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FILED

JAN 25 2019

Clerk of the Court
Superior Court of California County of Santa Clara
BY: *R. Burciaga* DEPUTY

R. Burciaga

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

JANE DOE

Petitioner,

vs.

PALO ALTO UNIFIED SCHOOL
DISTRICT, and DOES 1-5, inclusive,

Respondent.

No. **19CV341533**

[PROPOSED] ORDER GRANTING
PETITIONER'S EX PARTE APPLICATION
FOR STAY OF ADMINISTRATIVE ORDER
PENDING COURT REVIEW

Date: January 25, 2019
Time: 8:15 a.m.

Petition Filed: January 24, 2019

Petitioner Jane Doe's Ex Parte Application for Stay of Administrative Order Pending Court Review came before this Court on January 25, 2019 in Department 10 of this Court.

Having considered the moving papers, materials on file with the Court and argument of counsel,

IT IS HEREBY ORDERED that Petitioner Jane Doe's Ex Parte Application for Stay of Administrative Order Pending Court Review is *pending a hearing on the stay* GRANTED. Respondent Palo Alto Unified School District (the "District") must immediately stay enforcement of the January 22, 2019 Amended Safety Directive, and reinstate the November 5, 2018 Permanent Safety Directive pending court review of Petitioner's Writ of Mandate. Effective *the stay issue* immediately, and until court review of Petitioner's Writ of Mandate, the District shall not

1 permit the student identified in the administrative record as having sexually harassed Jane
2 Doe to be a member of Gunn Robotics Team or participate in Gunn Robotics Team
3 activities for the remainder of the 2018-2019 school year. *Hearing date for*

4 *stay issued: 2/22/19 @ 9:00 am D.10. oppositor*
5 *due 2/8/19. Reps file 2/15/19.*
6 DATED: 1/25/19

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JUDGE OF THE SUPERIOR COURT

1 Jane Doe's personal and academic development and issued a directive prohibiting
2 Assailant from participating in GRT. However, on January 22, 2019, the District, despite
3 having conducted a Title IX investigation finding that Assailant sexually harassed Jane
4 Doe, made the unconscionable decision to permit Assailant to fully participate in GRT
5 alongside Jane Doe. Jane Doe seeks immediate judicial intervention on an *ex parte* basis,
6 requesting that this Court vacate the District's January 22, 2019 directive and reinstate the
7 November 5, 2019 directive, which prohibited Assailant from GRT.

8 The District's decision is violative of Title IX and not supported by the District's own
9 findings in the underlying investigation into the sexual harassment. The District has forced
10 Jane Doe to attend school alongside her abuser, has failed to ensure Jane Doe's safety on
11 campus, and now is granting Assailant unfettered access to his victim. Jane Doe has been
12 unable to attend school and GRT this week due to the emotional toll that the District's
13 unlawful decision has imposed upon her.

14 On January 24, 2019, Jane Doe filed a Petition for Administrative Writ of Mandate,
15 seeking an order overturning the District's decision. Jane Doe respectfully requests that
16 the Court stay the District's January 22, 2019 Amended Safety Directive, and order the
17 District to maintain the status quo by reinstating the November 5, 2018 Safety Directive. If
18 Jane Doe's *ex parte* request is denied, she will suffer immediate and irreparable harm, an
19 affront to her access to educational opportunities at Gunn High School.

20 **BACKGROUND FACTS²**

21 **A. Assailant Sexually Assaulted and Sexually Harassed Jane Doe.**

22 Jane Doe began dating a fellow student at Gunn High School (hereinafter,
23 "Assailant") in or around November 2017. Toward the end of January 2018, Assailant
24 forced Jane Doe to perform oral sex on him, against Jane Doe's will. Jane Doe was
25 horrified and shaken by the incident. Jane Doe ended her relationship with Assailant.

26 In retaliation, Assailant began to publicly humiliate and degrade Jane Doe on the
27

28 ² These facts are alleged in Jane Doe's verified Petition, dated January 24, 2019, and
attached as Exhibit A to the Request for Judicial Notice.

