efficacy of students and staff to improve performance. On the Gallup Employee Engagement Survey in the area of "I know what is expected of me at work," scored 4.28 compared to 4.54 in the previous year.

Evidence of documentation that may be used to support ratings:

- Campus Improvement Plan
- Student discipline data
- Teacher turnover data
- School safety plan
- Stakeholder surveys
- Community partnerships
- Stakeholder engagement activities
- Other

Standard 5 - Strategic Operations: The principal is responsible for implementing systems that align with the school's vision and mission and improve the quality of instruction.

	Distinguished	Accomplished	Proficient	Developing	Not Demonstrated / Needs Improvement
a.Strategic Planning - The principal outlines and tracks clear goals, targets, and strategies aligned to a school vision that continuously improves teacher effectiveness and student outcomes.					<input type="checkbox"/>
b.Maximized Learning Time - The principal implements daily schedules and a yearlong plan for regular data-driven instruction cycles, gives students access to diverse and rigorous instructional programs, and builds in time for professional development.				<input type="checkbox"/>	
c.Tactical Resource Management - The principal aligns resources with the needs of the school and effectively monitors the impact of these resources on school goals.				<input type="checkbox"/>	
d.Policy Implementation and Advocacy - The principal collaborates with district staff to implement district policies and advocate for the needs of district students and staff.				<input type="checkbox"/>	
Overall Rating for Standard 5 (Only for districts that aggregate to the standard level)				<input type="checkbox"/>	

Comments:

Dr. Whitfield and his staff have worked to ensure that moving forward the master schedule and bell schedule are aligned to the needs of their students moving forward.

Areas for Growth and Resources Needed:

You did not implement change initiatives that are aligned with the school's goals, targets and improvement strategies. You did not maintain a consistent focus on the school and classroom influences that affect student learning and systematically communicate successes and shortcomings toward achieving goals and targets within the school. On the Gallup Employee Engagement Survey in the area of "I know what is expected of me at work," CHHS scored 4.28 compared to 4.54 in the previous year.

Evidence of documentation that may be used to support ratings:

- Campus Improvement Plan
- School financial information
- Master school schedule with instructional times
- Visioning documents
- Staff professional development plan
- Other



Click Save and Submit to send this form for a signature to the principal. The principal may provide a rebuttal at the time of the signature.

The principal signature on this form represents neither acceptance nor approval of the report. It does, however, indicate that the principal has reviewed the report with the appraiser and may reply in writing. The signature of the appraiser verifies that the report has been reviewed and that the proper process has been followed according to the state and local policy for the evaluation process.

Attached Workflow Direct Report signature + Supervisor signature

Current Status Submitted

Workflow Steps

1	Signature	Direct Report
2	Signature	Supervisor/Evaluator



Gema Padgett <gema.padgett@gcisd.net>

[EXTERNAL] Rebuttal to Memo

James Whitfield <james_e_whitfield@outlook.com>
To: "robin.ryan@gcisd.net" <robin.ryan@gcisd.net>
Cc: Gema Padgett <gema.padgett@gcisd.net>

Sun, Aug 29, 2021 at 9:29 PM

Dr. Ryan,

Please see the attached rebuttal to your memorandum.

James Whitfield

 **Dr. Ryan Rebuttal Memo Aug 16.pdf**
70K

EXHIBIT 2

Date: August 29, 2021

To: Dr. Robin Ryan, Superintendent of Schools, GCISD

From: Dr. James Whitfield, Principal of Colleyville Heritage High School

Re: Rebuttal to Review of Past Events and Directives for Future Behavior

Dr. Ryan,

On the afternoon of August 16, 2021, you (once again) called me to an impromptu meeting at the GCISD Administration building in your office with only a moment's notice with yourself and Executive Director of Human Resources, Gema Padgett. During this meeting you issued a "Review of Past Events and Directives for Future Behavior" memorandum that I will address in this rebuttal.

Disappointed isn't a strong enough term to describe the recent actions yourself and members of your team have taken towards me in retaliation for my speaking about things that have happened to me while employed in GCISD. You stated the purpose of our August 11, 2021 meeting was to encourage me to "refocus on the staff and start of school" and let me know how my "recent actions were a distraction to staff, students, and dividing the public."

The level of gas lighting in this statement is beyond comprehension. I find it appalling that you speak of my unwillingness to listen to baseless allegations and listen as you attempted to place this on me as some sort of indicator that I did not want to have a productive conversation. I would love to have a productive conversation any day. It is my hope that our conversation tomorrow morning, August 30, 2021, can be that. What I will not do is sit silently with you, nor anyone else, and allow the treatment that has been levied over the last several months - a treatment yourself and your leadership team has allowed due to your unwillingness to speak up for your people and be courageous in the face of intolerance, bigotry, and racism. I will delve into that later in this communication as I address the other erroneous information in your misguided memo.

You stated that it is my responsibility to "listen, reflect, and have a productive conversation" as it relates to issues you present, but you're not interested in a productive conversation. Believe me, I've been reflective. On more than one occasion I've tried my due best to give you and your team the benefit of the doubt. But each time you find a way to one-up yourself, such as these retaliatory memorandums. Conversations go both ways, Dr. Ryan, and you are uninterested in hearing any of my concerns, as this memo clearly showed. GCISD seems determined to double down on these retaliatory attacks on me.

