

March 3, 2019

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The Honorable Shelley Hughes
Chair, Senate Judiciary Committee
State Capitol Room 30
Juneau Alaska 99801

BY EMAIL: Senator.Shelley.Hughes@akleg.gov

Senator Hughes:

Please accept this written testimony in support of the confirmation of Mr. Shaw as a member of the Alaska Commission on Judicial Conduct.

I have known Mr. Shaw since 2012. At that time, I was the Ketchikan Gateway Borough Manager (a position I held from November 2007 to January 2017). Early in my acquaintance with Mr. Shaw, it was apparent he exhibited a strong interest in local, state, and national public policies.

My respect for Mr. Shaw grew as he sought public office in 2013, becoming the youngest elected School Board member of the Ketchikan Gateway Borough School District. Mr. Shaw impressed me immediately as articulate and intelligent. His skills in analysis of complex issues and dedication to public duty was apparent as he carried out his duties as a School Board Member. His colleagues on the School Board agreed, and Trevor became the President of our school board in October 2013.

I understand that some are opposing confirmation of Mr. Shaw, even alleging he was aware of serial sexual abuse of students by a since-convicted Ketchikan High School teacher (Doug Edwards). Edwards was also convicted of sexual abuse while serving as pastor of First Baptist Church in Ketchikan. I understand that Mr. Shaw attends that church. Mr. Shaw's accusers are reportedly claiming that although he knew about the abuse, and he willfully failed to bring the abuse to the attention of others (including, as required by law, the Professional Teaching Practices Commission and the Office of Children's Services in the Alaska Department of Health and Social Services).

I understand that Mr. Shaw's detractors are now claiming that an August 2018 petition to recall him from the School Board was motivated by his alleged willful failure to report Edwards' crimes. That claim is not credible.

In order to be placed on the ballot, the proposed recall had to be approved by the Borough Assembly. The Assembly has no discretion in the matter, *it was required to authorize the recall proposition to be included on the ballot*. AS 29.26.320 mandates that any petition for recall of an elected Borough official that meets the perfunctory requirements of law must be submitted to the voters.

The minutes of the August 15 special meeting of the Borough Assembly are illuminating on the recall petition. They reflect public comment on the proposal by sponsors and supporters of the recall. At that time, not one detractor alleged that Mr. Shaw knew about, much less covered up Edwards' criminal behavior.

I am including a copy of the August 15, 2015 Borough Assembly meeting minutes which show further that there was no mention of the current allegation that Mr. Shaw covered up Edwards' reprehensible criminal behavior.

If I even remotely believed that Mr. Shaw concealed Edwards' crimes or felt he was unqualified to serve as a member of the Alaska Commission on Judicial Conduct, I would not write this letter in support of Mr. Shaw.

Anyone now alleging wrongdoing on the part of Mr. Shaw regarding the sexual abuse atrocities must be called to account as to why *they* did not report the allegation to (1) the Professional Teaching Practices Commission, (2) the Office of Children's Services in the Alaska Department of Health and Social Services, and (3) those conducting the 4-month investigation of sexual abuse by Edwards. A copy of the executive summary of the report of the investigation is attached. The report indicates that while school administrators were aware of the abuse; however, nowhere does the report indicate that Mr. Shaw or any other member of the School Board knew of the abuse.

I believe the real motive for the recall effort in August of last year and the current effort to oppose Mr. Shaw's appointment to the Alaska Commission on Judicial Conduct was to castigate him for his fiscally conservative stance in leading the negotiation of a new contract with teachers in Ketchikan. Three months after Mr. Shaw resigned, the second of three fiscally conservative members of the seven-member board resigned. In doing so, that member stated, "There's no way in good conscience that I could sign, put my name on a contract that I'm so much not on board with and will be voting no on as well." After the passage of another three months, the last fiscally conservative member of the board resigned.

Those resignations come on the heels by the School Board of a new labor contract with teachers in Ketchikan. The Board lacks the funds to pay its contractual obligations, so the Board has turned to the Borough Assembly for more than \$1 million in supplemental funding this year. Next year, the School Board is expected to ask the Assembly for \$2.2 million in supplemental funding (more than double the current request) beyond the current level of funding. In the year following that, the School Board will negotiate a new contract.

I believe the best public servants are those that are not only highly intelligent, but also have a passion for serving the public. Key is the rare ability to embrace fairness and respect for the public, whatever the circumstances. Even in his most trying moments of service as School Board President, Mr. Shaw exhibited grace and respect for his detractors, and handled himself admirably. Mr. Shaw would be an outstanding member of the Alaska Commission on Judicial Conduct.

