

November 15, 2016

Mr. James Taylor, Board President
Hearne Independent School District
900 Wheelock Street
Hearne, Texas 77859

**PRELIMINARY REPORT
INFORMAL REVIEW REQUEST
DUE: December 2, 2016**

Ms. Nelda Calhoun, Board Vice-President
Hearne Independent School District
900 Wheelock Street
Hearne, Texas 77859

Ms. Tina Rocha, Board Member
Hearne Independent School District
900 Wheelock Street
Hearne, Texas 77859

Ms. Samantha Salazar, Board Secretary
Hearne Independent School District
900 Wheelock Street
Hearne, Texas 77859

Ms. Quila Robinson, Board Member
Hearne Independent School District
900 Wheelock Street
Hearne, Texas 77859

Ms. Latonya Darnell, Board Member
Hearne Independent School District
900 Wheelock Street
Hearne, Texas 77859

Ms. Mary Jane Ramirez, Board Member
Hearne Independent School District
900 Wheelock Street
Hearne, Texas 77859

Dr. Adrain Johnson, Interim Superintendent
Hearne Independent School District
900 Wheelock Street
Hearne, Texas 77859

Dear Board of Trustees and Interim Superintendent:

The enclosed report presents the findings resulting from a Special Accreditation Investigation (SAI) conducted by the Texas Education Agency's (TEA) Special Investigations Unit (SIU). This investigation relates to allegations of a systemic breakdown of the Hearne Independent School District (HISD) Board of Trustees' ability to govern and oversee the management of public schools of the district; the Trustees acting in their individual capacities on behalf of the board; Trustees failing to work with their superintendent to provide leadership for the district; HISD's lack of internal controls related to the Public Education Information Management System (PEIMS); HISD's lack of internal controls in the Business Office; HISD's non-compliance with the national criminal history record information review and fingerprinting requirements of Chapter 22, Subchapter C of the Texas Education Code, and HISD's violation of state law regarding nepotism.

This preliminary report addresses only those allegations described herein and investigated by the SIU to date. These findings do not address all of the allegations raised before, during, or after our investigation. Additional investigative work may be conducted in the future to address any remaining allegations. Furthermore, other TEA divisions may be in the process of investigating HISD or issuing other investigative reports regarding the district.

The preliminary report is for your review and response related to the findings identified in the report. The school district or any person identified in this report as having violated a law, rule, or policy may request, in writing, an informal review of the preliminary report, as authorized by the Tex. Educ. Code §39.058 and 19 Tex. Admin. Code §157.1123. A request for an informal review must be received, along with any information or documentation the requestor would like the agency to consider during the informal review, on or before **December 2, 2016**, and addressed to the following postal mail or email address:

Mailing address: Brenda Meyers, Director
Special Investigations Unit
Texas Education Agency
1701 N. Congress Avenue
Austin, Texas 78701
Email address: Brenda.meyers@tea.texas.gov

If no informal review is requested by the deadline, this report will become final in accordance with 19 Tex. Admin. Code §157.1123.

Please contact me at (512) 936-3355, should you have any questions.

Sincerely,



Brenda Meyers, Director
Special Investigations Unit

TEA Special Accreditation Investigation

Preliminary Investigative Report Hearne Independent School District

Introduction

The Special Investigations Unit (SIU) received several complaints during the month of February 2016 alleging violations by Hearne Independent School District (HISD). On May 18, 2016, a Notice of a Special Accreditation Investigation (SAI) was issued to HISD, and an on-site investigation was conducted on May 24 and 25, 2016. The complaints listed the following allegations, which provided the basis for the investigation:

1. HISD's Board of Trustees are failing to work with the superintendent to provide leadership for the district in violation of Tex. Educ. Code §11.1512(b).
2. HISD's Board of Trustees are acting in their individual capacities on behalf of the board, in violation of Tex. Educ. Code §11.051(a-1).
3. HISD is non-compliant with requirements related to criminal history reviews, in violation of Tex. Educ. Code Ch. 22 Subch. C.
4. HISD lacks internal controls in the Business Office, in violation of 19 Tex. Admin. Code §109.41.
5. TEA lacks evidence to establish that HISD failed to report required information related to student discipline in the Public Education Information Management System (PEIMS) in violation of Tex. Educ. Code §37.020.
6. TEA lacks evidence to substantiate that HISD violated state law requirements regarding nepotism under Tex. Educ. Code §11.1513(f)-(h), and Texas Government Code Chapter 573.

