

**REPORT TO:  
LEON COUNTY SCHOOL BOARD  
December 22, 2016**

**PREPARED BY: J. STEVEN CARTER  
LAURA BETH FARAGASSO  
HENRY BUCHANAN, P.A.  
2508 BARRINGTON CIRCLE  
TALLAHASSEE, FLORIDA 32312  
(850) 222-2920**

**TABLE OF CONTENTS**

**I. EXECUTIVE SUMMARY ..... 2**

**II. SCOPE OF THE INVESTIGATION ..... 6**

**III. APPLICABLE LEGAL STANDARDS AND  
LCSB POLICIES ..... 9**

**IV. INVESTIGATIVE STEPS ..... 12**

**V. SUMMARY OF EVIDENCE FROM  
THE INVESTIGATION ..... 20**

**VI. FINDINGS ..... 35**

## I. EXECUTIVE SUMMARY

On November 30, 2016, following briefings with counsel for the Leon County School Board (LCSB) and deliberations regarding the appropriate scope of investigation in light of former Superintendent Jackie Pons' unsuccessful re-election bid and effort to secure post-election employment with the Leon County School district, this firm and its undersigned attorneys were retained by LCSB to undertake the current investigation. The investigation was prompted by the anonymous delivery of a package of dated photographs and a typed narrative purporting to describe activities depicted in the photographs and on two additional days which preceded the dates of the photographs. The typed narrative claimed that the wooded property depicted in the photographs was owned by Paul Byrd ("the Byrd property"). Although no illegal or inappropriate activity was demonstrably evident from the photographs, the majority of them depicted then Superintendent Pons meeting two women in a wooded area in his white, LCSB-issued Ford Explorer. Taken together with the typed narrative, it was clear that the anonymous author/photographer was implying that inappropriate behavior of a sexual nature or other misconduct had occurred between Superintendent Pons and the women while at the wooded property.

Despite having no overt evidence of any such impropriety or a complaint of sexual harassment by either woman, LCSB determined that it was necessary, and

that it had an obligation to confirm, if possible, whether either of the two women had been subjected to sexual harassment or a hostile work environment, so that corrective action could be taken if necessary. LCBS investigations are ordinarily conducted by LCSB Chief of Safety & Security, John Hunkiar, and sexual harassment complaint investigations are ordinarily conducted by Dr. Kathleen Rodgers, Divisional Director Intervention, Equity and Support Services. However, this matter directly involved then Superintendent Pons, and thus, in accordance with LCSB Policy, both Mr. Pons and Mr. Hunkiar asked the LCSB attorney to refer the matter to an outside third party with the appropriate qualifications and experience in investigating such matters. Because this law firm met that criterion and also had no ties to LCSB or any of its officials, it was selected to conduct the investigation and was formally retained by LCSB pursuant to a services contract executed on November 30, 2016.

As more fully reflected below, the investigation included a thorough review of all applicable LCSB policies and the law governing sexual harassment and hostile work environment; review of numerous employment and internal records of the District; a site visit to the entrances of the purported location in the photographs; interviews of 17 witnesses, including LCSB administrators, security personnel, supervisory and co-worker staff associated with the individual identified below as

Jane Doe 1<sup>1</sup>, and other third party witnesses identified as having background facts pertinent to the issues; an interview with Jane Doe 2; attempted interviews with Jane Doe 1 and Mr. Pons; and the receipt of affidavits from Jane Does 1 and 2 and Mr. Pons.

Our investigation revealed several factually inconsistent and demonstrably questionable explanations about why Mr. Pons was on the Byrd property with Jane Doe 1 and Jane Doe 2. The investigation also revealed a widely recognized, close relationship between Jane Doe 1 and former Superintendent Pons, as well as Jane Doe 1's unusually rapid rise within the administrative ranks of Leon County Schools. These facts, along with Jane Doe 1 and Mr. Pons' refusal to grant interviews or answer detailed, written questions so that the sexual harassment issues could be fully explored, naturally raise questions about the precise nature of the relationships between former Superintendent Pons and Jane Does 1 and 2, but they do not provide direct evidence or proof of any behavior which violates the law or the LCSB anti-harassment policy.

In affidavits provided in lieu of our requested face-to-face interviews with the three individuals depicted in the photographs, none of the them denied that they

---

<sup>1</sup> Although the identity of the women depicted in the photographs is not disputed in that they have been clearly identified by numerous witnesses, they will not be referred to by name in this investigation in order to protect their privacy as potential victims of sexual harassment. *See* Fla. Stat. §119.071(2)(g)(2) and Fla. AGO 2009-10, 2009 WL 707419, citing Senate Staff Analysis and Economic Impact Statement, SB 20-B, May 25, 1993.

were, in fact, together at the Byrd property at various times. While Jane Does 1 and 2 indicated they were not aware that Paul Byrd owned the property, Mr. Pons has provided multiple statements to District personnel and others that it was the Byrd Property. However, all three adamantly deny that the two women were ever subjected to sexual harassment, a hostile work environment, or unwelcome behavior of any kind from former Superintendent Pons. They further, and more broadly, deny that the anonymously submitted photographs depict misconduct or illegal behavior of any kind.

As to Jane Doe 1, there has been no complaint by her of unwanted attention or harassment and we have discovered no direct or extrinsic evidence to suggest that she was a victim of unwelcome behavior. Accordingly, we conclude that there is no evidence to establish that Jane Doe 1 was a victim of sexual harassment or a sexually hostile work environment, and thus any concerns about potential sexual harassment of Jane Doe 1 are unsubstantiated.

