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June 7, 2021

Janet Goodman  
Compliance Officer  
Pupil Services Center  
1345 Ridgewood Drive  
Chippewa Falls, WI 54729

*By email only: [goodmaje@chipfalls.org](mailto:goodmaje@chipfalls.org)*

Re: Pupil Nondiscrimination Complaint

Dear Ms. Goodman,

This letter constitutes a Pupil Nondiscrimination Complaint under Chippewa Falls Area Unified School District (“CFAUSD”) Board Policy 2260, Wis. Admin. Code Ch. PI 9, and Wis. Stat. § 118.13. Complainants allege discrimination on the basis of race, sex, and sexual orientation by CFAUSD.

I am filing this complaint on behalf of the following co-complainants: the Cultivative Coalition; Casaiya Keyser; Hazel Behling; and Saffia Buckley. Ms. Buckley is a current student at Chippewa Falls High School (CFHS). Mrs. Keyser and Ms. Behling are recent graduates of CFAUSD schools and are “residents of the school district or aggrieved persons” within the meaning of Wis. Admin. Code § PI 9.04(2).<sup>1</sup> The Cultivative Coalition is a Chippewa Falls-based organization comprised of and representing the interests of residents of the school district and aggrieved persons within the meaning of Wis. Admin. Code § PI 9.04(2). Mrs. Keyser and Ms. Behling are both members of the Cultivative Coalition.

Section 118.13 of the Wisconsin Statutes provides that no person may be denied participation in, be denied the benefits of or be discriminated against in any curricular, or other program or activity because of the person’s race, sex, sexual orientation, or other protected status. Section PI 9.02(5) of the Wisconsin Administrative Code defines “discrimination” to include any action, policy or practice, including pupil harassment, which is detrimental to a person and differentiates or distinguishes among persons, or which limits or denies them opportunities, privileges, roles or rewards based, in whole or in part, on their protected status.

Further, Wis. Admin. Code § PI 9.02(9) defines “pupil harassment” to mean “behavior toward pupils based, in whole or in part, on [race, sex, sexual orientation, or other protected status] which

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<sup>1</sup> CFAUSD Policy 2260 provides that “students who believe they have been denied equal access to District educational opportunities, in a manner inconsistent with this policy may initiate a complaint and the investigation process that is set forth below.” To the extent that such provision bars District residents and aggrieved persons who are not current students from initiating the District’s complaint and investigation process, the provision is noncompliant with § PI 9.04(2), such that direct appeal to the state superintendent is authorized under Wis. Admin. Code § PI 9.08(1)(a)2.

substantially interferes with a pupil’s school performance or creates an intimidating, hostile or offensive school environment” The Wisconsin Department of Public Instruction (“DPI”) has explained that pupil harassment constitutes discrimination prohibited under Wis. Stat. § 118.13 where

a district has created or is responsible for a [] hostile environment [based on race or other protected status,] i.e. harassing conduct (e.g., physical, verbal, graphic or written) that is sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by the district. A district has subjected an individual to different treatment on the basis of [protected status] if it has effectively caused, encouraged, accepted, tolerated a [] hostile environment [based on that protected status] of which it has actual or constructive notice.

*Garbade v. Burlington Area Sch. Dist.*, DPI Pupil Nondiscrimination Appeal No. 20-PDA-02 (April 9, 2021)(attached) at 3 (citing *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, F.R. Doc. No 94-5531 (1994)).

Further, a district has a duty to respond to sexual harassment that occurs off campus and to assess whether there are any continuing effects of such harassment on campus that are creating or contributing to a hostile environment. *Palo Alto Unified School District*, Nos. 09-13-5901, 09-14-1217 (U.S. Dep’t. of Educ. Office for Civ. Rts. March 8, 2017), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/09141217-a.pdf>. Stalking and dating violence constitute sexual harassment and can contribute to a hostile environment on campus. *Id.* at 19; *see also* 34 C.F.R. § 106.30.