The findings regarding these allegations are fully described below and are based on supporting evidence, including interviews of HISD Board of Trustee members and current HISD employees, a review of documentation provided by HISD and witnesses, as well as the application of state law.

Findings

Finding 1: HISD's Board of Trustees and Superintendent(s) are failing to work together to provide educational leadership for the district in violation of Tex. Educ. Code §11.1512(b).

Pursuant to Tex. Educ. Code §11.1512(b)(3), the board of trustees and the superintendent shall work together to provide educational leadership for the district. Pursuant to Tex. Educ. Code §11.151(b), "the trustees as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district." In accordance with Tex. Educ. Code §11.201(a) and (d)(2), the Superintendent is the educational leader and Chief Executive

Officer of a school district and has administrative authority and responsibility for the assignment, supervision, and evaluation of all personnel of the district. HISD's Board policies regarding Board Authority and Employment Practices clearly define the Board of Trustees' authority and the Superintendent's authority.

The HISD Board of Trustees' is currently comprised of seven members, and who will be referred to as Trustees A-G. One day prior to SIU's arrival, the Board appointed the seventh trustee into office. The seventh trustee position became vacant due a previous Trustee passing away. On May 24, 2016, six of the trustees were interviewed individually (Trustee D was unavailable).

A review of board meeting minutes, as well as interviews with current board members and district staff confirmed that the HISD Board of Trustees has consistently been in dispute concerning two critical matters: (1) the continuity of district leadership and; (2) the process of hiring and terminating district personnel.

The district lacks continuity in its administration office. During the last five years, HISD has employed five Superintendents. The longest period a Superintendent remained employed at HISD was seven months and the shortest employment span has been four months. Two previous Superintendents were offered "buyouts" and the last Superintendent was also offered a "buyout" settlement after approximately six months in his position. Interviews with current and former Trustees' and other employees revealed that this "trend" continues to occur because once a new Superintendent is hired, if he/she does not align with certain Board members' agendas, the Superintendent is then dismissed from the district.

SIU Investigators interviewed the Board of Trustees, employees of the district and reviewed electronic communications and official reports regarding the relationship between the Superintendent and the Board of Trustees.

Additional district employee interviews alleged that decision-making by the Board of Trustees appeared to be based on familial alliances among district personnel and within the Hearne community. Two related employees, the business manager and a substitute teacher, were subsequently terminated while SIU was on-site. Both employees have filed grievances with HISD and have demanded reinstatement of their positions. It was also explained to SIU that the Superintendent removed the elementary school Principal and assigned him to an Assistant Principal position at the junior high school because of the continued low performance of the elementary school. This individual subsequently resigned from HISD.

In March 2016, HISD adopted a policy approved by the Board of Trustees, that the Superintendent must seek board approval for purchases over \$10,000, as well as approval to hire/fire employees. This change came a short time after the Superintendent made personnel changes, and it appeared to limit the scope of the Superintendent's authority in the day-to-day operations of the district. Subsequently, the Superintendent was terminated for "Failure to Maintain Rapport with the Board" (Exhibit C).

Based on evidence obtained by the SIU investigators, the relationship between the Board of Trustees' and the Superintendent was tumultuous to the point where the Board would not allow the Superintendent to make basic day-to-day decisions concerning the district without consulting the Board. Furthermore, when interviewed individually, several Trustees acknowledged the dysfunction of the Board, and requested that the TEA intervene and, if necessary, dissolve the Board in order to enable the district to move forward.

Finding 2: HISD's Board of Trustees are acting in their individual capacities on behalf of the board, in violation of Tex. Educ. Code §11.051(a-1).

Pursuant to Tex. Educ. Code §11.051(a-1), unless authorized by the board, a member of the board may not, individually, act on behalf of the board. The board of trustees may act only by majority vote of the members present at a meeting held in compliance with Chapter 551, Government Code, at which a quorum of the board is present and voting.

During TEA's on-site visit, numerous interviews were conducted with district employees and school board members related to this allegation.