As to Jane Doe 2, she confirmed that she was no longer an employee of the district at the time of the photographs. Therefore, it would be impossible as a matter of law for her to be the victim of workplace sexual harassment based on the circumstances depicted in the photographs or described in the typed narrative. Jane Doe 2 provided a sworn, written statement that nothing inappropriate or illegal occurred during the events depicted in the photographs and that Mr. Pons was a long-

time friend and confidant. In a subsequent telephone interview, she expressly and repeatedly denied that Mr. Pons ever engaged in any sexual harassment of her or created a sexually hostile work environment, and we have discovered no direct or extrinsic evidence to suggest that she was a victim of unwelcome behavior at any time during her tenure with the School District. We therefore conclude that there is no evidence that Jane Doe 2 was a victim of sexual harassment or a sexually hostile work environment, and thus any concerns about potential sexual harassment of Jane Doe 2 are unsubstantiated.

## **II. SCOPE OF THE INVESTIGATION**

On November 30, 2016, pursuant to the fully executed professional/Technical Services Agreement (PTSA), our law firm was retained by LCSB to conduct an independent investigation into potential policy violations or wrongdoing arising out of circumstances depicted in photographs and an accompanying typed narrative anonymously delivered to the School Board on or about November 2, 2016. The anonymous package appeared to assert the existence of an inappropriate relationship between then Superintendent of Leon County Schools, Jackie Pons, and two women depicted in the photographs, one a current School District employee, Jane Doe 1; and the other a former School District employee, Jane Doe 2. Jane Doe 1 is the Project Coordinator for the Families in Transition Program (also referred to as the

F.I.T. Program) and Jane Doe 2 was most recently employed as the principal of Deerlake Middle School, but retired in May 2016.

The typed narrative and the photographs contained in the anonymous package were unsourced, and the photographs were unauthenticated. More specifically, there was no information about who took the photographs or prepared the narrative, and no direct information about who provided the information to the LCSB.

The scope of our investigation was defined by two letters provided to us by the School Board's attorney, J. Jeffrey Wahlen, during the process of retaining our firm. These letters are dated November 18, 2016 and November 29, 2016, respectively.

The initial scope of investigation as described by the letter of November 18, 2016, required a broad inquiry into all possible LCSB policy violations or other misconduct that could possibly have resulted from the circumstances depicted in the photographs and as otherwise suggested by the typed narrative.

However, the letter of November 29, 2016, significantly narrowed the scope of the investigation since the determination had by then been made that Mr. Pons, already unsuccessful in his re-election bid, would not be re-employed by the School District. The new, reduced scope of services directed our firm to investigate and determine if there was evidence that the two women depicted in the photographs

were the subject of any unwelcome sexual harassment or a hostile work environment in violation of LCSB policy and/or employment law.

Significant media coverage regarding the anonymously delivered narrative, photographs and a related video (this video was not part of the package delivered to LCSB) has preceded and followed our formal retention by LCSB, and we recognize the likelihood of strong community interest not only in this report's conclusions, but also in the prudent expenditure of taxpayer dollars to conduct this investigation. Accordingly, we feel it is appropriate to specify not only what we *have* investigated pursuant to the narrowed scope of services, but also what we have *not*.

We have made no effort to ascertain the motivation for the procurement and delivery of the photographs, narrative and videos, or the identity of their creator(s). We have not inquired whether Paul Byrd was aware of, or permitted, Mr. Pons and the Jane Does' presence on his property. We have not investigated the identity of a camouflaged individual who appeared in photographs published in the newspaper. We have not explored Mr. Pons' statement, as published in the media, that he or others associated with his campaign set up counter-surveillance cameras on or near the Byrd property. We have not attempted to confirm the identity or motivation of a gentleman who spoke at a special LCSB meeting on November 3, 2016. We have not investigated whether this individual, or any other person, attempted to extort money from Mr. Pons by threatening to publish the photographs unless he was paid

a sum of money. Finally, we have not investigated whether Mr. Pons' use of district-owned Ford Explorer as depicted in the photographs was a violation of LCSB policies. All of these issues were beyond our investigative scope, and we have strictly limited our inquiries to matters directly relevant to the narrow issues set forth in the PTSA.

### **III. APPLICABLE LEGAL STANDARDS AND LCSB POLICIES**

The purpose of the investigation is to determine whether the women depicted in the photographs were the victims of unwelcome sexual harassment or hostile work environment in violation of LCSB policy and the employment laws that prohibit such conduct.

The applicable employment laws that protect employees, including employees of the LCSB, from any unwelcome sexual harassment and/or from the creation of a hostile work environment are found in both federal and state law. Title VII is the federal law that prohibits unwelcome sexual conduct that is a term or condition of employment. The parallel state law is found at Chapter 760, Florida Statute, as part of the Florida Civil Rights Act.

The hallmark of unlawful sexual harassment or hostile work environment is an employee's subjection to unwanted sexual attention, verbal or physical conduct, or other hostility by a co-worker, supervisor, or third party associated with the employer. In other words, only "unwelcome" sexual conduct that becomes a term or

condition of employment constitutes sexual harassment. In generally defining “unwelcome” conduct, the courts have explained that the challenged conduct must be unwelcome “in the sense that the employee did not solicit or incite it, and in the sense that the employee regarded the conduct as undesirable and offensive.” *See e.g., Henson v. City of Dundee*, 682 F.2d 897, 903 (11th Cir. 1982).

LCSB policy number 1362<sup>2</sup> expressly prohibits unlawful harassment, including sexual harassment. It defines sexual harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature regardless of sexual orientation, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity;
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.”