An appropriate district response to a known hostile environment must be “tailored to redress fully the specific problems experienced at the institution as a result of the harassment. In addition, the responsive action must be reasonably calculated to prevent recurrence.” *Id.* at 18. DPI will make a finding of prohibited discrimination where 1) a hostile environment based on a protected status exists; 2) the district had actual or constructive notice of the hostile environment; and 3) the district failed to adequately redress the hostile environment. *Id.*

As detailed below, CFAUSD and its agents and employees have discriminated against students on the basis of race, sex, and sexual orientation by causing, encouraging, accepting and tolerating a school climate hostile to students with those protected statuses. CFAUSD has had knowledge for years that discriminatory harassment is severe, pervasive and persistent in its schools and severely limits targeted students’ opportunity to participate successfully in school. Despite this knowledge, CFAUSD has discriminated and continues to discriminate against students with those statuses by failing to adequately redress the hostile environment. Specifically, CFAUSD’s response to known harassment has been unreasonable and inadequate in the following ways:

- CFAUSD has failed to recognize the district-wide, systemic nature of the harassment concerns in its schools.

- CFAUSD has failed to create and maintain documentation of its responses to complaints of discriminatory harassment.
- CFAUSD has failed to take appropriate disciplinary actions against perpetrators of harassment.
- Instead of stopping perpetrators from committing harassment, CFAUSD and its staff have routinely conveyed a message to students who are targets of harassment that it is their responsibility to prevent harassment by changing their own behavior.
- CFAUSD staff have taken adverse actions against students who are victims of harassment including office referrals, School Resource Officer (SRO) involvement, and unwanted, deeply inappropriate counseling sessions.
- CFAUSD has failed to provide targets of harassment the supportive services they need to restore their equal access to educational opportunities at school.
- For years, CFAUSD undertook no district-wide, systemic consideration of how to address underlying causes of discriminatory harassment and ensure such harassment would not continue. Efforts begun in the last year have been slow and unfocused, have excluded impacted students and families, and have had little or no impact on the pervasive harassment which continues to occur in CFAUSD schools.

Because of these failures, students of color, female students, and LGBTQ students continue to face discriminatory harassment at CFAUSD schools that violates their right of equal access to educational opportunity.

In support of these claims, complainants allege the following facts.

### **Pervasive Harassment in CFAUSD Schools**

1. Harassment of students of color, female students, and LGBTQ students is pervasive in CFAUSD Schools, and the district is or reasonably should be well aware of that.
2. Since September, 2020, the Cultivative Coalition has provided a platform for current and former CFAUSD students to anonymously share stories of harassment and discrimination they have experienced or are presently experiencing in CFAUSD schools. Submissions reveal that the experience of harassment is widespread and ongoing.<sup>2</sup> Excerpts follow:
  - a. “The amount of racism that occurs in the school is unbelievable. The N-word is used constantly. I’ve had kids say the N-word then look at me and laugh. I’ve had people tell me that they are allowed to say the N-word because they have the N-word pass or because they are friends with another Black person. I’ve told people

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<sup>2</sup> Exhibit A – Cultivative Coalition screenshots, attached.

why its not okay for them to say it but rather they just ignore me or say its just a word.”

- b. “I cannot speak for other races however I have heard people make dog-eating jokes, mimicking stereotypical Asian accents and characteristics. Calling Mexicans illegals and criminals.”
- c. “I let people walk all over me in middle school and for the first couple years of high school. So I wouldn’t fit into the extremely damaging ‘angry black woman stereotype.’ I refrained from doing my hair a certain way or dressing a certain way just so I wouldn’t be seen as the ‘ghetto black girl.’”
- d. “I’m biracial & constantly being told “you’re not black you’re white” is hurtful, because I am. Being constantly told “it’s okay, you’re basically white” by classmates is hurtful because I’m not. Me and my sister being told by boys we talked to that they ‘couldn’t date us because we’re black and they or their family wouldn’t like it’ is hurtful.”
- e. “In the lunch area where I sat the N-word was being used. I spoke to staff about it and nothing was done about it. But when a white student reported it, I was called into the principal’s office to discuss my ‘comfort level’ with the use of the word (um what?).”
- f. “Attending Chi-Hi<sup>3</sup> while being Native American is extremely difficult. It was probably the worst 4 years of my life. In this school I was called a Cherry N\*gger and was always the butt of every racist joke about my culture.”
- g. “Last year in the CFHS GSA,<sup>4</sup> I explained how I was experimenting with neopronouns and I remember two seniors (at the time I was a sophomore) started talking trash about me to their other friends.”
- h. “Today while at work, I was confronted by a coworker (who also goes to Chi-Hi). They told me that ‘not all Christians are homophobic” (which is true) but then proceeded to tell me that ‘all gay people go to hell.’”
- i. “[Rachel Wallace]<sup>5</sup> is also my coach for tennis and I remember her talking about transgendered people while we are playing saying nasty stuff about them. I knew that I was gay before going to CVBC and Rachel’s club that she had at Chi Hi but I always felt horrible after going knowing that I couldn’t be the person that I wanted to be and love the people that I loved without them pressuring me that God wouldn’t love me.”