For you to attempt to twist what GCISD allowed to happen at the Board of Trustees meeting on July 26, 2021 is pretty disheartening but it confirms how I have felt all

along – you guys are not willing to step up publically to support your people. You simply want to try to appease a small group of hateful, intolerant, bigoted, racist people. I cannot, for the life of me, understand why, but that's what it is. GCISD's lack of action taken to combat these individuals misguided threats at GCISD employees and your calculated attacks against employees (this memorandum included) seem to point towards alignment with these hateful individuals who really could care less about our students or staff, and we both know that. I will state here as I've stated several times in meeting with you and whoever else you choose to have in the room, we are not having this conversation today if anyone, someone, had the courage and conviction to shut down a person who was publicly airing his grievance in open forum of the GCISD Board of Trustees meeting against procedure. That is what you all allowed – not me.

You mentioned the individual raising comments about emails I sent as a GCISD employee in your memo as almost an excuse for him to air this complaint, out of order. That you would defend such actions in such a way confirms how I have felt for some time – many individuals in GCISD's leadership ranks actually align more with these individuals than you will state publically. I've been very clear about things I've written against racism, injustice, equality, inclusion, and celebrating diversity. I have asked you, Dr. Groppel, Dr. Schnautz, and many others if there was anything wrong with my communication in those manners. No one has ever said anything was wrong until this group got loud. I find that rather interesting.

You go on in your memorandum to attempt to act as judge and jury about things I have said to the media in a misguided way. Here are the examples:

1. With regard to the email received by the district in 2019 about the pictures of my wife and I you mention that the connotation I have alleged is much different than what was said. To be clear it stated, "Just to confirm, is this the new principal (Dr. James Whitfield)? If so, it may be a good idea to take a look around social media before the kids do. ;-)" Dr. Ryan, we'll have to agree to disagree here. This message states very clearly to me exactly what I have described, albeit paraphrased, as I did not save the email to have directly in front of me for quick recall. It essentially signaled to me "is this the Dr. Whitfield we want as an example for our students" as the person mentioned me, by title, and made reference of kids. Again, the level of gas lighting because your team asked me to do something you never should have is sickening. On top of that, to blatantly lie in your last sentence of the paragraph to insinuate I must have received something from someone else is sad. The call was from Dr. Brad Schnautz. The message was from Dr. Brad Schnautz. The blatant lie told here is disappointing.
2. Yes, I did say the email sent had racial undertones because it did. What else is wrong with a husband and wife displaying affection? Your use of "in fact" in the second sentence here is precisely what I mean when I say that you have aligned with members "of the community", which so happened to be hateful,

racist, bigots. I gave NBC 5 photos that I had from that album from our anniversary shoot. I am proud of each of them. That was the one closest to what I remembered seeing in the message sent to me from Dr. Schnautz. Again, I did not save the message so I did not have access to exactly what all photos were sent.

3. Again, you defend a member "of the community" and refuse to acknowledge the fact that this "community member" could, very easily, go to a great number of staff members in GCISD's social media and find far worse than a husband and wife being "overly intimate". Yes, I did take exception to your mention of the photos of my wife and I being "overly intimate". Sir, while you may be the Superintendent of Schools, you do not get to dictate to my wife or me how intimate we can be at any time. I find it odd that this is the rationale when the district gets called to the carpet for having me take down photos down, but at the time the reason given was "just don't want to stir things up". I wish I'd asked for clarification then. I wonder what "stir stuff up" really meant. I would hope that a husband and wife showing intimacy (fully clothed) would be something "the community" would celebrate. One would think, but only if it's the "right" people doing it is it ok, from what I see. Again, you go on in this paragraph to align with the belief of the sender over me, which is highly disappointing, but not surprising at this point.

4. I was not dishonest to Hannah Beckler. I gave her the absolute truth. I said to her what I've said to you and numerous members of your leadership team over the course of this school year. Specifically, in our last Leadership Team meeting of the 2020-2021 school year you asked us two questions to a room full of people (that we were not to write down or put in email):

- What can we learn from the last two board elections?
- What needs to be my message to the community as Superintendent?

I was in a group with GCISD Executive Director of Communications, Kristen Snively, and GCISD COO Paula Barbareaux. After our groups met I shared the following:

"The best defense is a good offense. All we've done is sat silently while this small group of loud, hateful people has taken control. People in the community want to hear a message beyond 'LEAD 2.0' and being 'The BEST', they want to hear from you Dr. Ryan. I think you need to unapologetically say what you are for. Specifically say you are for celebrating diversity, inclusivity, equity, etc. If you say what you are for there's no way for them to twist your words to fit their narrative."

You could hear a pin drop, as everyone in the room knew that this would, most definitely, not be a message you'd be willing to share. To this day, you have not shared a message as such nor has anyone from the district. Your unwillingness to do so is precisely why I told Hannah Beckler what I did - because it's the truth. No one in a position of leadership has the courage to

give such a bold message because, as you stated in our meeting on August 2, 2021 at Eatzi's with Dr. Brad Schnautz, you're "scared of the those people and the political ramifications". This was disappointing to hear, but again, not suprising.