Moreover, while not intended to be exhaustive, the policy also provides clear and understandable examples of the kinds of conduct that may constitute sexual

---

<sup>2</sup> LCSB has identical policies against anti-harassment, including sexual harassment, related to instructional and support staff, found at Policy No. 3362 and No. 4362.

harassment, including unwanted sexual propositions, invitations, solicitations, and flirtations; unwanted physical contact; unwelcome verbal expressions of a sexual nature; inappropriate touching; and sexually suggestive remarks. Additionally, the policy provides that sexual harassment includes “consensual sexual relationships where such relationships lead to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.” (LCSB Policy 1362, examples of sexual harassment A-J)

LSCB policies against sexual harassment are extensively communicated to all employees each year. Specifically, at the beginning of each school year, the employees of the District receive mandatory sexual harassment training that includes a review of the applicable policies and the procedures for reporting a complaint of sexual harassment. In addition, a training video is provided and must be watched by all employees annually. There are separate videos for employees and supervisors that communicate in detail the types of conduct prohibited, how to confidentially report any conduct that an employee may claim to constitute harassment or a hostile work environment, and how to recognize conduct that might be harassment. Additionally, for each cost center/school in the District, a confidential sexual harassment contact/coordinator is established so that the employees working at that cost center have multiple places to report any prohibited conduct or harassing

behavior. An employee may report such allegations to his/her supervisor, the established confidential contact/coordinator, or directly to the District's Equity Office. All such reports remain confidential and are investigated in detail by the District's Equity Office to determine if the claim can be substantiated and if remedial action is needed. Dr. Kathleen Rodgers, Divisional Director Intervention, Equity and Support Services, personally conducts all such investigations. However, there is no LCSB policy that compels an employee to provide an interview in the investigative process.

With this backdrop of the LCSB policies and the applicable employment law, both of which specifically prohibit unwelcome sexual harassment and hostile environment, our investigation focused on the following specific questions and areas of inquiry:

- Was Jane Doe 1 a victim of sexual harassment or hostile work environment by former Superintendent Jackie Pons?
- Was Jane Doe 2 a victim of sexual harassment or hostile work environment by former Superintendent Jackie Pons?

#### **IV. INVESTIGATIVE STEPS**

Upon the execution of the PTSA, our firm began the steps necessary to investigate the issues presented. The anonymous photographs and typed narrative were provided to us by John Hunkiar, Chief of Safety & Security. These materials

were carefully reviewed and also compared to the photographs and videos that had been previously posted online by the Tallahassee Democrat in connection with its article of November 20, 2016, headlined “Politics of Destruction.”

In addition, material and relevant documents were requested and obtained from LCSB that were also carefully reviewed, such as a complete copy of the LCSB policies (inclusive of the code of ethics and all policies governing anti-harassment, hostile work environment, and campaign activities); relevant employee personnel files; job descriptions; various employee leave records; the sexual harassment training records of former Superintendent Pons and Jane Does 1 and 2 ; and where available, cell phone records of District-issued cell phones for the employees in question. In addition, the transcripts of the depositions of LCSB employees that had been taken in criminal case entitled *State v. Hildebrandt, Case No. 2015-CF-167* (Hildebrandt Criminal Case) were also obtained and reviewed, including, in particular, the deposition of Jane Doe 1 taken on September 27, 2016, as well as the court reporter’s audio recording of her deposition.

We reviewed the public records for real property owned by Mr. Paul Byrd in the area identified by the anonymous narrative, Christy Cary Lane in West Leon County, and then personally inspected and photographed the entrances to this location and compared this information to the photographs and video evidence obtained. We also reviewed information available through the Department of

Highway Safety and Motor Vehicles to confirm that the ownership of the vehicles depicted in the photos was as described in the narrative.

Reports of the surrounding events by various media outlets were also reviewed, as were social media posts in response to this coverage.

Numerous individuals, both LCSB employees and other fact witnesses, were personally interviewed in order to obtain the following information: general background information related to the employment practices and LCSB policies at issue; the job duties, type of work required, and the work performed in certain job positions and by certain employees, including Jane Doe 1 in her position as Project Coordinator of F.I.T.; whether any informal or formal complaints of sexual harassment or hostile work environment were ever made by the women depicted in the photographs; whether any factual circumstances suggested or established that the women depicted in the photographs were ever victims of sexual harassment, hostile work environment, or any other inappropriate or personal relationship involving Mr. Pons that might violate LCSB policy or law; and whether there were any additional relevant and material facts regarding the circumstances presented by the anonymous materials, including information relevant to the storage of the Pons campaign signs on the Byrd Property. More specifically, the following persons were interviewed by J. Steven Carter (JSC) and/or Laura Beth Faragasso (LBF) on the dates and

approximate times noted below, at the locations indicated, either in a face-to-face meeting or via a telephone interview:

<b>Date/Time</b>	<b>Person Interviewed</b>	<b>Location</b>	<b>Investigators Present</b>
12/02/2016 8:30 a.m.	John Hunkiar Chief, Safety & Security	Conference Room Henry Buchanan, P.A.	JSC & LBF
12/5/2016 9:00 a.m.	Ronnie Youngblood Division Director Transportation	Conference Room Safety & Security Office	JSC & LBF
12/5/2016 9:45 a.m.	Dr. Pam Hightower Divisional Director Title I Director and Former supervisor of Jane Doe 1	Conference Room Safety & Security Office	JSC & LBF
12/5/2016 10:30 a.m.	Robert "Buddy" Tricquet Director District Security RMGT	Conference Room Safety & Security Office	JSC & LBF
12/5/2016 11:15 a.m. & Multiple TCs	Vi Dennis Director II, Human Resources	Conference Room Safety & Security Office & Follow-Up TCs	JSC & LBF
12/5/2016 11:45 a.m.	Dr. Marvin Henderson Deputy Superintendent	Conference Room Safety & Security Office	JSC & LBF
12/5/2016 1:15 p.m. & 12/12/2016	Dr. Kathleen Rodgers Divisional Director Intervention, Equity and Support Services	Conference Room Safety & Security Office & Telephone Interview	JSC & LBF