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<sup>3</sup> I.e., Chippewa Falls High School

<sup>4</sup> I.e., Chippewa Falls High School Gay Straight Alliance

<sup>5</sup> Rachel Wallace is a substance abuse counselor at Chippewa Falls High School and the subject of additional allegations in this complaint.

3. CFAUSD has received written notice of some of the instances of discriminatory harassment that occurred during the 2020-21 school year. Reported instances from the 2020-21 school include:
- a. During the summer of 2020, a Chippewa Falls Middle School (CFMS) student posted a “Blue Lives Matter” image on Snapchat with a comment expressing a desire to kill Black Lives Matter protestors. The post was reported to the CFMS Principal.
  - b. This year, several Chippewa Falls Middle School students were observed at an online school event with Confederate flag images as their profile pictures. Confederate flags are widely recognized as a symbol of white supremacy, particularly after they were prominently displayed at the white nationalist “Unite the Right” rally in Charlottesville, Virginia in August, 2017. The nationwide eruption of racial tension in the summer of 2020 following the death of George Floyd compounds the provocative nature of the Confederate flag symbol. A parent notified CFAUSD of their concern about students using these flags as their profile pictures, but the District took no action.
  - c. In early April 2021, an eighth-grade student at CFMS stated in class that the reason for Covid was Chinese people eating bats. Another student responded, “No, they eat dogs.” Rather than addressing the racist nature of those comments, the teacher commented only that different cultures eat different foods.
  - d. This school year, during a class discussion of potential career paths, a Black eighth-grade student at CFMS stated that he wanted to be a lawyer and a white classmate commented, “Are there even any Black lawyers?” Rather than addressing the racist nature of this comment, the teacher stated that there are Black lawyers. A parent reported this incident to CFAUSD. It is unclear whether the District has taken any further action.
  - e. This school year, a sixth-grade student at CFMS has repeatedly used the N-word in class. There is at least one Black student in the class. A white student reported to the teacher that the student kept using the N-word and the teacher said she would talk to him and asked the reporting student if she wanted to switch seats. A parent has reported this concern to CFAUSD. It is unclear whether the district has taken any action.
  - f. This school year, during a sixth-grade social studies unit on Mexican history, students persistently interrupted class with comments about “Build the Wall.” A parent notified the district of this concern.
  - g. This year, [REDACTED] School staff failed to promptly remedy the effects of the harassment on the female student,

failed to provide supportive measures to restore the female student's equal access to [REDACTED], and wrongly put the onus on the female student to respond to the harassment and prevent future harassment. First, when the harassment first occurred, [REDACTED] did not promptly provide support to the female student but rather required her to [REDACTED] while she was in tears because of the harassment she had just experienced. Second, the counseling the school provided to the female student after the incident was not focused on addressing the harassment or its effects but instead on teaching her to "work[] through tough situations," "fake it till [she] make[s] it" and "not show that boy he is getting to her." Finally, when the female student's mother requested that the perpetrator of the harassment be removed from [REDACTED], the school responded by suggesting that the female student herself be removed from [REDACTED], which would improperly place the burden of responding to the harassment on the victim of the harassment.

4. Despite the repeated and frequent nature of these incidents in the 2020-21 school year, and despite having been repeatedly informed of similar incidents in prior years as discussed below, CFAUSD has taken no meaningful action to address the pervasive harassment in its schools.

#### **Saffia Buckley's Experiences**

5. Complainant Saffia Buckley, a current CFHS student, experiences discriminatory harassment at school on a daily basis. Ms. Buckley is Native American and has been called "Redskin," "Sacajawea" and "Pocahontas" by peers at CFHS. When Ms. Buckley has reported these concerns to CFHS staff, they have taken no action.
6. The CFHS dress code is selectively enforced against female students in a manner that reinforces invidious sex stereotypes.<sup>6</sup> Specifically, the dress code bars clothes that "are too tight, expose the body inappropriately, show bare midriffs or undergarments."<sup>7</sup> Though this language appears gender-neutral, enforcement overwhelmingly targets young women.
7. Teachers and administrators enforcing this code often scrutinize female students' bodies in a sexualized manner. Ms. Buckley has been the target of such treatment and has felt humiliated and objectified as a result of these interactions.
8. Further, school staff have stated or implied that it is female students' fault if they are sexually harassed due to their clothing. Ms. Buckley frequently overhears male students catcalling female students or commenting on their clothing, and she has frequently been the target of such conduct. When she and others have reported this sexual harassment to

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<sup>6</sup> See *Hayden v. Greensburg Cnty.School Corp.*, 743 F.3d 569, 583 (7th Cir. 2014)(school district engaged in intentional sex discrimination by failing to amend a grooming policy after receiving parent's complaint that the policy was being administered in a discriminatory manner).