SIU investigators learned that Trustee A visited the high school campus. In one instance, Trustee A's grandchild was being disciplined for inappropriately touching a teacher in class. The original determination was that the student would receive three days suspension for the infraction. Trustee A, visited the campus without the knowledge of the HISD Superintendent, and approached the principal and vice principal. The board member informed them that the disciplinary action of three days was too long and he recommended the punishment be reduced to one day only.

During an interview with Trustee A, SIU investigators asked the board member if he was acting in his official capacity as a Trustee during that meeting. He stated that he was there as a concerned grandparent and did not exercise his position on the board to influence the decision of the principal or vice principal. It was reported that the Trustee stated twice, "I'm not coming to you as a board member, I'm coming as a concerned grandfather."

Upon interview with SIU, the vice principal mentioned that he had a conversation with a Rockdale ISD administrator who was dealing with a similar situation concerning a student. The Rockdale ISD administrator advised the vice principal that he issued a three day in-school suspension to the student. After discussing this with the board member, the vice principal was told, "I don't care what they're doing in Rockdale. What did I sign off on?"

The board member then stated, "Three days of in-school suspension is a bit excessive for the first offense. She can serve one day, but she's not doing three." It was reported that the board member then said, "I'm not trying to tell you how to do your job, but three days is too much." The vice principal stated that he got the impression that the board member was trying to influence the plan of action regarding the granddaughter's consequences. The vice principal's decision to hand down a punishment of three days was ultimately lessened to one day.

Finding 3: HISD did not comply with state law and TEA rules by failing to collect criminal history information to facilitate SBEC's national criminal history review for ten noncertified employees, pursuant to Chapter 22, Subchapter C of the Texas Education Code.

During the investigation, TEA discovered that a substitute teacher employed by the district had been arrested for assault with a deadly weapon, a 2nd Degree Felony. SIU investigators requested a Fingerprint Compliance Review (FCR) be conducted of all employees.

Tex. Educ. Code §22.0831 requires the State Board for Educator Certification (SBEC) to review the national history record information of a person who is:

- (1) An applicant for or holder of a certificate under Subchapter B, Chapter 21, and

- (2) employed by or is an applicant for employment by a school district, open-enrollment charter school, or shared services arrangement.

Pursuant to 19 Tex Admin. Code §153.1103, all school entities, including school districts, are required to assist the Texas Education Agency in the collection of criminal history record information to facilitate the National Criminal History Review.

Additionally, in accordance with Tex. Educ. Code §22.0833, school districts are required to send or ensure that the person sends information that is required to obtain national criminal history record information for noncertified employees either before or immediately after employing the person. This information may include fingerprints and photographs.”

The FCR revealed that one certified employee and nine noncertified employees of the district were not in compliance with Tex. Educ. Code Ch. 22 Subch. C. Seven of the employees had no record of upload, and three were uploaded but not fingerprinted. This information was passed on to the district and the district is in the process of getting into compliance.

To fulfill the statutory requirement of Tex. Educ. Code §22.085(f), Superintendents of school districts submit a certification of compliance regarding criminal history requirements to the TEA each year. Despite HISD’s non-compliance, the school district submitted this form to TEA, certifying that it was in compliance with Tex. Educ. Code Ch. 22 Subch. C. for the 2015-2016 school year, when it was not.

Finding 4: HISD lacks internal controls in the Business Office, in violation of 19 Tex. Admin. Code §109.41.

Pursuant to Tex. Educ. Code §109.41, “The rules for financial accounting are described in the official Texas Education Agency publication, *Financial Accountability System Resource Guide (FASRG)*.” According to the *FASRG*, “a strong system of internal control enables the school district to ensure that resources are properly handled, properly used and are available for management’s and the board’s designation. In addition, the various agencies of the federal and state governments, including such agencies as the Office of Management and Budget, the Government Accountability Office, Texas Education Agency and others, require school district auditors to report on the internal control structure as a whole as it relates to the federal financial assistance area.”

During an interview with SIU, the Superintendent, stated he began working for the district in January 2016, and that he reviewed personnel files and looked at the operations of the district as a whole. During this initial review, he found that the business office was improperly managed, as check reconciliations were not completed and there appeared to be mismanagement of school funds. The Superintendent asked the Board of Trustees for an audit of the business office to be completed by the Texas Association of School Business Officials (TASBO). As a result of the audit, the business office manager and four other employees were removed from their positions.

