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December 11, 2015

VIA HAND DELIVERY

Chris Henson, Interim Director of Schools

Metro Nashville Public Schools

2601 Bransford Avenue

Nashville, TN 37204

Dear Mr. Henson:

I represent Dr. Susan Kessler, a longtime employee of MNPS who has served as the principal of Hunters Lane High School since 2008. Dr. Kessler is the district's current principal of the year, having been nominated by her peers and selected by the district leadership as the 2016 Principal of the Year on May 11, 2015. Dr. Kessler has been recognized nationally and locally as a turnaround principal for her transformation of Hunters Lane High School from a corrective action school in 2008 to a school which now boasts three accredited academies, two with model status from the National Career Academy Coalition. Dr. Kessler is an invited, featured presenter known around the country for her work with ASCD, NASSP, the National Title I Conference, NCAC, and others. She was the only high school principal in the country invited to provide testimony before the United States Senate Health, Education, Labor and Pensions Committee on the topic of rewriting the No Child Left Behind law. Her February, 2015 testimony before Congress has contributed to the changes that are currently being written into law. In July, 2015, she was selected by MNPS to be a network lead principal, mentoring and supervising her peers because of her many and varied experiences and accomplishments. By all standards, Dr. Kessler is a model principal and asset to the Metro School System.

The communications department for Metro Nashville Public Schools has done an abysmal job in handling a reporter's investigative inquiries about testing practices in Metro schools. In one story, a former teacher complained that grades were changed in 2012. It was determined in 2012 that Dr. Kessler's actions were consistent with school district policy.

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When preparing a response about the story, the assistant to the director for communications, Janel Lacy, was clear in communicating her personal opinion that she was in disagreement with Dr. Kessler's actions and stated that "policy didn't matter." Ms. Lacy informed Dr. Kessler on November 9, 2015 that she was going to write a press release that claimed that the "investigation conducted in 2012 was botched" and that "even though policy was followed, Ms. Lacy's opinion was" that the board policy was not ethical." Dr. Kessler was shocked at her rationale which served as the impetus for her to attend the November 9, 2015 cabinet meeting of district leadership. It was at this meeting that Ms. Lacy claimed Dr. Kessler misunderstood, yet Ms. Lacy then announced that "The story didn't make sense," and questioned the validity of the 2012 investigation even though it is not in Ms. Lacy's job description, nor qualifications, to monitor or supervise principals, or conduct employee investigations. Dr. Kessler requested and was given input into the press release although Ms. Lacy refused to include that "fewer than 1% of the grades at Hunters Lane High School were changed," because Ms. Lacy could not verify that percentage even though it was cited in the 2012 documents that had been provided to her.

On Wednesday, December 9, 2015, the same reporter sent Ms. Lacy an e-mail indicating that he had another story which would air that evening with allegations of students being moved before an EOC test. Ms. Lacy received the email at 11:04 a.m., but did not contact Dr. Kessler to apprise her of the story, request any comment, or provide any documentation to refute the allegations. The reporter asked to meet with Dr. Kessler. Since Ms. Lacy did not convey the message, the reporter incorrectly assumed and said on air that Dr. Kessler refused to comment. We believe Ms. Lacy and the communications department is deliberately trying to sabotage and defame Dr. Kessler, with the ultimate effect that the truth is not being told by Metro. Dr. Kessler has been directed not to speak with this reporter and she has repeatedly followed those instructions, even though she has been willing to be interviewed. The actions and malfeasance of Ms. Lacy is causing us to rethink that position.

We were shocked to learn of Ms. Lacy's actions at a meeting on Monday, December 7, 2015. At that meeting, Chief Operating Officer Fred Carr shared his findings from the investigation about schedule changes at Hunters Lane. COO Carr explained that after reviewing the data with Director of Program Evaluation & Assessment, Dr. Paul Changas, the schedule changes used a wide variety of data points to determine which children needed more assistance and the rationale was sound. After being informed that there was no wrong doing, Ms. Lacy demanded that Dr. Aimee Wyatt take punitive action against Dr. Kessler so she could inform the media and show the district's response. Both COO Carr and Dr. Wyatt explained that they could not discipline Dr. Kessler because she had done nothing wrong. To follow up, Dr. Kessler asked Ms. Lacy via email if she made those comments about taking action against Dr. Kessler and she claimed it was inaccurate. She replied that her words would be clarified by the appropriate person. Dr. Kessler, legitimately replied, "Who is the appropriate person to clarify comments you made other than you?" If Ms. Lacy was misquoted or misunderstood, she could clarify as a

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person employed as a communicator. The evidence clearly shows that Ms. Lacy has a habit of asserting her opinion, as someone who is not an educator and has no experience leading a school as if she should be weighing in on matters of district approved published policy. It is Ms. Lacy's job to communicate the message of the district. However, Ms. Lacy's assertions seem to be her own.