<sup>7</sup> Chippewa Falls Senior High School Student/Parent Handbook 2020-2021, available at <https://cfsd.chippfalls.k12.wi.us/high/parents/2021%20Parent%20and%20Student%20Handbook%20-%20Final.pdf>.

staff members, the school's response has typically been to send out a reminder email about the dress code instead of investigating or intervening in male students' harassing behavior.

9. These practices reflect overly broad and archaic assumptions about boys' inability to control their sexual impulses as well as girls' inability to make their own decisions about the clothing that makes them feel safe and comfortable. These stereotypes reinforce a culture of victim blaming in which CFHS officials convey the message to female students that they are at fault for experiencing sexual harassment if they make certain clothing choices.

### **Casaiya Keyser's Experiences**

10. Complainant Casaiya Keyser is a 2018 graduate of CFHS. Mrs. Keyser is Black. As a student at CFHS, Mrs. Keyser routinely heard the N-word and other racial slurs, and observed other students displaying Confederate flags. Mrs. Keyser also witnessed students addressing racial slurs to her older brothers.
11. During Mrs. Keyser's freshman year, at CFHS, a white, male student ("Student A") physically pushed Mrs. Keyser into a pole at school, made racist comments to Mrs. Keyser such as "Go back to Africa" and "You people," and threatened more physical aggression.
12. Mrs. Keyser's brother learned what was happening and notified Mrs. Keyser's mother, who notified the school. Assistant Principal Etmund sent Mrs. Keyser to the guidance office, where she met with a guidance counselor and Student A. During the meeting, the counselor abruptly and inappropriately asked Mrs. Keyser in Student A's presence whether Mrs. Keyser was sexually active. The Counselor also told Mrs. Keyser that she should be friends with Student A, even though Student A had just called Mrs. Keyser "bitch" in the counselor's presence.
13. During the meeting with the counselor, Student A stated, "My parents will call the cops. Your parents are used to the cops." Mrs. Keyser understands these words to have been a racial insult.
14. The meeting did not resolve the conflict between Mrs. Keyser and Student A. Mrs. Keyser later asked Assistant Principal Etmund for help resolving the conflict. Assistant Principal Etmund replied that she could not help and that following the session with the counselor it was Mrs. Keyser's responsibility to handle the conflict.
15. In October, 2017, the fall of Mrs. Keyser's senior year, a white student ("Student B") approached Mrs. Keyser in the hallway and asked if Mrs. Keyser had a job. Mrs. Keyser answered that she did have a job. Student B responded, "Oh, so you're not a [N-word]."
16. Mrs. Keyser began explaining to Student B why it was inappropriate to use that word. Mrs. Keyser used a calm tone of voice but used a swear word as she spoke to Student B.