If given the opportunity, Mr. Shaw will serve the citizens of Alaska with integrity and distinction.

In closing, I again express my strong support for Mr. Shaw's appointment to the Alaska Commission on Judicial Conduct.

Cordially,

A handwritten signature in cursive script, reading "Dan Bockhorst".

Dan Bockhorst
Attachments:

KETCHIKAN GATEWAY BOROUGH

Special Assembly Meeting

August 15, 2018

Assembly Chambers, White Cliff Building

Call to Order—Pledge of Allegiance—Roll Call

The special meeting of the Ketchikan Gateway Borough Assembly was called to order at 5:30 p.m., on Wednesday, August 15, 2018, by Mayor Landis in Assembly Chambers.

PRESENT: BAILEY, BRADFORD, DIAL, MCQUERRY *(attended via teleconference)*, PIERCE

ABSENT: PICKRELL, WONG

Staff present included: Manager Duran, Assessor Hurt, Attorney Brown, and Clerk Paxton

Citizen Comments

Austin Otos, one of ten sponsors of the petition to recall School Board Member Trevor Shaw, read the statement of grounds from the recall petition, as follows, "Board President Trevor Shaw violated (BB 9110), by disallowing said student representative to 'have the right to be recognized at meetings, participate in questioning witnesses and discussing issues' during the interview and discussion process of appointing a citizen to the vacant school board seat." Mr. Otos emphasized that the group of sponsors was comprised of parents and taxpaying citizens concerned about the direction of the education system. In response to Assembly Member Dial, Mr. Otos stated he did not have political motivation for the recall; that the motive was to address the subject's actions on the board; and that the bylaw was directly violated.

Rachel Breithaupt, Borough resident, discussed the reason she signed the petition, which she explained was due to performance on the school board.

Spencer Strassburg, citizen of the Borough, explained the reason he signed the petition: that the subject of the recall dismissed people without listening to what they had to say. He described a situation in which he felt dismissed by the subject member. Mr. Strassburg also expressed his disappointment that the Assembly did not vote to appropriate funding for smoking sheds at the airport. He explained the need for the traveling public to have access to a designated smoking area before boarding an airplane.

Sidney Hartley, main contact for the sponsors of the recall petition, offered to answer questions. In response to Assembly Member Dial, she explained that the requirements for the recall petition limited the statement of grounds to 200 words or less, and the issue was a failure to be heard in repetitive circumstances. Assembly Member Dial raised questions regarding two additional applications for recall petition that were not certified. Ms. Hartley responded to the questions, and emphasized that students and colleagues reported that they were not being heard.

Harlan Heaton, Borough resident, expressed concerns about the Borough mill rate and the School District budget. He expressed his dismay at the application for recall, and opined that it was an attempt to change the voting of the board. He discussed the merits of the grounds for recall and asked the Assembly not to move the action forward.

Shawna Strauth-Shaw, mother of the subject of the recall petition, asked the Assembly to consider whether it had enough information to place the recall question on the election ballot. She voiced her opinion that the statement of grounds was vague and lacking in detail, and that the motivation for the recall appeared to be based on political differences.

Trevor Shaw, subject of the recall petition, said there was no way to know for sure which appointment process was referred to in the statement of grounds due to the lack of meeting date or name of the student member. He described details of the meeting of February 14, 2018, and said it was the direction of the board that the student member not be allowed to speak. He said that the student member did participate later in the meeting at his – Board President Shaw's – request. He emphasized that he could not be recalled from his position as board president, but could only be recalled from the office of board member. He pointed out that all actions taken were by the board collectively, and as board president, he did not unilaterally make any decisions.

In response to Assembly Member Dial, Mr. Shaw affirmed that he had served with best intentions, and that the remedy to the student member not being able to speak was to provide him the opportunity to provide the input later. He noted that he had taken an oath as school board member to carry out duties honestly and faithfully. In response to Assembly Member Bailey, Mr. Shaw explained that the board had violated a bylaw by not letting the student member speak, but that the process was remedied. He described that during a break he had reviewed the board policy, and following the break, he asked the board to give the student member the opportunity to speak.

Ms. Hartley encouraged the Assembly to review the videos of past school board meetings in order to view the actions and the communication style of Mr. Shaw. In response to Assembly Member Bailey, she reiterated her concern that needs of teachers were not heard.