1 Gunn High School campus. For example, Assailant told a large group of boys at lunch at
2 Gunn High School (in Jane Doe's presence) that Jane Doe was bad at performing oral sex.
3 One boy in the group was simulating oral sex on a banana, at which time Assailant said,
4 "That's better than [Jane Doe] can do!"

5 On or about April 27, 2018, in an English class wherein both Jane Doe and
6 Assailant were present, the English teacher left the classroom and Assailant exclaimed
7 "[Jane Doe] is a 4 out of 10 in bed." This type of humiliation was unbearable for Jane Doe,
8 who now had not only been sexually assaulted, but was now being tormented and
9 humiliated by her abuser in front of her peers.

10 On May 9, 2018, Assailant sent Jane Doe a text, stating: "It's hard to respect
11 someone [after] you've shoved your dick down their throat." On May 10, 2018, Assailant
12 sent Jane Doe yet another text, stating: "How's your sex life?"

13 **B. The District Conducted a Title IX Investigation and Found that Assailant**
14 **Sexually Harassed Jane Doe.**

15 On or about June 6, 2018, Jane Doe filed a Complaint with the District's Title IX
16 Office.³

17 On October 23, 2018, more than four months after filing the Complaint, the District
18 issued an "Outcome of Investigation of Sexual Harassment Investigation." A true and
19 correct copy of the Outcome of Investigation of Sexual Harassment Investigation, with
20 redactions, is attached hereto as **Exhibit A**. Therein, the District **found that Assailant**
21 **had sexually harassed Jane Doe and deprived her of education opportunities:**

22 [T]he sexual harassment allegations constituted
23 sexual harassment in violation of PAUSD Policy
24 5145.7 Sexual Harassment, because this behavior
25 was unwelcome, severe and created an intimidating,
26 hostile, or offensive educational environment and
limited Complainant's ability to benefit from her
participation in her educational pursuits at Gunn.

27 ³ Jane Doe does not attach a copy of this Complaint only for the purposes of protecting
28 Jane Doe's identity. The Complaint contains numerous references to Jane Doe's name
and other identifying information. However, Jane Doe will make this document available at
the Court's convenience for *in-camera* review.

1 Thereafter, on November 5, 2018, the District issued the Permanent Safety
2 Directive, in accordance with the "Outcome of Investigation of Sexual Harassment
3 Investigation," confirming that Responding Student would "not be permitted to join the
4 afterschool GRT Build Team for the 2018-2019 school year and **will not participate in**
5 **afterschool GRT Build activities, beginning in January of 2019.**" (Emphasis added). A
6 true and correct copy of the November 5, 2018 Permanent Safety Directive is attached
7 hereto as **Exhibit B**.

8 The GRT program at Gunn High School is highly competitive and nationally
9 regarded. Jane Doe has been a member of this team – which meets both during and after
10 school – since her sophomore year of high school. Participating in this activity is key to her
11 academic development and remarkably important to her both personally and academically.

12 **C. On January 18, 2019, the District Announced a Unilateral Reversal of Its**
13 **Previous Decision and Reinstated Assailant as a Member of GRT,**
14 **Effective Immediately.**

15 On January 18, 2019, the Friday before a holiday weekend, the District contacted
16 Jane Doe's parents and requested an in-person meeting. Jane Doe's parents attended the
17 meeting, anticipating that the meeting would address the additional safety measures that
18 could be put in place for Jane Doe's senior year, per Jane Doe's parents' numerous
19 requests. Instead, when Jane Doe's parents arrived, the District informed them that it was
20 unilaterally revising the Permanent Safety Directive, **permitting Assailant to participate**
21 **alongside Jane Doe in all GRT activities as a member of the team,** effective
22 immediately.

23 The District, knowing that Jane Doe is represented by counsel, did not contact Jane
24 Doe's counsel in this regard.

25 At the January 18, 2019 meeting, the District vaguely stated that Assailant would be
26 accompanied by an "escort" while participating in GRT activities. Requiring that Assailant
27 be shadowed by an "escort" will not protect Jane Doe from harm. The GRT classroom and
28 workshop has multiple rooms with blocked sight-lines in numerous areas, and includes
dangerous equipment and chemicals. The GRT team often travels to competitions (staying

1 overnight in hotels) and works late into the night on a regular basis. It is virtually
2 impossible for Assailant to be shadowed at every moment while participating in GRT
3 activities.

