

HOUSTON INDEPENDENT SCHOOL DISTRICT
DISPUTE RESOLUTION FORM

[Refer to Board Policy DGBA(LOCAL) for procedures and requirements]

LEVEL:

1. Principal/Work Location Supervisor 502
2. Regional Superintendent/Next Level Vertical Line Supervisor
3. Board of Education

EMPLOYEE'S NAME: Richard Patton 713-876-1808
Home Phone

EMPLOYEE'S ADDRESS: 2321 Crescent Park Drive, Houston, TX 77077

EMPLOYEE ID#: 75545 EMPLOYEE POSITION: Chief Audit Executive

Email Address: rapatton@hotmail.com

Work Location: Hattie Mae White Educational Support Center Work Location Phone: 713-556-7500

Name, address, telephone and email address of representative, if any: David F. Feldman, Feldman & Feldman, PC, 3355 W. Alabama, Houston, TX 77098, 713-986-9471, david.feldman@feldman.law

Date Concern/Dispute Occurred: March 10, 2016 Date Filed: June 06, 2016

Principal/Work Location Supervisor: Board President

Statement of Concern/Dispute:

(Attach a copy of the statute or policy allegedly violated.)

A copy of the Texas Whistleblower Act, Tex. Gov't Code § 554.001, et seq., referenced in Board Policy DG (Legal) is attached, along with said policy.

On March 10, 2016, based on a memo issued by Gloria Cavazos, Chief Human Resource Officer, Mr. Patton ("Grievant") was temporarily relieved of his duties and reassigned to home duty "[b]ased on allegations of misconduct and other performance concerns." (See memo attached as Exhibit A to this grievance.) The issuance of such memo followed shortly after a Board meeting on that date in which Board members, in executive session, questioned Grievant regarding several scanned pages that he had asked his assistant, Cherie Gibson, to scan over a period of approximately two years. Grievant assumes that is the basis of the alleged "misconduct" referenced in Exhibit A, given the timing of the memo. In point of fact, however, the Board did not endeavor to investigate such allegations until April 7, 2016, when Grievant was informed by a memo of that date from the Chair of the Board Audit Committee, Jolanda Jones, that outside counsel was retained to investigate allegations of "misconduct" involving Grievant. (See memo attached as Exhibit B to this grievance.) Moreover, Grievant was not interviewed in connection

Statement of Concern/Dispute (continued):

with such investigation until May 13, 2016, and to date, has not been informed of the issuance of any report of such investigation. It is clear that the scanning involved was di minimus, at best, and not inconsistent with activities permitted under Board Policy CQ (Local) dealing with the use of District technology resources for personal purposes and further, that Grievant answered questions from the Board regarding it, in good faith, to the best of his knowledge and belief. Reliance on such allegations as a basis for taking the adverse action against Grievant was pretextual, and done in retaliation for Grievant's reporting of violations of law to appropriate law enforcement authorities, as discussed below.