Special Business

Submitting to the Voters the Question to Recall a School Board Member on the October 2, 2018, Regular Borough Election Ballot

Mayor Landis provided guidance for the Assembly to follow the statutory requirements for recall. He characterized the process as mechanical in nature, similar to certifying an election. He advised that the Assembly role was to submit the recall to the voters; it was not deciding whether there should be a recall or not, or weighing facts or evidence.

Clerk Paxton informed the Assembly that the statutes set out the process for the applicants for the petition, for the clerk, and for the Assembly. She reported that each step had been carefully followed and that a legal opinion had been received on the determination. She described the steps that were followed in the petition process:

- Clerk received the recall petition on July 16, 2018, and submitted it to an attorney for legal review of the requirements in AS 29.26.260;
- Based on the legal review and the Clerk's determination, the Clerk certified the application as sufficient in meeting the requirements of the statute;
- Clerk issued the petitions to the sponsors of the petition;
- Each petition booklet contained the statement of grounds for recall on each page of the petition booklet;
- Each booklet contained specific instructions to the signers of the petition;
- Sponsors were given explicit instructions for handling the petitions: that the books had to remain in their possession; that they had to witness each signature and know that the person was who they purported to be; each sponsor had to sign an oath declaring that all of the foregoing was true;
- Petitions were submitted to the Clerk as a single instrument by the main contact for the sponsors within the legal timeframe;
- Clerk's office staff closely reviewed each signature, printed name, each printed physical address, and each identifier;
- The Clerk verified that there were more than the required number of signatures contained in the petition; and the petition was certified.

Clerk Paxton informed the Assembly that the role of the Clerk was not to weigh whether or not the statement of grounds in the petition was true, but to verify whether or not the statement, if true, upheld the standard of the statutes for justification as eligibility for recall. She read AS 29.26.310 and distributed the petition books to the Assembly.

AS 29.26.310: "If a recall petition is sufficient, the clerk shall submit it to the governing body at the next regular meeting or at a special meeting held before the next regular meeting."

Clerk Paxton informed the Assembly of its requirement to submit the recall to the October 2, 2018, election, and read AS 29.26.320(a):

AS 29.26.320(a): "If a regular election occurs within 75 days but not sooner than 45 days after submission of the petition to the governing body, the governing body shall submit the recall at that election."

Assembly Member Bailey asked what the consequences would be if the Assembly failed to follow the statute. Clerk Paxton responded that the statute was clear that the governing body shall submit the recall to the election. Attorney Brown explained that if the Assembly did not follow the law, a consequence could be recall. He added that there were a series of "shalls" in the statutes beginning with the certification of the petition by the clerk, the submission to the governing body, and the submission of the recall by the governing body to the election. He explained if the Assembly did not comply with the law, the Clerk may be in a position to seek a special election.

M/S: BRADFORD/MCQUERRY to acknowledge receipt of the submission of the petition to recall School Board Member Trevor Shaw, and to submit the recall question to the voters on the October 2, 2018, regular election ballot

Assembly Member Bradford said that although he had a strong personal opinion, the action was not discretionary. He informed that he had reviewed the relevant statutes and case law and the role of the Assembly was merely procedural. He added that the Assembly action would not convey agreement with the petition or whether the allegation was true. He explained that the Supreme Court reviewed the procedure and had ruled that it was the voters' role to assess the truth or falsity of the allegations in the petition. He noted that the subject of the recall would have the opportunity to have a rebuttal statement on the ballot as well.

Assembly Member Dial discussed the fact that two additional applications for recall were submitted but determined to be insufficient. He opined that the statement of grounds in the certified petition contained a de minimis - or trivial - allegation, groundless, without merit, politically motivated, divisive, and harassing. He debated that the proper method to address such matters was to replace the member at the regular election. He opposed the motion.

Assembly Member McQuerry voiced that she felt compelled to support the motion. She asserted it was not the Assembly's job to make a different decision about the process. She emphasized the voters would have the opportunity to say whether or not the allegation was groundless.

In response to Assembly Member Bailey, Attorney Brown explained that the grounds for recall in AS 29.26.250 were misconduct in office, incompetence, and failure to perform a prescribed duty. He said there was no authority that required that the "prescribed duty" must be dictated by statute. He added that school board bylaws were rooted in state statute, and the board had enacted bylaws. He further explained that the bylaws directed that the student member shall be able to participate, question witnesses, etc. He summarized that it was reasonable that as part of a prescribed duty, that the board had an obligation to follow its own bylaws.

Assembly Member Bailey opined that officials should be given the opportunity to correct a mistake when it occurred. He said the situation was difficult and characterized the recall as a guillotine approach, but he would follow the statute and let the voters make the decision.

