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ATTORNEY GENERAL

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April 28, 2022

By First Class Mail

Danvers Public Schools
Attention: Mary Wermer & Keith Taverna
Acting Co-Superintendents of Schools
64 Cabot Road
Danvers, MA 01923

Re: Resolution of Civil Rights Complaints

Dear Ms. Wermer & Mr. Taverna:

As you are aware, the Office of the Attorney General (AGO) has been investigating several civil rights complaints concerning the Danvers Public School District (DPSD). The complaints allege that, during the 2019/20 and 2020/21 school years, DPSD failed to properly respond to serious incidents of discriminatory bullying, harassment, and other misconduct by players on the Danvers High School (DHS) varsity hockey team. Schools are obligated to investigate and respond to bullying and harassment under the Anti-Bullying Law (G.L. c. 71, § 37O), Student Antidiscrimination Act (G.L. c. 76, § 5), and Fair Educational Practices Act (G.L. c. 151C, § 2). This letter confirms that the AGO has agreed to conclude its investigation according to the terms of the enclosed Resolution.

The AGO recognizes the important steps DPSD has taken in response to the incidents involving the hockey team. The District investigated misconduct on the team; took some disciplinary action against several students involved; and implemented measures to address school culture, including increased training for students, athletes, coaches, and administrators. The AGO also recognizes that DPSD investigated and responded to these incidents in the midst of the severe disruptions caused by the COVID-19 pandemic. But the District needs to take additional steps to address a number of concerns identified by the AGO during its investigation.

First, the misconduct on the DHS hockey team appears to have continued for several years before it was identified and addressed by DPSD. Based on records reviewed by the AGO, players engaged in hazing rituals that involved racist, homophobic, and physically and sexually abusive behavior. These rituals were part of, and reinforced, a toxic team culture. For example, players regularly used racial slurs, and made racist, homophobic, antisemitic and misogynistic comments, in the locker room and on group texts. In order to avoid these behaviors, some players limited their participation in team activities; others reportedly quit the team. These problems developed and persisted because the varsity hockey coach failed to properly supervise the team and locker room in violation of District policies. Although the Athletic Department regularly reviewed the coach's performance, it did not identify these failures, or any issue with team culture, until after allegations of misconduct were reported by students at the end of the 2019/20 school year. DPSD then permitted the team to return to play under the same coach for the 2020/21 season. Of additional concern, the problem with student athletes engaging in biased misconduct



does not appear to have been limited to the DHS hockey team. Earlier this year, for example, DPSD took action to address biased misconduct by a member of the DHS varsity wrestling team.

Second, the District appears to have struggled to manage certain aspects of its investigation into the hockey team. In fact, the allegations concerning the team led to multiple, overlapping investigations that created clear challenges for the District. DPSD began an initial investigation promptly after it was notified of problems on the team in June 2020. The District also referred certain allegations to the Danvers Police Department (DPD). In July 2020, DPD notified the District it had determined that, while players had engaged in “immature behavior” and “poor attempts at humor,” no criminal conduct occurred. The AGO is concerned that the District limited its initial response to the allegations based, in part, on DPD’s characterization of what happened and its finding that no crimes occurred. School officials are responsible for enforcing school policies – not criminal laws – and must independently investigate and respond to allegations of biased misconduct in order to protect students’ rights at school. In August 2020, the District commissioned a second investigation by an outside law firm to address concerns with its initial response. The outside investigators concluded that misconduct on the team was significantly more severe than originally identified by either DPSD or DPD. The District, however, does not appear to have initiated appropriate disciplinary proceedings for several students identified as having allegedly engaged in biased behavior, including behavior that may have violated the District’s Anti-Bullying, Civil Rights, Hazing and Sexual Harassment policies. DPSD also does not appear to have given adequate consideration to whether the sexual and racist misconduct identified during its investigations may have created a hostile environment for some players.

Third, the AGO is concerned with DPSD’s response to the virulently racist, homophobic, antisemitic, and misogynistic comments and images posted to the teams’ group texts. The AGO recognizes that the texts presented a challenging problem involving difficult questions about legal protections for student speech. DPSD considered a range of responses to the texts before deciding to limit its disciplinary response on the ground that the texts constituted private, off-campus speech. However, because the group texts were set up and used by players to coordinate team activities, and appear to include discriminatory comments and material that were posted while players were on team trips or travelling for team events, there was likely a sufficient connection between the texts and school-sponsored activities to permit DPSD to sanction students. Moreover, schools have the authority to discipline students for even ostensibly private speech that involves, encourages, or fosters an environment that results in bullying or harassment.¹

And fourth, the District could have improved its communications with the school community concerning the incidents on the hockey team. Schools must communicate effectively about hate and bias incidents in order to build trust and maintain an open, supportive, and inclusive educational environment. While state and federal laws restrict the information schools can share about students, the District’s communications too frequently did not effectively inform the community of the nature and scope of what had happened, or what the school was (and was not) doing to address the situation.

Finally, while the scope of the Resolution is confined to DPSD’s responsibility to investigate and respond to biased misconduct in the Danvers Public Schools, and provide a safe and supportive environment for its students, the AGO recognizes that additional work can and must be done outside of DPSD to prevent and address hate and bias. Based on our review, we therefore identified and conveyed additional, related recommendations to DPD and the town of Danvers. We are pleased that, consistent with our recommendations, DPD will be reassigning former DHS Varsity Hockey Coach Steve Baldassare, who is a Sergeant in the Department, to a role where he will no longer supervise or have any role in the

¹ See *Doe v. Hopkinton Public Schools*, 19 F4th 493, 508-09 (1st Cir. 2021).

Danvers School Resource Officer Program. The AGO encourages continued cooperation across systems and with community groups to ensure a robust and comprehensive approach to these issues.

The AGO is confident that DPSD is committed to addressing these concerns and improving the culture in its schools and its athletics program. The measures the District has voluntarily agreed to take as part of the Resolution will help ensure that the issues identified by the AGO are not repeated, and that, moving forward, incidents of discriminatory bullying, harassment, and other misconduct are promptly identified and effectively addressed.

Please sign and return the Resolution at your earliest convenience.

Sincerely,



Abigail Taylor
Chief, Civil Rights Division



Jon Burke
Assistant Attorney General