17. Math teacher Joseph Couey approached Mrs. Keyser and began videotaping her as she was speaking to Student B. Couey told Mrs. Keyser that she was being disrespectful and said he would send her to the office. Couey then threatened to call the SRO to take Mrs. Keyser to the office. Mrs. Keyser attempted to leave and go to the office herself, but Couey blocked her way.
18. Mrs. Keyser tried to explain that she was responding to Student B's use of the N-word. Couey said, "I don't care." Student B also tried to explain that Mrs. Keyser was responding to the N-word. Couey told Student B, "I would advise you not to talk unless you want to get in trouble."
19. Teachers came out into the hallway to see what was going on. Around this time, Mrs. Keyser finally managed to explain that Student B had used the N-word. Couey stated, "No word should make you that angry."
20. A couple of days later, Mrs. Keyser went to the administration to request a meeting with Mr. Couey because she wanted to explain that his handling of the situation had been harmful to her. A meeting was arranged between Mrs. Keyser, Couey, and Principal Becky Davis. At the meeting, Couey misrepresented Mrs. Keyser's conduct, wrongly claiming that she had been ready to fight in the hallway when he intervened. He also repeatedly interrupted Mrs. Keyser. When she asked that he allow her to speak, Couey commented, "There's that attitude."
21. During the course of the meeting, Principal Davis made the following comments, which minimized the impact of the N word, saying, for example: "Words hurt, but you can't let them have you out of your character." "I get called the B word all the time." "Pain is pain."
22. After this episode, Mrs. Keyser attempted to start a student organization called Teacher and Student Experiences, or "TASE." Her intention was for members of the CFAUSD community to share their experiences of discrimination and harassment and raise awareness of these issues. Principal Davis instructed Mrs. Keyser not to pursue this initiative.
23. The racial harassment, and the district's failure to appropriately respond to it, had a severe negative impact on Mrs. Keyser's school success during her senior year. Her grades suffered and she sometimes skipped school.
24. Mrs. Keyser's reports to district administrators about racial harassment she experienced at school alerted, or should have alerted, CFAUSD that it needed to investigate whether it had a systemic racial harassment problem. However, the district took no meaningful responsive action and allowed the racially hostile environment in its schools to persist.

### **Hazel Behling's Experiences**

25. Complainant Hazel Behling is a 2018 graduate of CFHS. Ms. Behling identifies as LGBTQ. Throughout her time as a student in CFAUSD schools, Ms. Behling routinely



heard students making derogatory jokes and comments about LGBTQ people. Because she did not want to be the target of such jokes and comments, Ms. Behling kept her sexual orientation private through most of her time in CFAUSD schools.

26. In the spring of 2018, her senior year, Ms. Behling entered a romantic relationship with another female CFHS student (“Student C”).
27. On or around March 13, 2018, CFHS held an evening event called “STEAM Night,” which Ms. Behling, Student C, and Student C’s parents all attended. During this event, Student C’s mother observed Ms. Behling and Student C walking through the cafeteria together. Student C’s mother accosted Ms. Behling and began yelling loudly at her in the hallway outside the cafeteria. In the course of this loud confrontation, Student C’s mother recited Bible quotes, stated that Ms. Behling’s relationship with Student C was sinful, and stated that it was embarrassing that Student C’s first kiss was with a girl. Many students and teachers were close by and observed or overheard this interaction, learning of Ms. Behling’s sexual orientation for the first time.
28. Ms. Behling was so upset by this interaction that she could not drive home. Student C’s mother remained in the parking lot observing Ms. Behling from a distance until Ms. Behling’s mother arrived to take her home.
29. After Student C’s parents outed Ms. Behling at STEAM Night, news of her sexual orientation spread among the student body at CFHS. Fellow students subjected Ms. Behling to comments, stares, and whispers in the halls.
30. Though CFHS employees witnessed the aggressive harassment of Ms. Behling at STEAM Night, no CFAUSD employee reached out to Ms. Behling to see if she needed protection or supportive services, and no one from the CFHS administration communicated to Student C’s parents that such harassment was impermissible on school grounds.
31. Beginning at STEAM night and continuing through the school year, CFHS substance abuse counselor Rachel Wallace, Alan Dunham, a youth pastor whose child also attended CFHS, and Student C’s parents persistently harassed Ms. Behling about her sexual orientation and her relationship with Student C. Examples of this conduct include the following:
  - a. On multiple occasions during the spring of 2018, Student C’s parents parked on the school parking lot and harassed Ms. Behling as she left school. Ms. Behling would text her mother and ask her to come pick her up so that Ms. Behling would not have to confront Student C’s parents.
  - b. On multiple occasions during the spring of 2018, Student C’s parents called Ms. Behling’s parents and told them that they had staff and students at the high school watching Ms. Behling.