You mentioned my latest tweet about the lack of overall precautions being taken statewide and even include the fact that I have, explicitly stated, that I was not referring to the district. You go on to state that you feel like, even if I am on my personal Twitter account, that you feel you have authority to silence me. That is a slippery slope with the First Amendment I'd hope we could steer clear of. I am a human being, a father, husband, brother, and friend to many. I am not defined solely by my role as campus principal, as you try to paint. I do my job. I love my kids and staff and push them towards excellence, thus the reason you promoted me for two years straight. I am not a different person today than I was then, nor do I tweet or speak on anything different on my personal account. The major difference is - now you've got a small, but vocal, minority of hateful; racist, bigoted people targeting me and instead of supporting me and unashamedly speaking out against the intolerance, I've been faced with frivolous evaluations and memorandums from yourself and your team that are retaliatory in nature which seem to align with the actions of these individuals.

Additionally, I find it odd that an individual you "know very well" (per Dr. Groppel), David Crouch, put this very Tweet mentioned on GCISD Parents For Strong Schools on August 11, 2021 with his post:
"From our CHHS Principal's personal Twitter. Is he calling out the board? Sure appears that way."

Another post on that page dated August 13, 2021 from Zack Penn asks:
"Has Dr. Ryan and the Trustees addressed this with the top leader at Colleyville Heritage?" with reference to this very Tweet.

For me to get this memorandum from you on the following Monday after these individuals essentially call for you to "address it" makes it abundantly clear that you and members of GCISD Leadership Team are taking your orders and cues from this hateful, racist, intolerant group (GCISD Parents For Strong Schools).

Because of the items described above, I find that in your leadership capacity as Superintendent you have violated the following provisions of the Educators' Code of Conduct and Board Policy DH by caving to a racist, intolerant, and bigoted group of individuals.



Professional Ethical Conduct, Practices, and Performance

Standard 1.1 The educator shall not intentionally, knowingly, or recklessly engage in deceptive practices regarding official policies of the school district, educational institution, educator preparation program, the Texas Education Agency, or the State Board of Educator Certification (SBEC) and its certification process.

Ethical Conduct Towards Professional Colleagues

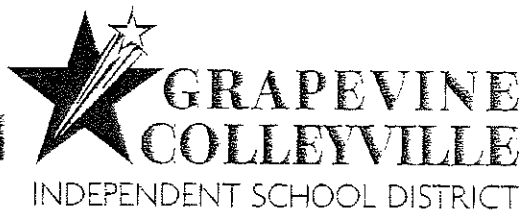
Standard 2.2 The educator shall not harm others by knowingly making false statements about a colleague of the school system.

Standard 2.4 The educator shall not interfere with a colleague's exercise of political, professional, or citizenship rights and responsibilities.

I am keenly aware that someone in my role doesn't get the opportunity to reprimand the Superintendent, but I felt called to spell out these clear violations anyway. Ultimately, it will be the community that you will have to reckon with - the real community, not solely the GCISD Parents For Strong Schools group that GCISD Leadership speaks of when referencing "the community". I pray that you're paying attention, because the real community is...and it's not the people GCISD Leadership has been pandering to.

The overwhelming majority of people know who I am and what I'm about, and they support me. I thought you did, too. I would hope you would find it in your heart to finally express your support publically and cease the endless onslaught of retaliatory actions based on the outcry of a small-minded, bigoted, intolerant and racist group that has seemed to grip control of GCISD's Leadership.

Sincerely,
Dr. James E. Whitfield



August 30, 2021

Dr. James Whitfield
2828 Sandstone Dr.
Hurst, TX 76054

Dr. Whitfield:

You are hereby notified that I am placing you on administrative leave with pay in accordance with GCISD Board Policy DFBA(LOCAL); because I have determined that doing so is in the best interest of the District.

While on leave you may not discuss being on administrative leave or any matter related to your employment with any GCISD employee or student. Further, you may not participate in any school district activities or return to CHHS or any other district facility. Finally, you are required to be accessible to the district during normal business hours should the district have any questions or assignments for you.

We do understand that you have a student in the district. This letter should not be interpreted as interfering with your rights as a parent of a GCISD student.

If you have any questions regarding this information or need to access the school, please contact Gema Padgett, Executive Director of Human Resources.

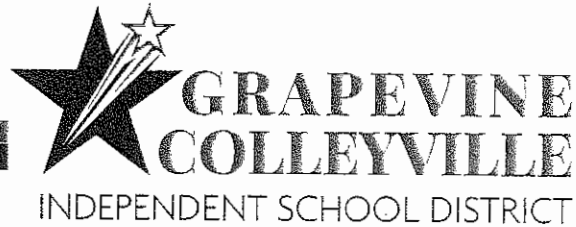
Regards,

Dr. Robin Ryan
Superintendent of Schools

cc: Gema Padgett
Jim Whitton

Office of the Superintendent
3051 Ira E. Woods Avenue
Grapevine, Texas 76051

817.251.5501
www.gcisd.net
www.jrwither.com/gcisd



Dr. James Whitfield
2828 Sandstone Dr.
Hurst, TX 76054

Via CMRRR and First-Class Mail

Re: **Notice of Proposed Term Contract Nonrenewal**
Date of notice: September 21, 2021
Employee name: Dr. James Whitfield

Dr. Whitfield,

Please be advised that on September 20, 2021, the Board voted to propose nonrenewal of your employment contract for the following reasons set out in Board Policy DFBB(LOCAL):

1. Deficiencies pointed out in observation reports, appraisals or evaluations, supplemental memoranda, or other communications.