12/6/2016 4:00 p.m.	Jane Doe 2 Retired LCSB Employee depicted in photographs	Telephone Interview	JSC
12/7/2016 9:00 a.m. & 12/13/2016	Jessica Lowe Principal of Virtual School - Current Supervisor of Jane Doe 1	Conference Room at Safety & Security Office & Telephone Interview	JSC & LBF
12/9/2016 9:00 a.m.	Grayson Hagan Program Specialist at FIT – co-worker of Jane Doe 1	Conference Room Admin. West	JSC & LBF
12/9/2016 10:20 a.m.	Jessica Chapman Assistant Principal Florida Virtual School; designated compliance officer at Jane Doe 1's workplace	Conference Room Admin. West	JSC & LBF
12/9/2016 10:30 a.m.	Freda Lewis Bookkeeper Florida Virtual School	Conference Room Admin. West	JSC & LBF
12/12/2016	Lorena Bueno Sr. Assistant State Attorney	State Attorney's Office	JSC
12/12/2016	Monica Jordan Jordan Research & Consulting	Telephone Interview	JSC
12/13/2016 8:00 a.m.	Dr. Michelle Gayle Assistant Superintendent Professional & Community Service	Conference Room Safety & Security Office	JSC & LBF

12/13/2016 8:45 a.m.	Shelly Bell Principal Godby H.S.	Conference Room Safety & Security Office	JSC & LBF
12/13/2016 9:15 a.m.	Ricky Bell Director II Interdivisional Support	Conference Room Safety & Security Office	JSC & LBF

In addition to these interviews, on Monday, December 5, 2016, at the inception of this investigation, requests to interview Mr. Jackie Pons and Jane Doe 1 were made through telephone conversations with Ronald Meyer and Steven Webster, attorneys for Mr. Pons and Jane Doe 1, respectively. Later that same day, after these verbal requests for interviews were made, our office received via email from the attorney of Mr. Pons, an unsolicited affidavit from Jane Doe 2, dated November 29, 2016 (a date which preceded our firm's formal retention by LCSB and the beginning of this investigation). The next morning, Mr. Pons' attorney also emailed an affidavit of Mr. Pons, dated December 6, 2016.

Both of these affidavits were general denials of any inappropriate and illegal misconduct surrounding the circumstances depicted in the photographs. However, they did not specifically address the sexual harassment issues being investigated, the specific conduct prohibited by the LCSB policies, or the nature of the relationship of the persons depicted in the photographs. Accordingly, we initiated a follow up telephone conference with Mr. Pons' attorney regarding the receipt of these affidavits and our previous verbal request for an interview with Mr. Pons. At this

time we were informed that Mr. Pons would not be made available for an interview, but that in light of our request, if we had specific questions, we could propound such questions and Mr. Pons would consider responding to them.

In addition, during the December 5, 2016, telephone conversation with Jane Doe 1's attorney, we were similarly informed that, at least at that time, our request for an interview would be denied, particularly without Jane Doe 1 being provided more specific information about the nature of the investigation and whether Jane Doe 1 was the subject or target of the investigation.

Upon our requests for interviews with these key witnesses being denied, separate letters were sent to each lawyer in which we specifically explained the purpose of the investigation and reiterated our requests and the need for an interview with their respective clients.<sup>3</sup> The letter to Mr. Pons' attorney also discussed and confirmed the possibility of propounding written questions on the issues if our

---

<sup>3</sup> While there is no LCSB policy which compelled these witnesses to meet with us for an interview, answer questions, or otherwise cooperate with the investigation, the refusal of these key factual witnesses to provide an interview or fully and completely address the specific issues of this investigation (i.e., the sexual harassment issues) resulted in more witness interviews being conducted than otherwise might have been required for this investigation. These additional interviews were an attempt to determine the nature of the relationship which Jane Doe 1 had with Mr. Pons and the circumstances depicted in the photographs. Inquiries included questions about statements and comments that these key witnesses had made to others regarding the circumstances depicted by the photographs. It is from these additional interviews that the factual inconsistencies and questionable explanations about the purpose of being on the property were discovered. Moreover, because LCSB policy and well-established employment law on the subject clearly provides that a consensual sexual relationship which results in favoritism may in fact constitute sexual harassment, it was necessary to make an inquiry regarding any consensual relationship between the two. Thus, not receiving a timely, thorough, and definitive denial of any claim of sexual harassment required the nature of the relationship to be investigated.

follow-up request for an interview was denied. Mr. Pons' attorney called after receipt of this letter, confirmed that Mr. Pons would not be made available for an interview, and indicated that we should send him our written questions for consideration. Written questions were then prepared and provided to Mr. Pons' attorney on December 8, 2016.

The letter to Jane Doe 1's attorney described the purpose of the investigation, provided copies of the photographs and typed narrative, and explained that Jane Doe 1 was not the subject or target of the investigation. Our correspondence also indicated that if an interview was not going to be permitted, we requested that Jane Doe 1 alternatively provide a written statement confirming whether she was a victim of sexual harassment or a hostile work environment.