4 The District then informed Jane Doe that Assailant would be attending GRT on
5 Monday, January 21, 2019 (Martin Luther King, Jr. day). Jane Doe's family rejected this
6 decision and demanded that Assailant not be present at GRT on January 21, 2019. The
7 family further demanded that the Permanent Safety Directive be reinstated immediately.
8 The District refused. Because of the government holiday, Jane Doe's family was unable to
9 secure immediate relief from the court.

10 Jane Doe alleges on information and belief that, in response to Jane Doe's family's
11 objections over the weekend, on Sunday, January 20, 2019, the District spoke with
12 Assailant's family who advised that Assailant would attend GRT on Monday. Out of fear
13 for her safety and to protect her emotional wellbeing, Jane Doe did not attend GRT on
14 Monday to avoid seeing Assailant. On information and belief, Jane Doe also alleges that
15 Assailant did not attend GRT on Monday. This appears to demonstrate that Assailant is
16 not fundamentally interested in the GRT program, and is using his attendance to further
17 torment Jane Doe. In the process, Jane Doe was victimized again, and she was forced to
18 miss another educational opportunity.

19 **D. On January 22, 2019, the District Issued an Amended Safety Directive,**
20 **Confirming in Writing Its Decision to Permit Assailant Immediate**
21 **Access to GRT Activities.**

22 On January 22, 2019, the District issued an Amended Safety Directive, stating in
23 writing that Assailant was permitted to rejoin GRT. A true and correct copy of the January
24 22, 2019 Amended Safety Directive is attached hereto as **Exhibit C**. The Amended Safety
25 Directive allows Assailant **even more freedom to participate in GRT activities, to the**
26 **detriment of Jane Doe**. Pursuant to the Amended Safety Directive, the District has
27 implemented an alternating schedule, whereby Assailant is permitted full access to GRT
28 activities on some days (at the exclusion of Jane Doe), and Jane Doe is allowed access to
GRT on other days. The District is retaliating against Jane Doe for being a victim of sexual

1 harassment, bringing the Complaint, and continuing to demand equal access to all
2 educational opportunities. The District has barred Jane Doe from fully participating in an
3 extracurricular activity that is crucial to her educational and personal development.

4 On January 22, 2019, the District asked Jane Doe to make an impossible decision.
5 The District verbally provided Jane Doe with the following options:

- 6 (1) Jane Doe may elect to have full access to GRT as a member of the team, but
7 accept the fact that Assailant will also maintain full access to GRT activities
8 and that she must face him on nearly a daily basis; or
- 9 (2) Jane Doe may elect to have peace of mind that she will not have to face her
10 Assailant, but on the condition that she forgo attending GRT on certain days,
11 allowing her only part-time, limited access to GRT activities. The District is
12 essentially asking Jane Doe to make an impossible choice – to choose either
13 her safety or her access to education.

14 This is truly an impossible choice, which effectively demands that a child choose
15 between her education and her own safety.

16 On Tuesday, January 22, 2019, based on the fact that a person delegated by the
17 District to monitor Assailant was present in the GRT workshop, Jane Doe attended GRT.
18 This delegated person spent a significant portion of the time focused on a mobile phone
19 and left the workshop at least twice, during which time monitoring of Assailant was limited
20 or nonexistent. Assailant came within less than three feet of Jane Doe while Jane Doe
21 was in proximity of large industrial equipment, and the person monitoring Assailant did not
22 seem to observe Assailant at that time. In addition to the ongoing emotional toll inflicted on
23 Jane Doe, this demonstrates that allowing Assailant to be in any workshop together with
24 Jane Doe creates an ongoing threat to her safety that cannot be effectively eliminated
25 pursuant to the District's Amended Safety Directive.