- A. During a conference on February 26, 2021, your supervisor, Dr. Lance Groppe, discussed with you a recent GCISD Board Policy FNG (LOCAL) grievance that originated on the Colleyville Heritage High School campus and for which you served as the level one hearing officer. While the Board of Trustees ultimately upheld your level one decision, there were multiple missed opportunities for you to de-escalate the situation which you failed to capitalize on or recognize. Dr. Groppe clearly identified three key "areas of consideration as you move forward into future situations: communication, situational awareness and the magnitude of the situation." The conference was summarized for you in a written conference summary dated March 5, 2021.
- B. Your year-end appraisal for 2020-2021 school year, dated June 6, 2021, noted deficiencies in Standard 2: The principal is responsible for ensuring there are high-quality teachers and staff in every classroom throughout the school, Standard 4: The principal is responsible for establishing and implementing a shared vision and culture of high expectations for all staff and students, and Standard 5: The principal is responsible for implementing systems that align with the school's vision and mission and improve the quality of instruction. A lack of effective communication was common throughout each of these identified areas of deficiency.

Office of the Superintendent
3051 Ira E. Woods Avenue
Grapevine, Texas 76051

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www.twitter.com/gcisid

- C. Dr. Groppe met with you again on June 1, 2021, to discuss an email conversation between you and a teacher at Hurst-Euless-Bedford ISD. Again, Dr. Groppe discussed with you communication, situational awareness, and the magnitude of the situation. Specifically, your email word choice could be interpreted a number of different ways and your intent, as explained to Dr. Groppe that day, was not clear from your word choice. You were reminded that all school district emails are subject to the Public Information Act and, as such, should be written keeping in mind the actual audience may be more than what you intend. Dr. Groppe also discussed with you the impropriety of attempting to hide this public record from discovery by deleting it from your sent and trash email files. Again, this conference was summarized for you by Dr. Groppe in a written conference summary dated June 21, 2021. Further, you were directed to supervise and ensure that all CHHS staff teach to the TEKS, not delete emails from your sent or trash folders, and use proper email communication skills when interacting with all members of the community and staff as the principal of CHHS.
- D. I met with you on August 11, 2021. I summarized that meeting for you in writing dated August 16, 2021. Again, the conversation revolved around communication and situational awareness. To begin, I attempted to discuss with you the limited control the District had over the speaker during the July 26th Board of Trustees meeting and then reminded you of Board Policies DH(LOCAL) and DGBA(LOCAL). I also reviewed with you at least four examples where you were either cavalier in your communication with the media or deliberately dishonest. I found you violated Standards 1.2 and 2.2 of the Texas Educators Code of Ethics and directed you to work on the areas of growth that Dr. Groppe has identified through the T-PESS appraisal process, to apply proper communication skills to all communication avenues, and to focus on the students and staff at CHHS to ensure they have a smooth start to the school year.

2. Insubordination or failure to comply with official directives.

- A. In multiple written communications to your supervisors, Dr. Lance Groppe, and I, you have been disrespectful and unreasonable. This includes your August 29, 2021, correspondence to me wherein you refer to my efforts to counsel you as “gas lighting” and “find” that I caved to “a racist, intolerant, and bigoted group of individuals.” This was especially insubordinate because I had scheduled a meeting with you for the very next day, August 30, 2021, in response to your August 25, 2021 letter in which you stated: “I would really love a discussion, you and I, about a path forward.”
- B. Further, despite being directed to be more deliberate and truthful in your communication, you continued to perpetuate the dissemination of incorrect information such as not providing the photo in question to media outlets, failing to disclose to media outlets that there are numerous pictures on Facebook of you and

your wife kissing which the District never raised any concern about, falsely informing a reporter that the District only promotes inclusion behind closed doors, specifically stating, "Tell them who you are, behind closed doors you say you are about inclusion, equity, and diversity, so come out and say that's what you're about," falsely claiming the picture of you and your wife from 2019 is the real reason your job performance is being questioned, and falsely claiming there were no issues with your job performance prior to the July 26th Board meeting.

3. Failure to comply with Board policies or administrative regulations.

- A. Board Policy DH(LOCAL) requires an employee to perform his or her duties in accordance with state and federal law, District policy, and ethical standards, and to express concerns, complaints, or criticism through appropriate channels.
- i. You have never made a report under Board Policy DIA(LOCAL) despite being reminded of your obligation to do so on multiple occasions by Gema Padgett, Executive Director of Human Resources for GCISD, verbally and in writing on at least August 20, 2021 and August 22, 2021. She specifically requested, and you declined to provide, names of personnel who allegedly discriminated against you and unnamed "colleagues" so an investigation could be done. The obligation to report was included in my written directives on August 16, 2021.
 - ii. On August 10, 2021, you issued a tweet stating: "So... We plan to bring all staff & students back to campuses, while the highly transmissible delta variant is on the rise, with ZERO safety protocols in place, & think this will go well? The lack of regard for the health and well-being of our people is appalling! #ProtectOurFolks." You did not raise this concern with your immediate supervisor or file a grievance under Board Policy DGBA(LOCAL).
- B. Board Policy DIA(LOCAL) requires an employee, who believes that he or she has experienced prohibited conduct or believes another employee has experienced prohibited conduct, to immediately report the alleged acts. Prohibited conduct includes discrimination, harassment, and retaliation.
- i. Despite repeatedly stating to the media the 2019 request to remove inappropriate pictures from your public Facebook page was a result of racism, you never filed a grievance related to the request or mentioned it verbally or in writing to a supervisor.
 - ii. In your August 20, 2021 correspondence to Board President Jorge Rodriguez and me, you allege "harassment, blatant racism, intolerance, and hatred," but you have never reported any specific incident of racism against yourself or anyone else in the District.