To date, no interview of Mr. Pons or Jane Doe 1 has been permitted as part of this investigation. Moreover, in response to our December 8, 2016 letter transmitting the written questions to Mr. Pons, on December 9, 2016, Mr. Pons' attorney advised by letter that the anonymous package was an effort to damage him politically; that he declined to participate further in the investigation; and that the previously provided affidavit would be the extent of his cooperation. This of course meant that the detailed written questions submitted to Mr. Pons would not be answered.<sup>4</sup>

---

<sup>4</sup> Mr. Pons' reluctance to cooperate fully in the investigation is particularly puzzling since he publicly called for an independent investigation of these same circumstances in the wake of the related article published in the Tallahassee Democrat.

On the afternoon of December 13, 2016, our office received an affidavit from Jane Doe 1, stating unequivocally that she has “never been harassed by former Superintendent Jackie Pons, and I have not requested an investigation into any alleged harassment.” The Affidavit of Jane Doe 1 goes on to make the conclusory affirmation that the anonymous complaint (presumably meaning the anonymous package of photographs and the typed narrative received by LCSB, as there has been no “complaint”) “has no basis in fact and does not merit any investigation”<sup>5</sup> and further states that she considers the “false” and “malicious” accusations to be defamatory. She also asserts that her privacy is being invaded (presumably by this investigation, although that is not specifically stated), and that she is now a victim of (unspecified) retaliation for exercising her First Amendment right to support the candidate of her choice.

#### **V. SUMMARY OF EVIDENCE FROM THE INVESTIGATION**

The following is a summary of the information obtained through this investigation, including a review of the anonymous package provided to the LCSB, various policies of LCSB (including the anti-harassment and sexual harassment

---

<sup>5</sup> This conclusory statement is contradicted by the Jane Doe 1’s deposition testimony in the Hildebrandt criminal case, in which she stated that anything she does with the superintendent is “completely work-related,” contrasted with numerous statements by her supervisors that there were no work-related reasons for her being on the wooded property with Mr. Pons. As referenced above, even a consensual relationship may constitute a violation of the sexual harassment policy. Thus, this area of investigation is not only warranted, but required in light of the information depicted in the photographs.

policy), numerous employment records related to the person involved, the written affidavits provided, and the relevant information gathered from our interviews of witnesses.

**A. LCSB's Sexual Harassment Policies and Training**

LCSB has well established policies that prohibit sexual harassment, including any unwelcome sexual conduct or other conduct that creates a hostile work environment. In fact, the policies provide explicit examples of conduct that would be considered sexual harassment and violate the LCSB policy. (LCSB Policy No. 1362)

All School District staff undergo thorough, mandatory training at the beginning of the school year regarding sexual harassment, hostile work environment, and the methods available for reporting it and seeking redress. (Interviews of K. Rodgers and J. Lowe) The District provides multiple avenues for reporting any unwelcome conduct or workplace hostility, both formally and informally. Training records for all three individuals depicted in the photographs indicate that they had received proper training. (Interviews of K. Rodgers and related documents provided)

**B. Written Narrative, Photographs, and Video**

Thirty-three unsourced and unauthenticated photographs and a two page, unsourced, typewritten narrative were anonymously delivered to the Leon County School Board on or about November 2, 2016. (Jeffrey Wahlen email to LCSB dated

11/3/2016). The written narrative alludes to misconduct allegedly depicted in the photographs and appears to be in the form of a surveillance report that identifies dates, times and the identities of the people and vehicles shown in some of the photographs, as well as providing a similar description of events on two preceding dates.

The source of the photographs and written narrative has not been determined from this investigation. However, two public records requests corresponding to the dates and purported circumstances depicted in the photographs were made to the LCSB on September 29, 2016, by Monica Jordan of Jordan Research & Consulting. (Jordan letters of 9/29/2016 re: Public Records Request) Ms. Jordan has indicated that she does not conduct surveillance activities in her business and was not the source of the photographs and videos. (Telephone interview of M. Jordan) She further explained that to her knowledge, a sealed package with the same type of materials as provided to LSCB were previously delivered anonymously to Tim Jansen, the attorney for Wilburn “Woody” Hildebrandt in the pending Hildebrandt Criminal Case.<sup>6</sup> Ms. Jordan indicated that the typed narrative and photographs were reviewed by her in order to develop the items being requested in her public records request. (Telephone interview of M. Jordan) Apparently, at least one of the

---

<sup>6</sup> Attempts were made to contact Mr. Jansen regarding this information but these attempts were unsuccessful prior to the close of this investigation.

photographs was used (although not specifically identified or made part of the deposition record) during Mr. Jansen's deposition of Jane Doe 1 taken on September 27, 2016 in the Hildebrandt Criminal Case. (Deposition Transcript of Jane Doe 1; Interview of L. Bueno)

During the week of October 10, 2016, Woody Hildebrandt called Ricky Bell, the LCSB's Director of Interdivisional Services, who was supporting Mr. Pons' campaign, largely by assisting with sign assembly and location. Mr. Hildebrandt told Mr. Bell that "they're fixing to ruin Jackie," and that there were "hundreds" of photographs of Mr. Pons and (unidentified) school employees at the Byrd property. Mr. Hildebrandt told Mr. Bell that Tim Jansen had the photos, and he asked Mr. Bell to tell Mr. Pons that he had nothing to do with it, and that any release of the photos was "out of his hands." However, Mr. Hildebrandt did not say how he became aware of the existence of the photographs, whether he knew the source of the photographs, or if so, where / from whom they originated. Mr. Bell called Mr. Pons to relay this message, and Mr. Pons responded that he was aware of the photos and the allegations, that they were "a bunch of lies," and that he was at the Byrd property to check on campaign signs. He further told Mr. Bell that if anyone was sitting in his back seat, it was because too much junk cluttered his front passenger seat for anyone to be able to sit down in it. (Interview of R. Bell)