26 After this event, Jane Doe became overwhelmed and distraught over having to face
27 her attacker in order to participate in GRT. As a result, Jane Doe did not attend GRT on
28 January 21 or January 23, and stayed home from school on January 23 and the majority of

1 January 24 (attending only her afternoon classes and GRT). Jane Doe is living an
2 absolute nightmare and requests that the Court intervene on an ex parte basis for the
3 limited purpose of reinstating the District's November 5, 2018 Safety Directive, which
4 barred Assailant from participating in GRT activities.

5 Permitting Assailant to participate in GRT is detrimental to Jane Doe, Assailant's
6 victim, and devastating to Jane Doe both personally and academically. Not only is
7 prohibiting Assailant's participation in GRT justified based upon the finding that he sexually
8 harassed Jane Doe, but it is also **required** for Jane Doe's safety and to permit her equal
9 access to education.

10 ANALYSIS

11 **A. This Court Should Stay the District's January 22, 2019 Amended Safety** 12 **Directive Until the Court Holds a Hearing on Jane Doe's Petition.**

13 When an administrative writ is pending, California Code of Civil Procedure section
14 1094.5(g) provides that this Court may "stay the operation of the administrative order or
15 decision pending the judgment of the court." This relief may be granted if it is not against
16 the public interest. (See California Code of Civil Procedure section 1094.5(g)). An
17 administrative writ of mandate permits the court to conduct an inquiry into whether "there
18 was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of
19 discretion is established if the respondent has not proceeded in the manner required by
20 law, the **order or decision is not supported by the findings**, or the findings are not
21 supported by the evidence." (CCP section 1094.5(b), emphasis added).

22 Here, the January 22, 2019 Amended Safety Directive is **not supported by the**
23 **District's findings**. On October 23, 2018, the District found that Assailant had committed
24 "sexual harassment in violation of PAUSD Policy 5145.7 Sexual Harassment, because this
25 behavior was unwelcome, severe and created an intimidating, hostile, or offensive
26 educational environment and limited Complainant's ability to benefit from her participation
27 in her educational pursuits at Gunn." (See Exhibit A, page 2). It is undisputed that
28 Assailant sent vulgar and invasive text messages to Jane Doe that were unwelcome and

1 harassing. It is also undisputed that Assailant made humiliating comments about Jane
2 Doe's alleged sexual performance more than once in a public setting on campus,
3 surrounded by Jane Doe's classmates. The District previously informed Jane Doe that it
4 would not allow Assailant and Jane Doe to be in the same classes together for the
5 remainder of the parties' time at Gunn High School. However, the District is now reversing
6 course and allowing Jane Doe and Assailant to equally participate in an academic activity
7 that meets more often than any other class, including on nights, weekends, and at out-of-
8 town field trips. This decision is simply unsupported by the District's own finding of sexual
9 harassment.

10 Furthermore, **granting a stay is not against the public interest.** There is no
11 public interest in effectively forcing a sixteen-year-old child to make the impossible choice
12 between her safety (thereby participating in GRT on a part-time basis, which eliminates the
13 impact of her leadership role and limits her educational access) and her education
14 (allowing her to fully participate in GRT, but with the knowledge that her abuser will be
15 present alongside her). There is no public interest in permitting a sexual abuser unfettered
16 access to his victim before school, during school, after school, on weekends, and at out-of-
17 town field trips. There is no public interest in asking the victim of a crime to forego
18 educational opportunities so that her abuser can reap the benefits of those educational
19 opportunities.

20 **B. Even if this Court Ultimately Grants Jane Doe's Writ of Mandate, An**
21 **Immediate Stay Is Required to Prevent Immediate, Irreparable Damage.**

22 The District's decision to permit Assailant access to all GRT activities has taken an
23 incredibly devastating toll on Jane Doe. Jane Doe attended GRT on Tuesday, but the
24 presence of Assailant was so violative and terrifying to her, that she had a difficult time
25 returning this week, attending only on Thursday with her mother present. Jane Doe was
26 also unable to focus on her studies this week and could not attend school on January 23
27 and most of January 24 due to the District's actions. The District's decision has created an
28 untenable situation that cannot be remedied without judicial intervention.