Assembly Member Pierce commented that the Assembly was in a difficult position, but it was important to follow due process.

Upon roll call the vote on the MOTION was:

YES: PIERCE, MCQUERRY, BAILEY, BRADFORD

NO: DIAL

Other: PICKRELL (ABSENT), WONG (ABSENT)

MOTION DECLARED CARRIED

Mayor and Assembly Members' Comments

Assembly Member McQuerry said that it was a difficult position to be put in, and stated there was no malice toward any elected officials, but the Assembly must follow the law, which was done.

Adjournment

The meeting was adjourned at 6:47 p.m.



David Landis, Borough Mayor

ATTEST:



Kacie Paxton, Borough Clerk

APPROVED: September 4, 2018

Clerk's Note: On August 24, 2018, School Board Member Trevor Shaw submitted his resignation from the School Board effective noon on August 27, 2018. On August 31, 2018, the School Board accepted the resignation and declared the vacancy. Therefore, in accordance with AS 29.26.320, the recall question was not submitted to the voters.

Executive Summary:
Ketchikan Gateway Borough School District Investigation
December 30, 2018

Introductory Information

This report provides a summary of the key information and findings of an investigation conducted between August and November of 2018, regarding reports made to the Ketchikan Gateway Borough School District (School District), which identified concerns about Doug Edwards, while he was employed as a teacher at Ketchikan High School (KHS).

The investigation was focused specifically on determining:

1. What reports were made to the School District during Edwards' employment.
2. How the School District Responded to each of these complaints.
3. Whether or not the School District's response complied with Ketchikan Gateway Borough School District School Board Policies.

It is important to understand that the investigation was compliance-focused, as is this Executive Summary. As such it does not include analysis or evaluation of the School District's actions apart from that necessary to determine whether those actions complied with School Board Policy.

Evidentiary Standard: A preponderance of the evidence (more likely than not).

Background

Doug Edwards was employed by the School District as a culinary arts teacher for 15 years and resigned from employment effective June 8, 2018. On June 11, 2018, he was arrested by Ketchikan Police and admitted to inappropriate sexual contact with minor females. His arrest raised questions about what reports were made to the School District about Edwards' conduct while he was teaching and what actions were taken in response to those reports.

The investigation included interviews of more than 35 people, including administrators, teachers, counselors, staff members, citizens, students and parents/guardians. A wide variety of documents and policies were also reviewed, including School Board policies related to inappropriate conduct.

The investigation found that the KGBSD School Board has several policies that address inappropriate conduct, but none provides guidance for school district employees, or individuals who want to make a complaint, about which policy to use when multiple policies appear to be relevant to an issue or incident.

Most of the policies related to Unprofessional Conduct, Sexual Harassment and Discrimination can be found in the following three areas of the KGBSD School Board Policies:

- a. Harassment, Intimidation and Bullying Policies (BP 5131.43 and AR 5131.43)
- b. Sexual Harassment Policies (BP 4119.11, AR 4119.11, and BP 5145)
- c. Title IX-Related Policies – Title IX – Section 504 – Administrative Regulation 4030

The School District's Title IX policies are broad and generally cover issues of gender-based harassment in the school environment. For this reason, the School District's response to each of the reports received regarding Edwards was evaluated against the requirements of the School District's Title IX Policies. However, if a reporter or the School District identified intent to use another relevant policy, the School District's response was measured against that policy and/or corresponding administrative rule.

Reports Made to the School District

The investigation found that during Edwards employment with the school district, six reports alleging inappropriate conduct by him were made. All of these reports were made between 2013 and February 2018. In addition, one incident, involving a school staff member, was directly observed by a school administrator (during the same time frame).

The details of each report made, and the actions taken by the School District in response were reviewed and compared with KGBSD School Board Policy, to determine if the School District complied with policy requirements.

The results of this evaluation:

- For **5** of the reports received, the School District's response **complied** with KGBSD School Board policy.
- For **1** of the reports received, the School District's response **failed to comply** with KGBSD School Board policy.
- For **1** of the reports received, the School District's response **partially complied** with KGBSD School Board policy.

Incidents Reported or Observed by Staff and District Response

Report #1: A School District employee reported to the KHS Principal and Vice Principal in 2013 or 2014, that after school hours, he saw Edwards with an unidentified female who was standing inappropriately close to him, and that Edwards had his right arm around the female and inside her blouse. This female was thought not to be a student but a member of Edwards' church.

In this instance the Principal followed up with Edwards providing direction that the non-student not return to school premises and that Edwards not be alone with students. When the School District's response was measured against the requirements of the School District's Title IX-related policies, it was found to comply.