- c. On multiple occasions during the spring of 2018, at Dunham’s direction, Dunham’s daughter took pictures of Student C and Ms. Behling when they were together and sent the pictures to Dunham and to Student C’s parents.
  - d. Student C’s parents made distorted and grossly exaggerated reports about the relationship to school administration and the SRO.
  - e. Sometime in the spring of 2018, Wallace called Ms. Behling out of class to come to Wallace’s office. Wallace is a substance abuse counselor, but Ms. Behling had not requested and did not need substance abuse counseling. When Ms. Behling entered Wallace’s office, Wallace asked Ms. Behling whether Ms. Behling knew the sins she had committed. In the course of the conversation, Wallace asked Ms. Behling if she believed in God. Wallace—as a school employee and on school property during the school day—also told Ms. Behling that she needed to repent her sins or she would go to hell. Ms. Behling understood the word “sins” to be referring to her sexual orientation.
  - f. Dunham frequently visited CFHS during school hours. On multiple occasions during the spring of 2018, Dunham approached Ms. Behling at school and communicated to her that her sexual orientation was sinful, that she should repent, and similar messages. Dunham also approached Ms. Behling’s friend Isabelle Spooner<sup>8</sup> at school and asked for information about the relationship between Ms. Behling and Student C.
  - g. Ms. Behling was on the soccer team and the soccer season began in late March. Around that time, Student C’s parents signed up to run concessions for home soccer games. Dunham also routinely showed up at these games, even though he did not have a child on the team and had never before attended soccer games. Because of their ongoing, unaddressed harassment of Ms. Behling during the same time period, Dunham and Student C’s parents’ persistent attendance at her soccer games caused Ms. Behling tremendous anxiety and extended the hostile environment they had created.
32. At some point in the spring of 2018, Ms. Behling’s parents met with Principal Becky Davis and an SRO and expressed their concerns that Student C’s parents, Wallace, and Dunham were harassing Ms. Behling based on her sexual orientation, creating a hostile environment. Principal Davis admitted that Wallace, Dunham and Student C’s parents had “blown things out of proportion.” However, the District took no action to end the harassment or prevent future harassment. Nor did the District offer Ms. Behling any counseling or other supports

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<sup>8</sup> Ms. Spooner is a member of the Cultivative Coalition. In the spring of 2018, Ms. Spooner was a member of the CVBC youth group and friends with both Hazel and Student C. Dunham repeatedly attempted to involve Ms. Spooner in his efforts to monitor and influence Hazel and Student C. For example, in mid-May of that year, Dunham gave Ms. Spooner a copy of a book called “Is God Anti-Gay?” which describes homosexuality as sinful and encourages gay people to repent and renounce homosexual feelings. Shortly after giving Ms. Spooner this book, he texted her after he saw her talking with Student C to say he was “praying that [Ms. Spooner was] giving good counsel.”

to end the effects of the harassment. The harassment continued unabated through the end of the school year.

33. On another occasion, Ms. Behling's parents requested a meeting with the SRO because they were aware that Student C's parents had reported Ms. Behling to the SRO for her relationship with Student C. Ms. Behling and her father met with SRO Nelson in the SRO office. SRO Nelson told Ms. Behling that Student C's parents had reported that there was a "hot and heavy" relationship between Student C and Ms. Behling and that they had seen "disturbing" images of Student C and Ms. Behling. Ms. Behling gave her phone to the SRO so that he could see that the actual communication between Ms. Behling and Student C was benign. Ms. Behling also showed SRO Nelson the image to which Student C's parents were referring, which was simply a Snapchat image of Ms. Behling and Student C kissing. SRO Nelson appeared surprised that the relationship was so benign and different from what Student C's parents had alleged. SRO Nelson acknowledged that law enforcement involvement was not warranted.<sup>9</sup> However, he then told Ms. Behling that it was "her job" to stay away from Student C and Student C's family to prevent further harassment. SRO Nelson did not take any action to stop Student C's parents from harassing Ms. Behling on school grounds.
34. As a result of this harassment, Ms. Behling became so anxious that she was unable to attend school consistently. She would frequently leave school early if she saw Student C's parents, Dunham or Wallace. Though Ms. Behling had always been an excellent student, her anxiety made it increasingly difficult to maintain her ordinary level of academic performance. In the final months of the school year, she lost nearly 30 pounds and had trouble sleeping because of the anxiety. Staff members at the school noticed and commented on Ms. Behling's distress.
35. At the end of the 2018 school year, Ms. Behling's parents again reached out to the school district to raise concerns about school climate and the district's management of teen and child mental health. The district indicated it would investigate but did not take any concrete steps to respond to those concerns. In August, 2020, Ms. Behling's parents reached out to the district to raise the same concerns. The district indicated that there was no investigative record regarding the concerns the Behling family had raised in 2018.
36. Ms. Behling's younger sister, Student D, graduated from CFHS this spring, 2021. She was a freshman during the spring of 2018 when Ms. Behling experienced the events detailed above. Student D's awareness of Ms. Behling's experiences affected Student D's decisions about which extracurriculars to participate in at school, i.e., to only participate in activities where she felt safe as an open supporter of the LGBTQ community.