Recent HISD expenditures for attorney fees are approximately \$47,806.38, and have increased due to the issues that the district has been having with its business office, Board of Trustees, and various Superintendent buyouts (Exhibit D).

An annual financial report conducted by Kimmy Jackson & Associates LLC, (Exhibit E) and the TASBO report (Exhibit F), found mismanagement of HISD school funds, therefore the school

board approved a forensic audit to be conducted by Don Southerland, CPA (Exhibit G). The cost of this audit was \$43,773.03. Mr. Southerland was charged with reviewing the following areas of concern for HISD that are relevant to TEA's investigation of the district:

1. Identify the delay in the conducting of bank reconciliations and determine if there were any indications of malfeasance or misappropriations of funds related to this delay.
2. Identify handwritten checks for the last two years and determine why they were not produced through the normal computerized system.
3. Analyze cash management or cash handling procedures to identify any failures in internal controls and possibly malfeasance.
4. Analyze payroll records to determine if there are any "ghost" or unidentifiable employees.
5. Conduct an analysis of employee reimbursement for school loans.
6. Conduct an analysis for the 2014, 2015, and 2016 school years to identify any double payments to vendors.
7. Conduct an analysis of district travel to determine if the Business Manager was accumulating award points for personal accounts.
8. Determine if Special Education funds were being properly used and accounted for and explain the existing carryover balance each year.

The results of the forensic audit were as follows:

1. There were no completed bank reconciliations for the Payroll Account for the period of October 2014.
2. There were no completed bank statements reconciled for the 2015-2016 fiscal year for the Operating Account.
3. There were no completed reconciliations for the period of September 2014 through March 31, 2015 for the Finance Clearing Account.
4. HISD routinely manually prepared checks after the business month closed resulting in a number of mistakes when posted to the cash account records; checks were processed without applicable purchase orders, and the district's credit card was used in an attempt to avoid the purchase order process.
5. The forensic audit could not substantiate nor unsubstantiate that cash had been misappropriated due to the lack of standardized and verifiable procedures for handling cash, internal controls, and recordkeeping.
6. No unidentifiable employees were detected. However, HISD was alerted to the risk of fraud when the Human Resource function was not separate from the payroll function, as was the case in the district.
7. The investigation did not uncover any evidence that an HISD employee received school tuition reimbursement or that there was a policy in place to allow reimbursement for employees for tuition.
8. There were two instances where the district overpaid vendors for services however, these monies have since been paid back to the district.
9. The former business manager was accumulated award points for her personal accounts by entering her award account number when she booked travel reservations for other school employees.
10. Special Education funds were being used in the proper manner and the district's decision to continue doing business with the Robertson County Co-Op to provide services was actually proving to be cheaper than the district hiring additional staff to provide these services.

Based on the concerns related to the HISD business office, the following audits were performed, along with their associated costs:

- TASBO Audit, \$7,277.00
- Southerland Audit, \$43,773.03

The lack of internal controls in the business office and leadership issues have cost HISD a considerable amount of money and has caused the district to “outsource” their check reconciliation operations to the local Education Service Center (ESC). The district is now working closely with the ESC to remedy the deficiencies of the past business office and move towards policies to mitigate any future issues.

Finding 5: TEA lacks evidence to establish that HISD failed to report required information related to student discipline in the Public Education Information Management System (PEIMS) in violation of Tex. Educ. Code §37.020.

Pursuant to Tex. Educ. Code §37.020, school districts are required to report certain information related to student discipline actions taken. Additionally, according to federal reporting requirements, a PEIMS 425 Student - Disciplinary Action record must be reported for each disciplinary action that results in a removal of a student from any part of their regular academic program. A single student would have multiple 425 Student - Disciplinary Action records if removed from his/her classroom more than once. Every disciplinary action that results in the removal of a student from any part of their regular academic program will be categorized in one of the following general categories: In-School Suspension (ISS), Out-of-School Suspension (OSS), Expulsion, Juvenile Justice Alternative Education Program (JJAEP), or DAEP assignments.²

During the course of the investigation, the SIU received information that student discipline records were being entered into PEIMS incorrectly or not at all. Upon investigation, seventy-five (75) student discipline records were found in the HISD elementary school's former Assistant Principal's office (Exhibit H). The records were filled out with the listed students' infractions, but were never signed by the administration. SIU investigators confirmed through an interview with a district administrator that those records were never recorded or entered into the Public Education Information Management System (PEIMS). According to the district administrator, the referral forms are to be filled out by the teacher, sent to the Vice Principal for review and discipline decision. The referral reflects the punishment that was administered and should be signed by the Vice Principal. The completed referral would be sent to the PEIMS clerk for data entry. The referrals that were discovered were not signed by the Vice Principal and the majority were not signed by a teacher.