4. Failure to meet the District's standards of professional conduct.

Board Policy DH(LOCAL) details the District's expectations regarding employee standards of conduct.

- A. The District holds all employees accountable to the Educator's Code of Ethics (*see* DH(EXHIBIT)). You violated Standard 1.1 of the Educator Code of Ethics by being dishonest with the media in the following instances:
- i. You did not give the photo in question to NBC5. Instead, you gave the media a cropped version of a photo or a different photo altogether, from the same series of pictures.
 - ii. You did not disclose to the media that there are numerous pictures on your Facebook page displaying you and your wife kissing which the District has never raised any concern about.
 - iii. You dishonestly informed Hannah Beckler of the Business Insider that the District only promotes inclusion, equity, and diversity behind closed doors and not publicly; when, as a member of the LEAD 2.0 Committee, you were aware that a key, prominently and publicly posted goal of that initiative is to "actively identify and remove barriers that limit access to an opportunity for learning."
 - iv. You made a number of false statements on September 2, 2021 on the Roland Martin Unfiltered YouTube show. Specifically:
 - "Prior to July 26 at that Board meeting, there was no issue" and "The issues arose after I had to take a stand," among other statements to this effect. This is not true as you received two disciplinary memos prior to July 26th and your year-end appraisal, dated June 6, 2021, also pointed out deficiencies.
 - You stated the picture of you and you wife is really the reason you are being questioned (at 53:11). This is not true as the deficiencies identified address communication and situational awareness. As you stated in your Facebook post on or about July 31, 2021, after the initial request to take the inappropriate picture down, no one at the District ever mentioned the pictures again and you were never disciplined for them. You were in fact promoted to serve as the principal of Colleyville Heritage High School after the photo was discussed with you.
 - You stated that the cropped photo is one of you and your wife that the District told you to remove because it was too intimate (at 1:07). You, once again, provided a different picture to a media outlet than the one raised as a concern with you in 2019.

Dr. James Whitfield
September 21, 2021
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- B. You failed to express concerns, complaints, or criticism through appropriate channels. Without ever discussing the issue with your supervisors, filing a grievance, or pursuing your concerns through appropriate channels, you voiced your concerns, complaints, and criticism on Facebook, Twitter, and to the media. You did not complain in 2019 regarding the suggestion to remove a picture from your public Facebook page informally or through Board Policies DIA(LOCAL) or DGBA(LOCAL). More generally, you did not raise any concerns regarding racism through Board Policies DIA(LOCAL) or DGBA(LOCAL).
 - C. You refused to cooperate with a district investigation. Gema Padgett personally requested your assistance on August 5, 2021, in an investigation pursuant to Board Policy DIA regarding your allegations of racism. She sent a follow-up email on August 6, 2021, again requesting compliance with her investigation of your racism allegations. Gema Padgett and I reminded you of the request for assistance on August 16, 2021. Gema Padgett emailed you again on August 20, 2021, and August 22, 2021, reminding you of your obligation to report racism but you have never complied.
5. **Any activity, school-connected or otherwise, that, because of publicity given it, or knowledge of it among students, faculty, or the community, impairs or diminishes the employee's effectiveness in the District.**
- A. You have diminished your effectiveness as an employee through numerous violations of proper protocol and policy, and by failing to follow protocol and policy once directed to do so as detailed in this notice letter.
 - B. You have diminished your effectiveness by dividing large sections of the community from each other by continuing to raise an issue about Critical Race Theory ("CRT") when no one in the District administration believes you were teaching CRT or encouraging teachers at Colleyville Heritage High School to teach CRT, and no one in the administration has ever accused you of doing so or discussed this with you.
 - C. You have diminished your effectiveness as an employee by failing to recognize or acknowledge that principals are public figures sometimes targeted by the community. The July 26th public comments, while arriving at an incorrect conclusion, were not factually inaccurate; and the Texas Education Code prohibits the Board from censoring public criticism of the District.
6. **Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, or colleagues.**
- A. In your August 20, 2021 communication you state:
 - i. "The inaction of GCISD leadership has inflicted significant emotional and psychological harm on [your] family and [yourself]...."

Dr. James Whitfield
September 21, 2021
Page 6

- ii. "There have been specific actions taken on behalf of certain members of the leadership team that have occurred over the course of the last several months leading up to the July 26, 2021 board meeting that appear to be in direct alignment to the abhorrent actions displayed, and allowed, during that meeting."

However, you have never provided any specifics or identified who allegedly did such acts. This damaged the working relationship between you and your colleagues, specifically the members of the leadership team.

B. In your August 29, 2021 communication you falsely state:

- i. "many individuals in GCISD's leadership ranks actually align more with these individuals than you will state publicly."
- ii. "...that you and members of GCISD Leadership Team are taking your orders and cues from this hateful, racist, intolerant group (GCISD Parents For Strong Schools)."
- iii. Falsely claiming that no central office administrators can fairly evaluate your job performance as required by Board Policies and state law.

Attached is a copy of the District's DFBB(LOCAL) policy regarding the nonrenewal of term contracts.

To request a hearing on the Board's proposed nonrenewal of your employment contract, you must submit a written request to the Board not later than the 15th day after the date you receive this notice. The Board will notify you whether the hearing will be conducted by the Board or an attorney designated by the Board.

If you do not request a hearing within 15 days of receiving this notice, the Board will vote on the proposal to nonrenew your contract.