When e-mailed by Dr. Kessler about why she was not informed of the upcoming news story, Ms. Lacy said she "assumed" others would notify Dr. Kessler; however, Ms. Lacy forwarded the e-mail from the reporter to 7 (seven) other employees at 1:05 pm and did not include Dr. Kessler on the email. While another employee sent Dr. Kessler a short text message without context about the story, it did not relay that information provided by the reporter, nor the reporter's request to talk with Dr. Kessler. There is no legitimate explanation about why 7 (seven) people would receive the email, and not Dr. Kessler. We believe this was a deliberate act of sabotage by Ms. Lacy for the purpose of defamation of Dr. Kessler.

Ms. Lacy is not qualified, nor certified, to be a teacher or administrator. She has no experience with the subject matter of which she should be communicating and while she may be entitled to her opinions as a layperson, her opinions should not be included in the district decision making process. Ms. Lacy's job is to be a liaison between the district and the media. She does not supervise my client. She apparently lacks any understanding of the academic needs of students in Metro.

It is our belief that Ms. Lacy is engaging in a deliberate attempt to slander and defame Dr. Kessler for reasons known only to her. We will be following up with a more detailed list of allegations that we will be litigating, if required, but feel the need to place the district on notice that we are prepared to file a lawsuit against Metro, and Ms. Lacy personally. We request that Dr. Kessler be notified of any media inquiries about her job activities at Hunters Lane High School, and we demand that Ms. Lacy and her subordinates be directed to cease with any disparaging comments or assertions about Dr. Kessler to anyone within or outside the school district. Finally, we believe Ms. Lacy's actions are worthy of sanctions. A cease and desist order will be forthcoming if Ms. Lacy continues to promulgate her opinions and not those of Metro Nashville Public Schools

In the event that any adverse job action is taken by Metro against Dr. Kessler, it will be considered a form of retaliation for reporting her concerns about the pattern of defamation on the part of Ms. Lacy and the communications department. Dr. Kessler has a property interest in her employment at Metro.

Dr. Kessler has been a loyal advocate for Metropolitan Nashville Public Schools over her many years of employment and her impact as an excellent principal has been well documented. Why the school district would not vigorously defend her when her actions are consistent with

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policy and best practices for meeting the needs of students who are academically behind is unfathomable. Please know that Dr. Kessler does not take the idea of litigating lightly, but she feels she must protect her professional reputation against the pattern of unscrupulous behavior of those charged with communicating to the media for the district.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. L. Cooper", with a long horizontal flourish extending to the right.

DAVID L. COOPER

DLC/aw

Cc: Ms. Janel Lacy (via email)
Corey N. Harkey, Esq. (via email)
Dr. Susan Kessler (via email)



METROPOLITAN
Nashville
PUBLIC SCHOOLS

To: Members of the Board
Date: December 31, 2015
Re: EOC Allegations Against the District

In case you have received constituent questions about the district's response to the investigative stories by Phil Williams at NewsChannel 5, we want to keep you informed about how we are responding to his inquiries.

Our management strategy has been to get to the bottom of these accusations so that we can either address any issues that exist or clear the district of wrong-doing. Our communications strategy has been centered on transparency and protecting the district's credibility.

Mr. Williams first approached MNPS in October with accusations of students being removed from End of Course (EOC) classes at low-performing high schools to inflate achievement data. At the time, he did not provide any student names or specific data that would enable us to either confirm or deny on the record that this was occurring. Mr. Williams only gave us general descriptions of what he had been told by his sources, such as an increase in the number of students enrolled in "independent studies" courses in the spring compared to the fall. Mr. Williams' concerns were shared with the Leadership & Learning division and with the principals of the named high schools.