1 Jane Doe will prevail on the Writ of Mandate. However, if the Court does not
2 immediately grant a stay of the January 22, 2019 Amended Safety Directive, Jane Doe will
3 be forced to suffer irreparable damage. In the time that elapses between the filing of this
4 ex parte application and a hearing on Jane Doe's Petition, she will be unable to attend
5 GRT (or, if she does attend, forced to suffer emotional distress and fear for her own
6 safety). Jane Doe holds a prominent leadership position in GRT and will be unable to
7 participate in team competitions and over events over the next couple of months if this
8 Court does not grant a stay. This will deprive Jane Doe of important educational
9 opportunities, and reward Assailant for his repulsive behavior.

10 **C. A Stay Is Required Because The District Is Unlikely to Prevail on the**
11 **Merits.**

12 The only requirement for a stay under 1094.5(g) is that the stay may not be imposed
13 unless it is against the public interest. (See *Sterling v. Santa Monica Rent Control Bd.*
14 (1985) 168 Cal.App.3d 176, 186-87 (affirming stay request without evaluating the merits of
15 the petition). As explained above, granting a stay in this action is not against the public
16 interest. In fact, granting this stay serves the public's interest in protecting sexual
17 harassment victims from further harm. Therefore, on this basis, this Court may grant Jane
18 Doe's request for a stay. It is unnecessary for the court to evaluate the merits of Jane
19 Doe's petition. Nevertheless, Jane Doe sets forth below several of the arguments she will
20 raise in response to the District's opposition to Jane Doe's writ petition.

21 Although the District wrongfully refused to investigate Assailant's sexual assault of
22 Jane Doe off campus, it is undisputed that the District investigated and unequivocally found
23 that Assailant sexually harassed Jane Doe on campus. The findings are conclusive in this
24 regard and contain documentary evidence – such as text messages and eye-witness
25 testimony from classmates. The District rightfully recognized the importance of GRT to
26 Jane Doe and excluded Assailant from participating on the team beginning in January of
27 2019. Then, without providing Jane Doe with the opportunity to participate in the
28 disciplinary proceeding (despite its immediate and profound impact on her), nor providing

1 her notice of the decision prior to implementation, the District unilaterally implemented a
2 new directive that permits Assailant immediate access to all GRT programing and events.
3 This decision is simply unsupported by the finding that Assailant sexually harassed Jane
4 Doe. Forcing Jane Doe to choose between her safety and her education is an
5 unconscionable act, and the District will not prevail in opposing the writ.

6 **D. This Ex Parte Application Is Properly Before the Court.**

7 California Rule of Court 3.1200 et seq. governs ex parte applications. An ex parte
8 application must include:

- 9 (1) An application containing the case caption and stating
10 the relief requested;
- 11 (2) A declaration in support of the application making the
12 factual showing required under rule 3.1202(c);
- 13 (3) A declaration based on personal knowledge of the
14 notice given under rule 3.1204;
- 15 (4) A memorandum; and
- 16 (5) A proposed order.

17 (California Rule of Court 3.1201). Jane Doe has complied with all procedural
18 requirements. On January 14, 2018, before 10:00 a.m., Jane Doe gave notice to the
19 District of her intent to appear ex parte on January 25, 2019. (See Declaration of Laura C.
20 Riparbelli, attached hereto).

21 Given the urgency of this request, Jane Doe cannot request a stay of the January
22 22, 2019 Amended Safety Directive on a noticed motion. The impact of the January 22,
23 2019 Amended Safety Directive puts Jane Doe in immediate danger – both physical and
24 psychological – and deprives her of educational opportunities. Jane Doe is the victim, not
25 Assailant, a fact that that District has already conclusively established. The District's
26 refusal to allow her full and complete access to GRT is an assault on Jane Doe's livelihood
27 and unconstitutionally deprives her of her right to equal access to education, pursuant to
28 Title IX. This unilateral and unconscionable decision by the District has forced Jane Doe to
stay home from school this week, and prevented her from attending GRT. As a result of
this emergency, an ex parte application seeking immediate judicial intervention is required.