Please direct questions regarding the proposed nonrenewal of your contract to the Superintendent.



Dr. Robin Ryan
Superintendent of Schools
GCISD

Cc: Ellwanger Law

Attorneys for Dr. James Whitfield

COMPROMISE, SETTLEMENT, AND RELEASE AGREEMENT

THIS AGREEMENT is made by and between the Grapevine-Colleyville Independent School District, its agents, trustees, successors, representatives and employees (“District”), a political subdivision of the State of Texas located in Tarrant County, Texas, and Dr. James Whitfield, his representatives, heirs, executors, and assigns (“Whitfield”).

WITNESSETH:

WHEREAS, Whitfield is employed by the District as the Principal of Colleyville Heritage High School;

WHEREAS, Whitfield is currently on paid leave;

WHEREAS, Whitfield desires to resign his employment effective August 15, 2023, as explained in paragraph 2;

WHEREAS, disputes and controversies exist between the parties, and Whitfield and the District desire to settle all existing disputes and controversies in an amicable and beneficial manner; and

NOW, THEREFORE, in consideration of the mutual representations, promises, and agreements contained herein, including the recitals set forth above, and with the express intention of settling and extinguishing all obligations, demands, claims, causes of action, and liability of whatever nature relating to Whitfield’s employment with the District, except as otherwise required by law, the parties voluntarily agree as follows:

1. Leave with Pay. Whitfield has been on paid leave since August 30, 2021. In exchange for Whitfield’s resignation and other valuable consideration described herein, the District agrees to keep Whitfield on paid administrative leave, with all attendant benefits until August 15, 2023. The District shall continue to pay Whitfield his current salary through that date, less all applicable deductions for federal income tax, teacher retirement, Medicare, insurance, or any other withholdings, if applicable, in accordance with the District’s customary payroll practices. Except as otherwise provided herein, Whitfield is relieved of all duties and shall not engage in any other work-related conduct or communications during the remainder of his paid leave, unless called upon by District to provide consulting services, including speaking to or with current students, parents, employees, or the media (except as set forth herein). In exchange for Whitfield’s resignation described in paragraph 2 below, the District’s Superintendent agrees to not recommend to the District’s School Board that the Board non-renew Whitfield’s contract and the District’s School Board agrees to not take action on the currently proposed nonrenewal of his contract. Whitfield’s salary shall continue to be paid monthly in accordance with the District’s standard pay schedule until the effective date of his resignation. **HOWEVER**, Whitfield’s salary shall cease if he accepts employment by or with another Texas public school district, since Whitfield cannot legally work for two independent school districts at one time. Also, in such event, Whitfield’s resignation shall become effective the date he begins work with that public school district.

2. Resignation. In exchange for the consideration described herein, Whitfield hereby irrevocably resigns his employment thirteen and one-half (13.5) months after the end of his 2021-2022 employment contract. Whitfield's 2021-2022 employment contract ends on June 30, 2022, making his resignation date August 15, 2023. Therefore, the Superintendent of the District hereby accepts Whitfield's resignation effective August 15, 2023. A copy of Whitfield's resignation and the Superintendent's acceptance of same are attached as "Exhibit A". Whitfield hereby waives all rights under his Chapter 21 contract of employment after the effective date of his resignation, in exchange for the consideration described herein.

3. Employee's Release. In exchange for the consideration described herein, Whitfield hereby WAIVES, RELEASES, ACQUITS, FOREVER DISCHARGES, AND AGREES TO INDEMNIFY AND HOLD HARMLESS the District, its Board of Trustees, the individual members thereof, its employees, agents, attorneys and any other person acting on behalf of the Board of Trustees or the District, of and from all causes of action, debts, salaries, wages, compensation, benefits, damages, liabilities, costs, controversies, claims, demands, contracts, right and privileges, of every nature and description whatsoever, whether in tort, contract, or equity, whether known or unknown, or by virtue of any civil rights or other federal or state constitution, law, regulation, or rule, including, but not limited to, the United States Constitution, the Constitution of the State of Texas, 42 United States Code Sections 1983 and 1988, Title VII of the Civil Rights Act of 1964 and 1991, the Equal Pay Act, the Texas Labor Code, the Texas Commission on Human Rights Act, the Fair Labor Standards Act, the Age Discrimination in Employment Act, Teacher Retirement System of Texas, breach of contract, and any common law or Texas law claims that were raised or could have been raised by Whitfield on or before the execution of this Agreement, and arising from Whitfield's employment by the District and his resignation from employment with the District, unless otherwise prohibited by law. Whitfield expressly agrees not to sue or participate, unless required by court order or law, in any federal or state judicial or state administrative proceeding against: the District or its officers, employees, representatives, or agents, in their official or individual capacities, related to his employment by the District; Board members' or District employees' conduct during his employment with the District, up to his resignation from the District, and further expressly agrees, unless otherwise prohibited by law, not to make any reports or claims regarding Board member or District employee conduct committed prior to the execution of this Agreement, to any federal or state agency or tribunal, unless such failure to report would be prohibited by law. Whitfield further expressly agrees to withdraw or dismiss with prejudice, any pending reports or claims that he has filed or asserted against the District, its Board of Trustees, the individual members thereof, its employees, agents, attorneys and any other person acting on behalf of the Board of Trustees or the District, with any judicial or administrative body in any forum whatsoever, including, but not limited to, the Texas Education Agency, the Texas Commission on Human Rights, the State Board for Educator Certification, or any court in any jurisdiction, and specifically waives his right to recovery for any action filed with the Equal Employment Opportunity Commission ("EEOC") or that the EEOC has brought on his behalf.