Report #2: A Non-School District employee, working on-site at KHS in approximately 2013 or 2014, reported to the KHS Principal that while at KHS after regular school hours, he saw a female student sitting up on the counter with Edwards in front of her, standing between her legs, with his hands on her legs.

When the School District's response was measured against the requirements of the School District's Title IX-related policies, it was found to comply.

Report #3: On May 26, 2016, at KHS, The Vice Principal of KHS observed Edwards making physical contact with a KHS staff member. In this case, Edwards had the front of his body in contact with the side of the employee and one hand on her upper chest and the other rubbing her back.

When the School District's response to this incident was compared with the School District's Sexual Harassment Policies the School District was found to have complied, in part, with these policies and not complied in part.

The School District complied with the portions of the Sexual Harassment Policies that require: 1) providing the Principal with notification of the concern; and 2) notifying the Central Office Contact, Superintendent Boyle.

The School District did not comply with the portions of the policy that require: 1) summarizing the verbal complaint in writing and providing it to the Superintendent within one working day (it was provided within 5 days); and 2) ensuring that the complainant understood that she had the option of choosing an informal process and that if she selected that process, Edwards could not receive disciplinary action.

Report #4: On June 1, 2017, a student reported to a teacher that she had seen Edwards put his hands on the hips of another student. The teacher and student reported this information to the KHS Vice Principal and interviews of students were conducted. In those interviews the concern

about Edwards placing his hands on the hips of another student was confirmed by that student. That student stated that Edwards had also inappropriately hugged and tickled her multiple times and that this made her significantly uncomfortable. Other students interviewed said that Edwards had engaged in excessive hugging, tickling, shoulder rubbing and attempts at lap sitting.

The Superintendent and Vice Principal, on June 1, 2017, issued a written warning to Edwards directing him not to touch anyone while involved in his work as a teacher with the School District.

When the School District's response was measured against the requirements of the School District's Title IX-related policies, it was found to comply.

Report #5: On January 9, 2018, a student reported to the KHS Principal and Vice Principal that Edwards had made her uncomfortable by cupping her face, telling her she was beautiful, putting his hands on her hips from the front and behind, putting his arm around her waist and rubbing and touching her lower back during the prior school term.

Shortly after this report was made, the Superintendent was informed, and the KHS Vice Principal interviewed additional students with a female school counselor present and then spoke with Edwards. School District leadership discussed this issue and the Superintendent approved a decision to put Edwards on unpaid leave for 2 days and issue him documentation that 1) identified his violation of the prior directive; and 2) again directed him to refrain from any physical contact with others.

When the School District's response was measured against the requirements of the School District's Title IX-related policies, it was found to comply.

Report #6: On January 9, 2018, an unidentified student reported behaviors of Edwards during the prior (2016-2017) school year that were similar to those described by the student in Report #5. The written notes of the KHS Vice Principal identify that the student had been afraid to report the issues at the time they occurred. The Vice Principal was not able to recall the name of this student or find a record of her name in his records.

When the School District's response was measured against the requirements of the School District's Title IX-related policies, it was found to not comply.

Report #7: On February 6, 2018, a student reported to the Principal of Revilla Alternative School that Edwards tried to put a banana in or near her mouth during a culinary class at KHS sometime between Thanksgiving and Christmas Break in 2017, and that it made her uncomfortable,

The reporting student and a student who had witnessed this event were also interviewed (separately) by the Revilla Principal, along with the KHS Vice Principal. When asked about this incident Edwards said he was just showing the student that the banana was not rotten and that he had done nothing inappropriate.

School and School District leaders met to discuss the issues and determine next steps. The Superintendent decided to meet personally with Edwards about this complaint. At that meeting the Superintendent told Edwards he would not sign the renewal for Edwards' Teaching Certificate which was to expire in October 2018. Shortly thereafter, Edwards provided notice that he would resign at the end of the current school year.

The Superintendent stated that he also informed Edwards that he would receive a "stepped-up" response if he had any incidents before the end of the school year. The Superintendent also asked the KHS Principal and Vice Principal to monitor Edwards regularly for the remainder of the school year.

When the School District's response was measured against the requirements of the School District's Title IX-related policies, it was found to comply.

Conclusion:

The investigation substantiated that between 2013 and February 6, 2018, six complaints were made to School District employees regarding the behavior of Edwards and one incident where Edwards was directly observed by a school administrator.

In response to the reports identified in this investigation, the School District on many occasions met the policy requirements in their responses to these reports. In a few instances they did not.