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DATED: January 24, 2019

HOGUE, FENTON, JONES & APPEL, INC.

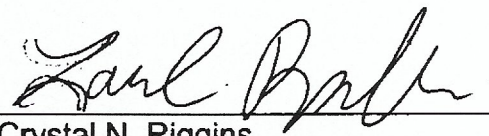
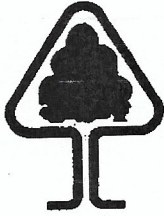
By 
Crystal N. Riggins
Laura C. Riparbelli
Attorneys for Petitioner JANE DOE

Exhibit A



PALO ALTO UNIFIED SCHOOL DISTRICT
25 CHURCHILL AVENUE
PALO ALTO, CALIFORNIA 94306
(650) 329-3709 FAX (650) 326-7463

October 23, 2018



Re: Outcome of Investigation of Sexual Harassment Investigation
File No. 31628

Dear [REDACTED]:

A formal Uniform Complaint Process (UCP) complaint was filed by your daughter, [REDACTED] (Complainant), against fellow student, [REDACTED] (Respondent) alleging violations of PAUSD Policy 5145.7 Sexual Harassment. The District concluded its investigation into these allegations, and this letter includes the findings of the investigation.

INVESTIGATION

On or about September 6, 2018, Gunn commenced an investigation into this matter and retained Megan Miller, a licensed attorney to investigate this matter on behalf of PAUSD. The investigation included interviews of Complainant, Respondent, and 14 witnesses. Parties were given the opportunity to supply any documents to the investigator and all documents submitted were reviewed. The Complainant alleged that Respondent made the following statements to her and claimed such statements constituted sexual harassment:

- Respondent sent Complainant the following text on May 9, 2018: "It's hard to respect someone [after] you've shoved your dick down their throat";
- Respondent sent Complainant the following text on May 10, 2018: "How's your sex life?";
- Respondent made the following comment about Complainant in the presence of other students, "That's better than [REDACTED] can do," in reference to student V.A. simulating oral sex on a banana; and
- Respondent made the following comment about Complainant in the presence of other students, "[Complainant] is a 4 out of 10 in bed," in reference to Complainant's sexual performance.

Further, during the course of this investigation, a No Contact Directive was put in place to keep the students from interacting with one another. Complainant alleged that Respondent violated this No Contact Directive in the following ways:

- Respondent "stared and glared" at Complainant when saw her on campus;
- Respondent "repeatedly showed up" where Complaint eats lunch;
- Respondent intentionally parked his bike in Complainant's area of the N bike rack; and
- Respondent intentionally signed up for the October 27, 2018 GRT concessions event, which was prohibited under the No Contact Directive.

FINDINGS OF FACT

With regard to the factual allegations and using a preponderance of the evidence standard, the investigator concluded that Respondent:

- Sent Complainant the following text on May 9, 2018: "It's hard to respect someone [after] you've shoved your dick down their throat";
- Sent Complainant the following text on May 10, 2018: "How's your sex life?";
- Made the following comment about Complainant in the presence of other students, "That's better than [REDACTED] can do," in reference to student V.A. simulating oral sex on a banana; and
- Made the following comment about Complainant in the presence of other students, "[Complainant] is a 4 out of 10 in bed," in reference to Complainant's sexual performance.

With regard to the No Contact Directive violation allegations, the investigator concluded using a preponderance of the evidence standard that Respondent:

- Did not "stare and glare" at Complainant when saw her on campus;
- Did not "repeatedly show up" where Complaint eats lunch;
- Did not intentionally park his bike in Complainant's area of the N bike rack; and
- Did not intentionally violate the NCA by signing up for the October 27, 2018 GRT concessions event.

CONCLUSION OF LAW

Based on these findings and using a preponderance of the evidence standard, the investigator concluded that the sexual harassment allegations constituted sexual harassment in violation of PAUSD Policy 5145.7 Sexual Harassment, because this behavior was unwelcome, severe and created an intimidating, hostile, or offensive educational environment and limited Complainant's ability to benefit from her participation in her educational pursuits at Gunn.