Similar photographs and a related video were apparently delivered to various local media outlets and later posted online by the Tallahassee Democrat as part of an article that appeared in the newspaper on Sunday, November 20, 2016. The article indicated that the package of materials was anonymously shipped to the newspaper from a UPS store in Birmingham, Alabama. The video was seemingly edited such that only excerpts of what appeared to be longer videos were used to make the video, and it consisted of a combination of other videos and photographs or screen shots that had been pieced together to form a single product. Because the video appeared to consist of a series of surveillance films (from both stationary and hand-held cameras) taken over a period of time, the true duration of the videos and purported length of the events depicted cannot be determined. Most of the photographs that were anonymously provided to LCSB appear to be screen shots from these videos.

Mr. Pons' affidavit asserts that he discovered a camera that had been installed to take pictures and video on or near the Byrd property and "noted from the camera that the date and time function was not properly set." He concludes that the date/time stamps on the photographs do not accurately reflect the times they were taken. (Pons affidavit) Notably, however, Mr. Pons' affidavit does not explain how or when he made that determination, and does not otherwise provide the alternative dates and times that he claims would accurately reflect when he was at the Byrd property with the women. Nor does his affidavit indicate whether he advised the women about the

surveillance camera(s) or whether he continued to meet them at the Byrd property after his discovery. The written questions to Mr. Pons made these inquiries, but as reflected above, Mr. Pons has refused to answer these or any other questions. (Letter to Ronald Meyer dated 12/8/2016 with attached questions and letter from Ronald Meyer dated 12/9/2016.)

### **C. Real Property in Question**

The photographic and video evidence shows that on multiple occasions, Jackie Pons met separately with two women at a wooded property alleged in the written narrative to be located off Christy Cary Lane in West Leon County and owned by Paul Byrd. Mr. Byrd is a former School District assistant superintendent who has had a long friendship with Mr. Pons outside of the workplace and is currently awaiting a criminal trial on drug charges. According to Leon County property records, Mr. Byrd owns a series of tracts in this area that are contiguous to residential property on Ida Road which is also owned by Mr. Byrd. (Leon County Property Appraiser's Map of Area and Records of Ownership)

Visual inspection of the unpaved entrance and exit driveways of the alleged property location on Christy Cary Lane, and comparison to the property as seen in the photographs and video, confirms that the meeting place depicted in the photographs was likely the Byrd property located off Christy Cary Lane. (Photographs of Property driveways) Mr. Pons has acknowledged this fact to

numerous witness, thus, it appears to be undisputed. From what can be observed from Christy Cary Lane, the property appears to be undeveloped and is heavily wooded, although there are many homes on Christy Cary Lane adjacent to the property and in the surrounding area. The nearest intersecting street with Christy Cary Lane is Bethel Church Road.

#### **D. Persons Depicted in the Photographs**

Jackie Pons is the former Superintendent of LCS and was first elected in 2006. He was an employee of the School District, including the Principal at Deerlake Middle School, prior to his election to superintendent. He is depicted in most of the anonymous photographs and in the video, in a white, district-owned Ford Explorer SUV that was assigned to him (Interview of R. Youngblood and License and Tag Records), and on one occasion, in a black Ford Expedition personally owned by Mr. Pons. The license plate/tag number of the white SUV was verified as one assigned to a vehicle owned by the district, and the tag of the black SUV confirmed Mr. Pons' ownership of that vehicle. (Background Records from Accurint)

Jane Doe 2 was a long time employee of LCSB, and most recently the principal of Deerlake Middle School. She retired in May 2016 and has not worked for LCSB since her retirement. (Personnel Records of Jane Doe 2)

Jane Doe 1 is currently the Program Coordinator of the F.I.T. Program. (Personnel Records of Jane Doe 1) She started with the district in March 2012 as a

substitute teacher. In late June 2012, she began working as OPS clerical help in the Superintendent's office and was assigned to one of Mr. Pons' assistants, Celeda Christie. (Personnel Records of Jane Doe 1 and Deposition Transcript of Jane Doe 1) It was in this OPS position that she says she first met Mr. Pons. (Deposition Transcript of Jane Doe 1)

For 2012-2013 school year, Jane Doe 1 worked as a third grade teacher at Conley Elementary. (Personnel Records of Jane Doe 1) In the summer of 2013, Jane Doe 1 began working in the Title X Homeless Program (now known as F.I.T.) as a resource teacher under Program Coordinator Dr. Pam Hightower at an increased salary.. (Interview of P. Hightower; Personnel Records of Jane Doe 1)

All indications are that Jane Doe 1 was a dedicated and competent employee for the district and particularly so in her position in the Title X Program under Dr. Hightower. (Interview of P. Hightower) She performed her job at or above expectations. (Interviews of P. Hightower, J. Lowe and Dr. M. Gayle) In this position, Jane Doe 1 apparently also worked closely with Mr. Pons, including on special projects outside of the direct supervision of her supervisor, and sometimes without Dr. Hightower's knowledge of what the projects were. (Deposition of Jane Doe 1; interview of P. Hightower) Around the same time, it became well-known that she had unusual access to the superintendent based on her work relationship with him. (Interviews of P. Hightower and G. Hagan)

In July 2015, following Dr. Hightower being appointed the District's Title I Director, Jane Doe 1 was appointed to the Program Coordinator position for the Homeless Program. (Personnel Records of Jane Doe 1; interviews of J. Lowe and Dr. M. Gayle) Pursuant to a directive from the Florida Department of Education, the program became known as the Families in Transition (F.I.T.) Program around this same time. (Interview of J. Lowe)