4. No Further Obligations. Payment of the aforementioned sums by the District to Whitfield and the exchange by the parties hereto of the other consideration enumerated herein shall constitute full and final satisfaction of the District's obligations to Whitfield under all employment agreements or contracts, whether written or oral, between the parties, including, but not limited to, any and all rights Whitfield may have had pursuant to his contract with the District, as well as any

additional right or privilege Whitfield may have had pursuant to the Texas Education Code.

5. Return of District Property. Whitfield agrees that he shall return to the District all keys, credit cards, books, records, supplies, student records, equipment, computers, and any other property, if any, of the District in Whitfield's possession, within seven days of the execution of this Agreement. In order to comply with his obligations as a "temporary custodian" of District records under the Texas Public Information Act, Whitfield agrees that he shall immediately transfer to the District, for archival purposes, any and all communications related to District business that are located solely on Whitfield's personal electronic devices and not otherwise accessible by the District. Whitfield further agrees he will not use any District e-mail, social media platform, or other District communication device during his continued employment. Whitfield further agrees he will not use District property or wear District branded items during any future media appearances or interviews.

6. Personal Effects. Whitfield agrees that he shall remove all of his personal effects and property from the District at a mutually-agreeable date and time, with District supervision.

7. Sealing of Records. The District agrees, to the extent allowed by law, to maintain the confidentiality of Whitfield's employment records, subject to the request of the Texas Public Information Act and the requirements of this Agreement, to seal records related to the District's allegations made against Whitfield; provided, however, the District shall be entitled to use those documents to comply with Texas Education Code Section 21.355. In addition, such sealed file shall be available on Whitfield's request, on a valid public information request under the Texas Public Information Act, on the request of any State entity entitled to seek such documents, on a valid court order or subpoena, or as provided in paragraph 9 below. The parties acknowledge that this Agreement is a public document under the Texas Public Information Act.

8. Appraisal for 2021 – 2022. The parties agree that the District will not finalize Whitfield's appraisal for the 2021 – 2022 school year.

9. Mutual Non-Disparagement, Non-Retaliation Agreement. Whitfield agrees that he, his family members, his representatives and/or agents will not retaliate against, harass, intimidate, or disparage in any manner, directly or indirectly, personally or through third parties, any current or past District employee or administrator, any Board member, attorney, officer, or student of the District, or any relative of any current or past District employee, Board member, attorney, officer, or student, or the District itself. This Agreement includes, but is not limited to, any discussions with current employees, any attempts to get individuals fired from their employment positions, the making of negative statements about students, staff, employees, volunteers or other agents of the District acting within the course and scope of their agency; the writing and mailing of letters and complaints, the making of false or negative references for employees he supervised, and the making of false or disparaging remarks in any form, whether personally, in writing, or electronically. Whitfield further acknowledges that, should Whitfield make public or private statements about the reasons behind his resignation from the District, and should those statements be inaccurate and/or harmful to the District, then the District shall be able to respond publicly and release Whitfield's evaluations, reprimands, summaries of conference, or other responses to such District documents. Whitfield further agrees that he may not provide disparaging information about District to, or assign any claims belonging to him about the District to, any third party. Except

as otherwise required by the Texas Public Information Act or the District's Board or Superintendent's duties and rights as detailed in Paragraph 8 above, the District's Board, Human Resources Department, and the Superintendent agree to not make any disparaging remarks about Whitfield, his family members, his representatives and/or agents. Further, the above-named District employees agree to not harass, intimidate, or disparage Whitfield, his family members, his representatives and/or agents, directly or indirectly, personally or through a third party, subject to their duties and rights as detailed in Paragraph 8 above. This Agreement includes, but is not limited to, any discussions with current employees and students except to inform them that Whitfield has resigned, any attempts to get Whitfield fired from any subsequent employment positions, the writing and mailing of letters and complaints about Whitfield, the making of false and negative references for Whitfield, and the making of false or disparaging remarks in any form about Whitfield, whether personally, in writing, or electronically. The parties agree that failure to meet the requirements of this paragraph shall constitute a breach of this Agreement and that this Agreement can be used in any appropriate legal proceeding to enforce the terms of this Agreement or to protect any of the individuals this Agreement is designed to protect, and that the terms of this paragraph shall survive the termination of this Agreement.

10. Joint Statement. District and Whitfield further agree that neither shall comment on this Agreement other than to jointly issue the following statement:

“The Grapevine-Colleyville Independent School District and Dr. James Whitfield have been in the media frequently in recent weeks concerning the disputes between them. Both the District and Dr. Whitfield each strongly believe they are in the right. However, each also agrees that the division in the community about this matter has impacted the education of the District's students. In addition, the time, expense, and disruption for both Dr. Whitfield and the District would continue for some time and would further harm the education of District students. The District and Dr. Whitfield have mutually agreed to resolve their disputes. Dr. Whitfield and GCISD strongly agree it is important we continue to provide a safe and nurturing educational environment to all students, no matter their background, race, or gender. The District and Dr. Whitfield each wish the best to the other in the future. The District and Dr. Whitfield have agreed this will be their only public statement on this matter.”