Specifically, the investigator concluded the following:

1. The conduct was unwelcome. The text messages probed into Complainant's sex life and suggests that she was not deserving of respect because she was forced to participate in a sexual activity.¹ The public comments were unwelcome because they publicly criticized Complainant's sexual performance.
2. The conduct was severe. The comments made about Complainant's sexual performance were given as a matter of public discussion without her consent to such a discussion and involved criticisms of her sexual performance.
3. The conduct limited Complainant's ability to benefit from her educational environment. Complainant credibly reported that seeing Respondent caused her distress and suffering distress related to Respondent attempting to join the GRT team, an environment that had previously been a safe place and the focus of her academic interest.

Further, the investigator concluded that Respondent did not violate the No Contact Order pending during this investigation because the behavior as alleged was not found to have happened, using a preponderance of the evidence standard.

DISPOSITION OF COMPLAINT

PAUSD has concluded that Respondent violated Board Policy 5145.7 Sexual Harassment. Discipline related to this policy violation will be handled at the school site.

CORRECTIVE ACTIONS

Upon notification of this complaint, PAUSD took action to separate Complainant and Respondent through a no contact directive that was revisited and revised a number of times throughout this process, as additional information was provided by the parties. Parties were in separate classes, lunched in different locations, and were restricted from participating in the same after-school activities. Both parties were connected with an Assistant Principal to notify if violations occurred.

Going forward, the no contact directive will remain in effect for the 2018-19 school year.

APPEAL RIGHTS

Complainant has the right to appeal the conclusion of this matter. If Complainant is dissatisfied with the District's decision, the Complainant may appeal in writing to the California Department of Education (CDE). (Education Code 49013; 5 CCR 4632) Complainant must file an appeal

¹ Complainant alleged that Respondent forced her to engage in sexual acts at an off-campus location, but this investigation does not explore this allegation as it occurred away from school. The investigator noted that the text message itself would be unwelcome even if the conduct described in the text had been consensual.

within 15 calendar days of receiving this decision and specify the basis for the appeal and whether the facts are incorrect and/or the law has been misapplied. Any appeal must be accompanied by a copy of the locally filed complaint and a copy of the District's decision. (5 CCR 4632) State civil law remedies with respect to the District related to this matter may also be available to you. If Complainant wishes to pursue such remedies, Complainant must wait until 60 calendar days have elapsed from the filing of an appeal with the CDE before pursuing state law civil law remedies. (Education Code 262.3) Complaints alleging discrimination based on race, color, national origin, sex/gender, disability or age may also be filed with the U.S. Department of Education, Office for Civil Rights. (www.ed.gov/ocr) Such complaints must generally be filed within 180 days of the alleged discrimination.

RETALIATION

Please note that the District prohibits retaliation against you for your participation in the complaint process. Should any such retaliation occur, please contact me as soon as possible. Also, should you experience discriminatory conduct related to the District in the future, please contact me as soon as possible.

Please feel free to reach out to me if you have any additional questions.

Sincerely,

Megan Farrell
Title IX Coordinator

Exhibit B

PERMANENT SAFETY DIRECTIVE
2018-2019 Academic Year
CONCLUDING TITLE IX INVESTIGATION
FILE NO. 38162
11/5/18
NOTICE TO COMPLAINANT

The Title IX investigation of this matter has concluded, and the following Permanent Safety Directive is in place based upon the investigation findings and will be in effect for the 2018-2019 school year:

TODAY THROUGH THE END OF SCHOOL YEAR 2018

- Both parties will have no contact and will not communicate in person, by phone, digitally, through social media and other means;
- Respondent will not park his bike in the N Bike Rack area, located behind building N;
- Respondent is free to park his bike at any other bike rack at Gunn;
- Complainant will eat lunch in the bat cave or the science wing areas; Respondent will not eat lunch in the bat cave and/or the science wing areas;
- If either party comes into contact with the other party in passing, he/she will avert his/her eyes and walk the other way;
- The school is a dynamic environment. Seeing each other, passing in the hall, and other unplanned and inconsequential interactions between the parties will not be deemed to be violations of this Directive.