Leadership & Learning explained the district's use of credit recovery for students who fail the fall semester of a course, where students are allowed to make up the fall credit through credit recovery before moving into the subsequent spring course. This explains the increase in the number of students enrolled in "independent studies" during the spring. This information was shared with Mr. Williams, who was not aware of the legitimate use of credit recovery. We later confirmed for him that the Tennessee Department of Education supports this practice.

Mr. Williams still chose to take issue with how the district uses credit recovery. However, he turned the majority of his focus on accusations that students who had passed fall courses were removed during the spring semester prior to EOCs being administered. He provided the name of one student at Hunter's Lane whose grandmother spoke to NewsChannel 5 on camera to confirm this had happened to her granddaughter.

At that point, our Operations division began an extensive internal review of student data to look for cases where students' course schedules were changed during the spring semester. The goal of the internal review is to ascertain whether the accusations made against the district have any merit.

As you know, the Operations division includes the departments of Research, Assessment & Evaluation and Data Quality. The separation of these departments from Leadership & Learning, which supervises schools and principals, provides internal accountability and the ability for us to credibly conduct our own internal review.

The review has been a very time-intensive process that has involved analyzing large volumes of data, reviewing individual student records and discussing with school personnel to get a complete picture of student scheduling decisions.

While conducting our own internal review, the Tennessee Department of Education also began asking questions about certain individual students. We are reviewing each of those student's records and responding to the TDoE with detailed information and documentation.

Because of the time involved with this process and additional inquiries from the TDoE, our internal review is still underway and expected to take at least another month to conclude. Only then will we feel confident in publicly addressing what has or has not occurred in our high schools in regard to scheduling students for EOC classes.

As we were well underway with our review, a student from Pearl-Cohn also went on camera to discuss being removed from a course she was passing. As you have probably heard, this student has now filed a lawsuit against the district. While transparency remains a priority, the pending lawsuit does somewhat limit our ability for open public dialogue about this issue.

Our communications strategy throughout this process has been guided by the following principles:

- To be transparent, honest and forthcoming with information: It's our belief that investigative reporters become more aggressive when they feel information is being withheld or presented in a questionable context. The communications staff has maintained regular contact with Mr. Williams, availing themselves by phone and responding promptly to email inquiries. We have also responded within reasonable timeframes to all of his public records requests, of which there have been many.
- To not deny any accusations unless we can substantiate our positions with data or other clear evidence: In order to maintain the credibility of our school district, we have been cautious to only defend actions where we are certain of the facts. In our opinion, the worst outcome of this situation would be for us to deny an accusation that is later proven true.
- To vigorously defend our positions when the facts are on our side: Mr. Williams' stories have taken many different angles. In cases where he has criticized legitimate educational practices – such as our use of credit recovery – we have not been shy about defending our positions and practices. As with all reporters though, Mr. Williams ultimately decides which parts of the information we provide to him will be included in his reporting.
- The use of interviews and written statements: While the communications staff serves as the district spokesperson in daily news stories, there are many cases when a subject matter expert from within the district is the more appropriate person to speak on the record with media. An investigative report is one of those cases.

Our communications staff believes that answering questions on camera is the most credible way to defend serious accusations in an investigative story such as this. However, to be credible, the message must be delivered by the person who is responsible for the issue(s) under investigation. At the beginning of Mr. Williams' reporting, that person was Dr. Jay Steele. However, Dr. Steele made a personal decision to deny Mr. Williams' interview request.

Shortly after the series began airing, other district leaders did talk on camera about our internal review process. That story can be viewed at the following link: [Metro Schools Promise Thorough Internal Review Of Testing Allegations](#)

Mr. Williams has since requested interviews with several of our principals, as well. While our principals and their supervisors in Leadership & Learning make the ultimate decision about whether or not they accept his interview request, we do not feel it is fair to our principals for them to be the face of Mr. Williams' investigation when their division head chose not to be interviewed.

In the absence of on camera interviews, the district has taken to writing detailed statements as our official, on-the-record response to Mr. Williams' questions. These statements have also allowed us to share our full positions with our own audience. While not our first choice, we believe this strategy has served us well during this process. We have distributed each of these statements to Board members the same day they were shared with Mr. Williams.

As mentioned before, our internal review is expected to conclude by the end of January at the earliest, pending no further inquiries from TDoE. We look forward to concluding this process and being able to provide definitive answers to the questions that have been asked of us. Of course, we will keep you informed of any significant developments in the meantime.