The General Classifications Specifications Factors for the position of Program Coordinator require a B.A. or B.S. Degree with six years related experience. (Program Coordinator Job Description and interview of V. Dennis) The related experience requirement can be satisfied from work other than for the district, and for non-instructor positions (such as the F.I.T. Coordinator), exceptions to the experience requirements are sometimes made. (Interview of V. Dennis) However, the typical professional progression for an administrative leadership position would include several years as a classroom teacher and completion of a three-year administrative leadership training opportunity provided by the district, and oftentimes a post-graduate degree. (Interviews P. Hightower, Dr. M. Gayle, and S. Bell) Vacant administrative positions (like Coordinator Positions) involving administrative leadership experience are typically coveted positions within the district and such opportunities are often highly sought after by classroom teachers. (Interview of S. Bell)

At the time of her appointment as the F.I.T. Program Coordinator, Jane Doe 1 had one year of classroom teaching experience along with the approximately two years of experience working in the Program. Mr. Pons ultimately approved the promotion. (Personnel File of Jane Doe 1) In her new position as Program Coordinator, Jane Doe 1 continued to work closely with Mr. Pons. (Deposition Transcript of Jane Doe 1) The Program's constituents are at-risk students, so she often worked with him on various projects related to this population, and they often attended community events together related to the Program. (Deposition of Jane Doe 1) By all accounts, Jane Doe 1 is passionate about serving these at-risk students and their families and performs well in her position as Coordinator. (Interviews of G. Hagan, J. Lowe, and Dr. M. Gayle)

#### **E. Depositions in Hildebrandt Criminal Case**

Numerous district employees were deposed in the Hildebrandt Criminal Case in the summer of 2016, including Jackie Pons. Thereafter, Jane Doe 1 was scheduled to have her deposition taken on September 27, 2016. Prior to the deposition of Jane Doe 1, Mr. Pons contacted the Assistant State Attorney handling the case and tried to have the deposition canceled, stating that Jane Doe 1 did not have relevant information to the criminal case and did not need to be deposed. (Interviews of L. Bueno and J. Hunkiar) In addition, Jane Doe 1 also contacted the Assistant State

Attorney on a number of occasions to try and have her deposition cancelled.

(Interview of L. Bueno)

However, the deposition of Jane Doe 1 went forward on September 27, 2016. Jane Doe 1 was described as jittery and frantic both before and during the deposition. At the deposition, a number of questions were asked about her relationship with Mr. Pons. While she denied a special relationship with Mr. Pons, she indicated that she worked closely with him but it was always “completely work related with the superintendent.” (Deposition of Jane Doe 1) She refused to answer direct questions about meeting with Mr. Pons outside of work or knowing where Paul Byrd lived. Also, when she was asked questions about the type of car she drove and the existence of a Pons bumper sticker on her vehicle, she claimed she felt harassed and was upset and concerned about being followed. (Interview of L. Bueno and deposition transcript of Jane Doe 1) Finally, when a photograph was shown to her (supposedly similar to the ones anonymously delivered to the district) and she was asked if she “knew where she was on August 26<sup>th</sup>, 2016 at 11:58” (a date/time corresponding to one of the dated photographs) Jane Doe 1 reportedly reacted emotionally and became very upset. (Interview of L. Bueno). Although this adverse reaction is not apparent from the written transcript or audio recording of Jane Doe 1’s deposition, the Assistant State Attorney immediately stopped the deposition and indicated that she

was filing for a protective order. (Deposition transcript of Jane Doe 1 and interview of L. Bueno)

After the deposition, Jane Doe 1 remained upset about the deposition and the personal questions asked during the deposition. She offered the explanation that the only reason she would have been on the property with Mr. Pons was because there were campaign signs out there. (Interviews of G. Hagan and L. Bueno).

#### **F. The Proffered Reasons for Being on the Property**

While not part of the affidavit he delivered to us for this investigation, Mr. Pons has made a number of statements to numerous employees of the district and other third parties, to the effect that although it was a “stupid decision” to do so, the reason he was on the Byrd Property with these woman as depicted in the photographs was because his campaign signs were being stored at this property. (Interviews with S. Bell, R. Bell, L. Bueno, J. Hunkiar and R. Triquett). He also indicated at one point that cars were staged there in advance of neighborhood campaigning. (Interview with J. Hunkiar) He explained that the necessity for sitting in the back seat with anyone was due to him keeping so much junk piled up in his front passenger seat that no one could sit down in it. (Interview of J. Hunkiar , R. Triquett, and R. Bell) Also, Mr. Pons stated in his affidavit that “any meetings that occurred during work hours with school district personnel were associated with school district business.” (Pons Affidavit)

However, contrary to the statements about the storage of campaign signs on the Byrd property, witnesses that also worked on the Pons Campaign and have personal knowledge of the Pons campaign (including being in charge of the storage, assembly, inventory and placement of such campaign signs) testified that there were no campaign signs at any time being stored or kept at the Byrd Property. (Interviews with R. Youngblood, R. Bell, and S. Bell) Instead, according to these witnesses, the large Pons campaign signs were ordered from a sign company near Thomasville Road and Monroe Street, picked up by these volunteers, and stored at the Ghazvini/Premier Construction warehouse on Capital Circle Northwest. Small yard signs were stored in Scotty Crowe's garage. These witnesses (including Mr. Pons' designated campaign manager) were in charge of maintaining the sign inventory and then providing the signs to volunteers as needed and instructing them where to place the signs. (Interviews of R. Youngblood and R. Bell) When the inventory ran low on signs, orders to the sign company were placed for new signs, and at no time during the campaign, according to these witnesses, were any signs gathered, obtained from or otherwise stored at the Byrd Property. (Interviews with R. Youngblood, R. Bell, and S. Bell)