TODAY THROUGH DECEMBER 2018 - Robotics

- For Robotics class and shop projects from today through December 2018, the following schedule will be followed:
 - Respondent will attend the after-school Robotics shop builds and Welding instruction on Wednesdays only; Respondent will not attend the after-school Robotics shop builds or instructional sessions on Tuesdays and Thursdays;
 - Complainant will attend after-school Robotics shop builds and after-school instructional sessions on Tuesday and Thursdays; Complainant will not attend the after-school Robotics shop builds on Wednesday; and
 - Neither party will suffer any negative academic consequences for failing to participate on a day when he/she is not permitted to be in the after-school shop builds.

JANUARY 2019 THROUGH END OF THE SCHOOL YEAR- Robotics

- Complainant and Respondent will attend their separate Robotics' classes and will avoid each other when the classes follow each other in the schedule; and.
- Respondent will not be permitted to join the afterschool GRT Build Team for the 2018-2019 school year and will not participate in afterschool GRT Build activities; beginning in January of 2019.

Allegations of violations of this Directive must be put in writing by the parents or parties and provided to the Administration at the school site who will independently determine the next steps. Violations of this Directive may result in additional Safety Measures and/or extending the timeframe of this Directive as well as any other measures deemed appropriate by the school site.

Exhibit C

AMENDED SAFETY DIRECTIVE
2018-2019 Academic Year
CONCLUDING TITLE IX INVESTIGATION
FILE NO. 38162
1/22/19
NOTICE TO COMPLAINANT

The following Amended Safety Directive will be in effect for the 2018-2019 school year:

TODAY THROUGH THE END OF SCHOOL YEAR 2018-2019

- Both parties will have no contact and will not communicate in person, by phone, digitally, through social media and other means;
- Respondent will not park his bike in the N Bike Rack area, located behind building N;
- Respondent is free to park his bike at any other bike rack at Gunn;
- Complainant will eat lunch in the bat cave or the science wing areas; Respondent will not eat lunch in the bat cave and/or the science wing areas;
- If either party comes into contact with the other party in passing, he/she will avert his/her eyes and walk the other way;
- The school is a dynamic environment. Seeing each other, passing in the hall, and other unplanned and inconsequential interactions between the parties will not be deemed to be violations of this Directive.

TODAY THROUGH DECEMBER 2018 - Engineering Tech Class/Gunn Robotics Team (GRT)

- For Robotics class and shop projects from today through December 2018, the following schedule will be followed:
 - Respondent will attend the after-school Robotics shop builds and Welding instruction on Wednesdays only; Respondent will not attend the after-school Robotics shop builds or instructional sessions on Tuesdays and Thursdays;
 - Complainant will attend after-school Robotics shop builds and after-school instructional sessions on Tuesday and Thursdays; Complainant will not attend the after-school Robotics shop builds on Wednesday; and
 - Neither party will suffer any negative academic consequences for failing to participate on a day when he/she is not permitted to be in the after-school shop builds.

JANUARY 2019 THROUGH END OF THE SCHOOL YEAR- Engineering Tech Class/Gunn Robotics Team (GRT)

- Complainant and Respondent will not be assigned to the same Engineering Tech class during the instructional day;
- Respondent will be permitted to join the afterschool Gunn Robotics Team (GRT) from January 22, 2019 through the end of the school year. However, Complainant and Respondent will follow alternate schedules Monday through Sunday, pursuant to the attached proposed schedule;
- With relation to participation in any field trips, District shall coordinate with the parties to support both parties' participation;
- District shall provide additional supervision in after-school activities and field trips to support both parties' participation.

Allegations of violations of this Directive must be put in writing by the parents or parties and provided to the Administration at the school site who will independently determine the next steps. Violations of this Directive

may result in additional Safety Measures and/or extending the timeframe of this Directive as well as any other measures deemed appropriate by the school site.