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<sup>9</sup> "It is not illegal to have voluntary sexual contact with a person 16 or 17 years old and consequently there is no requirement for a report to . . . local law enforcement." Wisconsin Department of Public Instruction, Reporting Requirements for Sexually Active Adolescents: Suggested Procedures for Educators, available at <https://dpi.wi.gov/sites/default/files/imce/sspw/pdf/rfsaa.pdf>. Further, upon information and belief, the SRO was not involved in policing heterosexual student behavior.

## **Sarah Kauphusman's Experiences**

37. Sarah Kauphusman is a 2020 graduate of CFHS. For much of her junior year, Ms. Kauphusman was in a dating relationship with a male CFHS classmate, Student E. In the course of the relationship, Student E frequently threw objects at Ms. Kauphusman when he was angry. On multiple occasions he took off his glasses and broke them in front of her to demonstrate his anger. Student E also used self-harm and threats of suicide to coerce Ms. Kauphusman to comply with sexual and other demands. Ms. Kauphusman ended the relationship with Student E in May, 2019.
38. Following the breakup, Student E initiated a course of stalking and harassing conduct targeted at Ms. Kauphusman that caused her further emotional distress. He posted material targeting her on social media. On multiple occasions, he sat in his parked car across the street from Ms. Kauphusman's home for long periods of time.
39. Student E also harassed Ms. Kauphusman at school. During summer band practice in August 2019, he made Ms. Kauphusman the punch line of jokes, invaded her personal space and tried to rally other students to torment her. The behavior was so severe that Ms. Kauphusman's parents reached out to the band director to ask for support. Ms. Kauphusman's parents also were so concerned about Student E's behavior that they met with her guidance counselor in early September to withdraw her from the AP English class she shared with Student E. They made this choice even though withdrawing from the AP class meant Ms. Kauphusman would forsake her goal of becoming valedictorian. Though Ms. Kauphusman's parents explained the ongoing situation to the guidance counselor, the counselor just treated Ms. Kauphusman as if she were a hurt ex-girlfriend.
40. Student E's harassment of Ms. Kauphusman in the school escalated through the 2019-2020 school year. He verbally accosted her, intentionally bumped into her, and threw objects at her in the halls. On one occasion he paced around her lunch table while she was eating. On another occasion, he followed her to the bathroom and waited outside the door while she was inside. On a third occasion he approached her while she was leaning against the wall looking at her phone and forcefully punched the wall just inches from her head.
41. In December, 2019, Student E approached Ms. Kauphusman at school and she said to him, "Don't speak to me." Shortly thereafter, he carved the words "Don't speak to me" into his thigh and texted a picture of it to Ms. Kauphusman's best friend, Student F, while Student F was in class. The accompanying text read "I want you to ask Sarah if she feels better now." Student F did not tell Ms. Kauphusman about the incident because Student F wanted to protect Ms. Kauphusman. Student F promptly brought the picture and accompanying text to the attention of district administration. The administration did not inform Ms. Kauphusman or her parents about the text, and did not take any action to protect Ms. Kauphusman.
42. The relationship with Student E and his behavior following the breakup caused trauma to Ms. Kauphusman. She began receiving treatment for PTSD during the summer of 2019 which continued through the 2019-20 school year.