In addition, Jane Doe 2 specifically stated that there were no campaign signs at this property (even though she was unaware that Paul Byrd owned the property and had never been there before the time period depicted in the photographs) and

that her visit there was not campaign related. (Telephone interview of Jane Doe 2) She further stated that she and Mr. Pons were not conducting school district or any work-related business, particularly since she was retired. (Telephone interview of Jane Doe 2) While the specific purpose of the visits between Mr. Pons and Jane Doe 2 were not explained, Jane Doe 2 described it as simply a “conversation among friends” and stated that she and Mr. Pons were “having a conversation.” Jane Doe 2 said that she had great respect for Mr. Pons both personally and professionally. (Telephone interview with Jane Doe 2)

Although the photographs are limited and the videos clearly edited, campaign signs cannot be seen on the property in these photographs and videos.

Jane Doe 1 stated in her deposition that while she worked “closely with the Superintendent,” she only went places and did things with Mr. Pons that were “completely work-related.” (Deposition of Jane Doe 1) However, supervisors of Jane Doe 1, including her past and current supervisors, as well as her Divisional Director, are not aware of any work-related reason for Jane Doe 1 to meet with Mr. Pons in the wooded area depicted in the photographs. (Interviews with J. Lowe, Dr. P. Hightower, and Dr. M. Gayle)

Mr. Pons’ refusal to either be interviewed or, alternatively, to answer very specific questions that would explain and describe the circumstances depicted in the photographs, the date/times that are depicted, and the nature of his relationships with

the two women, further complicates a factual determination regarding his reasons for being on the property with Jane Doe 1 and Jane Doe 2. Similarly, Jane Doe 1's refusal to explain the details of the situation also complicates a determination of these facts.

**G. No Reported Complaint or Evidence of Sexual Harassment**

No complaint of sexual harassment or hostile work environment, whether formal or informal, has ever been made by Jane Doe 1 or Jane Doe 2. A complaint, however, is not a necessary element of the claim and thus the absence of such a complaint does not prohibit a viable claim of sexual harassment or negate the possibility of unwelcome behavior, especially if there exists a fear of repercussions for complaining about the harassment and such fear can explain the absence or delay in reporting an incident. However, this legal concept does not seem applicable to these facts. Both women have affirmatively denied that any sexual harassment existed or that they are victims of any kind of sexual harassment by Mr. Pons. They also join Mr. Pons in denying that the anonymously submitted photographs depict misconduct or illegal behavior of any kind.

Additionally, both coworkers and supervisors of Jane Doe 1 (the only current LCSB employee) attest that they never observed any conduct or anything about Jane Doe 1's actions or demeanor which, despite the absence of any complaint, caused them to be concerned that she was being subjected to unwelcome conduct.

## VI. FINDINGS

The following are the findings from the evidence gathered during the investigation:

- Former Superintendent Pons was present on the Byrd Property with Jane Doe 1 on a number of occasions and with Jane Doe 2 on at least one occasion.
- The reasons for the women's presence with former Superintendent Pons at the Byrd property are unexplained. There is no credible evidence that the purpose was related to campaign signs. Instead, the evidence from numerous witnesses suggests that no signs were stored there, and there is no readily apparent work-related purpose for meeting in that location.
- The sexual harassment and hostile work environment training of the Leon County Schools is extremely thorough and the district provides multiple avenues for reporting any unwelcome conduct or workplace hostility. All three individuals received the annual training and thus Jane Doe 1 and 2 were fully familiar with the policies and the procedure for reporting any inappropriate behavior.
- No complaints of sexual harassment or hostile work environment, whether formal or informal, have ever been made by Jane Doe 1 or Jane Doe 2. Specifically, there have been no complaints by either woman of any unwanted or unwelcome attention or harassment by Mr. Pons that would result in either of them being a victim of sexual harassment. In fact, both women have provided sworn statements that affirmatively state that they have never been harassed by Mr. Pons and that there was nothing inappropriate or illegal as it relates to these circumstances.
- The key element of unlawful sexual harassment or hostile work environment is an employee's subjection to unwanted sexual attention, verbal or physical conduct or other hostility by a co-worker, supervisor, or third party associated with the employer. Whatever the true nature of the relationship and related behavior between Mr. Pons and the women, the evidence indicates that it was voluntary and not unwelcome, and thus cannot be sexual harassment.

- There is no direct or extrinsic evidence to suggest that Jane Doe 1 or Jane Doe 2 were victims of unwelcome behavior by Mr. Pons.
- Accordingly, we find that there is no evidence to establish that Jane Doe 1 or Jane Doe 2 were victims of sexual harassment or a sexually hostile work environment. Thus, any concerns about potential sexual harassment arising from the anonymously submitted photographs and narrative are unsubstantiated.

Respectfully submitted,

HENRY BUCHANAN, P.A.



J. STEVEN CARTER

Florida Bar No. 896152

[scarter@henryblaw.com](mailto:scarter@henryblaw.com)

LAURA BETH FARAGASSO

Florida Bar No. 0654604

[lfaragasso@henryblaw.com](mailto:lfaragasso@henryblaw.com)

Post Office Drawer 14079

Tallahassee, Florida 32317-4079

(850) 222-2920: Telephone

(850) 224-0034: Facsimile