11. References. Whitfield shall direct all reference requests to the District's Human Resources Department, specifically the Assistant Superintendent of Human Resources. The District's Assistant Superintendent of Human Resources, when contacted over the phone or electronically by prospective employers, shall provide a neutral reference that consists only of: position held; salary; dates of employment; and that Whitfield resigned effective August 15, 2023, as explained in paragraph 2, but will not respond to questions related to Whitfield's eligibility for rehire. Whitfield may request a reference from District employees, but no such individuals shall be obligated to provide a reference. The District is not responsible for the statements of such individuals.

12. Eligibility for Rehire. Whitfield shall be considered eligible for rehire in the District, but agrees not to apply for employment with the District again. Should Whitfield be mistakenly rehired, then his employment contract will be deemed null and void and Whitfield will immediately resign said contract without invoking any request for any due process.

13. No Admission. This Agreement is entered voluntarily between the parties. The parties further understand and agree that the terms herein and consideration paid are to compromise disputed claims, avoid litigation, and buy peace, and that no statement or consideration given shall be construed as an admission of any liability or wrongdoing on behalf of either party.

14. Legal Counsel. Whitfield represents and agrees that Whitfield has been advised to consult with his legal counsel, and Whitfield has discussed this Agreement with legal counsel of his choice.

15. Entire Agreement. This document constitutes and contains the entire agreement and understanding concerning Whitfield's employment with the District, his voluntary resignation of his non-Chapter 21 contract, and the other subject matters addressed herein between the parties, and supersedes and replaces all prior negotiations or understandings concerning the subject matter hereof. This Agreement, when executed by the parties, shall be binding upon all parties hereto, their respective heirs, executors, administrators, successors and assigns. Whitfield acknowledges that he has not transferred or assigned any cause of action or claim that he may have against the District, in whole or in part, to any person, firm or other entity. This Agreement may be modified or terminated only in writing, executed by all the parties hereto.

16. Voluntary Agreement. The parties stipulate that this Agreement has been entered into voluntarily and not as a result of coercion, duress, undue influence, or reliance upon any statement, promise, or representation not specifically included in this Agreement.

17. Attorneys' Fees. The District and Whitfield agree that each party shall be responsible for the payment of their own attorney's fees.

18. State Law to Apply. This Agreement is to be performed entirely in Tarrant County, Texas, and the substantive laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Agreement. Should any provision in this Agreement be unenforceable or invalid for any reason, this Agreement shall remain in full force and effect as to all other provisions herein. Mandatory and exclusive venue for any action brought to enforce or interpret this Agreement shall be brought in state district court in Tarrant County, Texas.

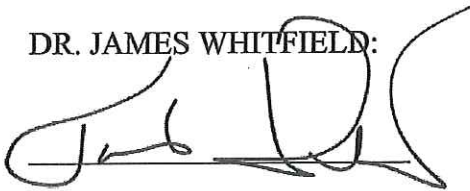
19. Original Documents. This Agreement may be executed in a number of identical counterparts, each which shall be deemed an original for all purposes. All the parties hereto further agree that they shall execute any and all documents necessary to effect the intent and purposes of this Agreement. Further, this Agreement supersedes any and all prior oral or written agreements, arrangements or understandings between the parties that relate to any of the subject matter of this Agreement. This Agreement may be modified or terminated only in writing, executed by all the parties hereto.

20. COBRA Notice. Notice is hereby given that the "qualifying event" under the Consolidated Omnibus Reconciliation Act ("COBRA") shall occur on August 15, 2023, and Whitfield shall thereafter be eligible to continue in the District's insurance program for the statutorily-allotted time, provided he pays the necessary premiums at the appropriate times.

21. Authority. Each signatory hereto acknowledges, represents and warrants that he or she has the requisite authority to execute this Compromise, Settlement and Release Agreement in the respective capacity set forth herein. This Agreement shall be binding on all parties hereto, their

respective heirs, executors, administrators, successors, and assigns when executed by the parties. Whitfield acknowledges that the Agreement will not be final and agreed until it is approved and signed by the president of the District's Board of Trustees or his designee following Board approval of the Agreement at a duly posted and conducted public meeting called in accordance with the Texas Open Meetings Act. District agrees to present the Agreement to the Board at the first possible meeting of the Board following this mediation. The Superintendent of the District and the District's attorneys recommend approval to the Board.

DR. JAMES WHITFIELD:



11/8/2021

Date

GRAPEVINE-COLLEYVILLE
INDEPENDENT SCHOOL DISTRICT



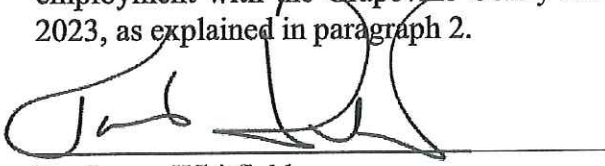
President, Board of Trustees

11/8/2021

Date

EXHIBIT A

I, Dr. James Whitfield, hereby tender my resignation of my term employment contract and my employment with the Grapevine-Colleyville Independent School District, effective August 15, 2023, as explained in paragraph 2.

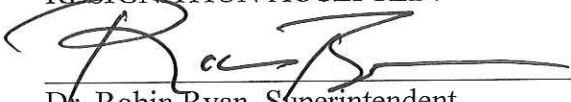


Dr. James Whitfield

11/8/2021

Date

RESIGNATION ACCEPTED:



Dr. Robin Ryan, Superintendent
Grapevine-Colleyville Independent School District

11-8-2021

Date