Due to the ambiguous circumstances surrounding the student discipline records, it is unclear what the former Assistant Principal's intentions were concerning the records, but a significant lack of controls occurred concerning the records. Therefore, this finding is inconclusive.

² Refer to PEIMS Code Table C164 Discipline Action Code for the specific actions to be reported.

Finding 6: TEA lacks evidence to substantiate that HISD violated state law requirements regarding nepotism under Tex. Educ. Code §11.1513(f)-(h), and Texas Government Code Chapter 573.

In order to violate the nepotism provisions of Tex. Gov't Code, Ch. 573, a public official, i.e. a board member (or Superintendent, if applicable) must be related to an employee within the third degree of consanguinity or the second degree of affinity (although some exceptions apply.) Consanguinity denotes a blood relationship: one individual is descended from the other or they share a common ancestor. An individual's relatives within the third degree of consanguinity are:

1. First degree: the individual's parent or child
2. Second degree: the individual's brother, sister, grandparent, or grandchild; and
3. Third degree: the individual's great-grandmother, great grandchild, aunt who is the sister of a parent, uncle who is a brother of a parent, nephew who is a child of a brother or sister, or niece who is a child of a brother or sister.

Affinity refers to a relationship created by marriage. Two individuals are related by affinity if they are married to each other or if the spouse of one of the individuals is a blood relative of the other individual. An individual's relatives within a second degree of affinity are:

1. Anyone related by consanguinity to the individual's spouse within the first or second degree; or
2. The spouse of anyone related to the individual by consanguinity within the first or second degrees.

An investigation revealed that there are 24 district employees that are related by blood or marriage to other employees. Although the complaints alleged nepotism violations, SIU did not find clear evidence of this. A review of the 24 district employees showed that no public official met the prohibitions set forth in the Texas Government Code 573 regarding nepotism. Therefore, SIU could not substantiate the allegation of nepotism.

Summary

The findings establish that there is a failure of the HISD Board to collaborate with the multiple district Superintendents within the limits of the Board's statutorily specified duties. Also, there is an inability to demonstrate and provide leadership for the district. The dissention between board members and the Superintendent, and other district leadership may be a detrimental cause to student development as seen in recent HISD's academic accountability ratings:

	2012-13	2013-14	2014-15
Hearne Elementary School	Improvement Required	Improvement Required	Improvement Required
Hearne Junior High School	Improvement Required	Improvement Required	Improvement Required
Hearne High School	Met Standard	Met Standard	Improvement Required
Hearne ISD	Met Standard	Met Standard	Improvement Required

Additionally, the district is mandated to submit a "Campus Turnaround Plan" for the above campuses because the accountability ratings for both the elementary and junior high school campuses have been "Improvement Required" for the last three years (Exhibit B).

Recommendation for Sanctions

Based on the findings, the SIU will recommend to the Commissioner that the accreditation status of the district be lowered and that a conservator be appointed and a Board of Managers be installed in accordance with Tex. Educ. Code §39.102(a)(9) to replace the existing Board of Trustees so that the conflicts can be resolved, and policies and procedures can be implemented to address the issues raised in this investigation.

The agency reserves the right to implement all available interventions and sanctions under Tex. Educ. Code, Chapter 39, and 19 Tex. Admin Code Chapter 97, to address the current, or any future deficiencies identified for HISD.

Recommendation for Corrective Action

It is also recommended that HISD ensures the development and implementation of a Corrective Action Plan (CAP) to address the findings in this report. The CAP must be submitted to TEA within sixty (60) days of the issuance of the final report for review and approval.

TEA reserves the right to implement all available interventions and sanctions under Texas Education Code, Chapter 39, and 19 Tex. Admin Code Chapter 97, to address the current, or any future deficiencies identified for HISD.