43. On February 17, 2020, after Student E posted new material on social media explicitly targeting Ms. Kauphusman, Ms. Kauphusman's parents met with school officials to demand greater protection for their daughter. At the meeting, Ms. Kauphusman's parents discussed several of the specific incidents of verbal and physical harassment detailed above. Ms. Kauphusman's parents also discussed the PTSD Ms. Kauphusman was experiencing as a result of Student E's harassment. Ms. Kauphusman's parents explained that Ms. Kauphusman was so distressed that she was considering homeschooling in order to avoid all contact with Student E.
44. Though district officials had knowledge of the threatening self-harm image Student E had sent to Ms. Kauphusman's best friend two months earlier, they did not disclose this information to Ms. Kauphusman's parents at the February 17 meeting.
45. The District did not take any disciplinary action against Student E following the Feb 17 meeting. The district's only response was for Dean of Students Joe Nelson and two school resource officers to meet with Student E's father, ask about Student E's mental health, and warn Student E's father that "behaviors that constitute harassment and stalking could lead to further intervention down the road."
46. The district did not implement any new protections or supportive services for Ms. Kauphusman following the February 17 meeting.
47. In March, 2020, CFHS transitioned to virtual schooling because of the Covid-19 pandemic. Ms. Kauphusman continued to struggle with PTSD resulting from Student E's harassment. However, because school was virtual, Ms. Kauphusman did not have to face Student E in person. She was able to complete her senior year and graduate.
48. However, Student E's stalking behavior continued. In the summer of 2020, after Student E followed Ms. Kauphusman on her running route and left disturbing objects at Ms. Kauphusman's home, Ms. Kauphusman and her parents began the process of obtaining a restraining order against Student E. In the course of that process, they reached out to CFHS officials to request records of the February 17 meeting. Officials replied that there were no records other than the emails Ms. Kauphusman's parents had sent requesting the meeting.
49. Under pressure from Ms. Kauphusman's parents, the District wrote a letter for Ms. Kauphusman to present to the authorities in pursuit of the restraining order. The District's letter distorted and minimized Student E's behavior and the harm Ms. Kauphusman experienced. The letter did not mention the verbal harassment, stalking and physical aggression that Student E carried out against Ms. Kauphusman in school. The letter also focused on Ms. Kauphusman's feelings (stating, e.g., that Ms. Kauphusman "felt uncomfortable" being in the building with the student and that Ms. Kauphusman "felt that" social media posts were directed at her) without acknowledging that those feelings were in response to objectively real, harmful behaviors by Student E.

50. Ms. Kauphusman's parents also reached out to a school board member in August, 2020, to share their concerns about what had happened to Ms. Kauphusman and their need for records in order to obtain the restraining order. On information and belief, the school board member did not take any action or present Ms. Kauphusman's parent's concerns to the rest of the school board.

### **District's Inadequate Response to Cultivative Coalition's Discrimination Concerns**

51. Since the summer of 2020, the Cultivative Coalition has been working to engage CFAUSD leaders in addressing the problem of pervasive discriminatory harassment in CFAUSD schools. The school board met with the Cultivative Coalition in the fall of 2020 and made some symbolic gestures (like forming an equity committee); however, CFAUSD actions have not been adequate to address the problems the Cultivative Coalition raised. Pervasive harassment has continued in CFAUSD schools throughout the 2020-21 school year.

52. As Complainants continued to raise discrimination and harassment concerns to CFAUSD throughout the 2020-21 school year, CFAUSD has adopted a strategy of denying, deflecting, and minimizing the concerns. On April 2, 2020, the Cultivative Coalition and a crowd of student and community supporters marched to the high school to peacefully demonstrate for safer and more inclusive schools. CFAUSD officials refused to engage with the demonstrators. Further, CFAUSD has also issued a press statement disputing and minimizing the Cultivative Coalition's allegations without substantiating its position.

Complainants seek responsive action and relief including but not limited to the following. The District should:

- Develop and publish a plan for addressing the issues raised in this complaint that centers the voices and experiences of current and former students impacted by discrimination and harassment at CFAUSD schools. This plan should provide for active involvement from such current and former students at multiple stages (e.g., factfinding, strategy, implementation, and review) of the district's nondiscrimination and anti-harassment initiatives.
- Conduct a comprehensive district climate assessment to determine the extent and severity of discriminatory harassment among students in the district, with the results to be published to all district families.
- Reform district anti-harassment policies and practices to prevent future harassment by:
  - Providing a quality anti-bias curriculum to students at all levels in the district, such curriculum to be selected in consultation with current and former students and families impacted by discrimination and harassment at CFAUSD schools;
  - Training staff to recognize and disrupt harassment and to provide appropriate support for targets of harassment;
  - Providing a simple, accessible process for students to report harassment and obtain a prompt, fair investigation;

- Establishing a consistent and meaningful disciplinary response to harassment, ensuring that responsibility for ending harassment is placed on the perpetrators and not the victim;
- Developing a policy for responding to harassment perpetrated by parents, community members, and school visitors.
  
- Counteract the effects of pervasive discriminatory harassment in district schools and improve student mental health by training school counseling staff in best practices for supporting the mental health of Black, Indigenous and People of Color, LGBTQ+ and other marginalized student groups.

Consistent with CFAUSD Board Policy 2260, Complainants provide the following list of witnesses who are prepared to meet with the District in the course of its investigation. This list is not intended to be exhaustive, and Complainants reserve the right to present additional witnesses as the investigation unfolds.

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Respectfully submitted,

*/s/ Elisabeth Lambert*  
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