In addition, no "performance concerns" as referenced in Exhibit A were ever communicated to Grievant by the Board Audit Committee or the full Board. Curiously, on or about April 13, 2016, over a month after his suspension, Grievant received a memo from the Board President stating "[t]he purpose of this memorandum is to document Audit Committee discussions concerning your performance. Specifically, this memorandum addresses four instances where the Trustees present at the November 9 Board Audit Committee meeting discussed performance deficiencies, and you agreed with the assessment." (See memo attached as Exhibit C to this grievance.) In responding to such memo, as requested, Grievant pointed out that no such discussion, much less agreement, had ever taken place, and Grievant refuted each of the purported performance deficiencies as set forth in the memo. (See Response dated April 22, 2016, from Grievant, with exhibits, attached as Exhibit D to this grievance.) Moreover, neither the agenda for the November 9, 2015 Audit Committee meeting, nor the videotape of the meeting, support the contention that such a discussion took place. Rather, at the conclusion of the meeting, with only two members of the Audit Committee present at the time, Mr. Rodriguez and Ms. Eastman, a brief discussion took place with Grievant regarding a memo he had sent to the Board dated November 3, 2015, wherein he had requested greater cooperation from the full Board in allowing the Office of Internal Audit to perform its assigned duties. In the same memo, Grievant formally advised the Board that he had made a report of violation of law to Chief Mock of the HISD Police Department based on the splitting of job orders under job order contracts (JOCs) by HISD Construction Facilities Services (CFS) to bring them below the maximum dollar amount permitted, in contravention of Tex. Educ. Code Sec. 44.032, Tex. Gov't Code Sec. 2269.403, and Board policy. (See memo attached as Exhibit E to this grievance, and Exhibit 9 to Grievant's Response, referenced above.) The suggestion that "performance concerns" were expressed to Grievant is further belied by the fact that at the very meeting where this is said to have taken place, the Audit Committee was presented with a variety of information that underscored Grievance's successful work, including an Internal Audit Assessment by the Institute of Internal Auditors (IIA) which gave the Internal Audit Department, under Grievant's supervision, the top rating available, which was a complete reversal from the worst possible rating that was received the year prior while the department was under the supervision of Grievant's predecessor. In addition, Grievant had received a very favorable performance evaluation from the Audit Committee only one month earlier. As with the allegations of "misconduct", the "performance concerns" relied on by the Board for Grievant's suspension were pretextual, further underscoring the retaliatory nature of the adverse action that Grievant is complaining of.

Unquestionably, Grievant reported a violation of law, in good faith, to an appropriate law enforcement authority, when he reported the splitting of job order contracts to Chief Mock, which reports the entire Board was explicitly made aware of on November 3, 2015, as discussed above. As Grievant's November 3 memo (Exhibit E) also reflects, Grievant asked the Board to advise as to who

Statement of Concern/Dispute (continued):

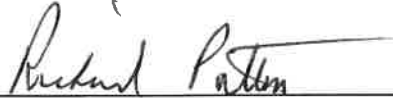
it thought would be the appropriate law enforcement authority to report the violation to, if not Chief Mock. The Board did not respond. It is also clear that the Board President, at the time, Rhonda Skillern-Jones, was particularly perturbed by Grievant's audits of the JOC program and his conclusion that the law was being violated, as she challenged Grievant's conclusion and questioned why no reference was made in the audit reports to a letter from AECOM written years earlier which appeared to condone the practice under scrutiny. In fact, both the Procurement Department and Internal Audit had questioned the accuracy of the AECOM letter, and outside counsel concurred with Grievance recommendations. Nevertheless, Ms. Skillern-Jones would not let the matter rest, and she took a number of steps to retaliate against Grievant, including trying to change the performance evaluation that had just been given to him by the Audit Committee and helping to instigate the suspension and investigation of the Grievant over a matter which, in the normal course, would have been treated in a benign manner, if addressed at all. Ms. Skillern-Jones also questioned Grievant's efforts to review the relationship between Aramark and its MWBE, Daryl King, when such activity should have been the exclusive province of the Audit Department.

That Grievant's suspension was motivated by his whistleblowing activities is further buttressed by: (a) the proximity of such adverse action to his good faith report of a violation of law earlier to Chief Mock, (b) his good faith report of a violation of law to the District Attorney's office based on a complaint received on the HISD "Hotline" regarding the residency of a newly elected Board member, Diana Davila, as well as (c) the manner in which he responded to the Due Diligence Questionnaire pertaining to the 2016 Limited Tax Schoolhouse and Refunding Bonds and his communications with District's co-disclosure counsel regarding same, just days before his suspension. As to the latter, on March 07, 2016, Grievant was asked to respond to the question "Has the District been the subject of any material civil or criminal investigations, formal or informal, by any federal, state or local government agency within the past 24 months." Knowing that the FBI had been investigating certain matters that Grievant had reported, he responded in the affirmative, but he was ethically bound not to provide specific information to any third party. When pressed by co-disclosure counsel on March 09, 2016, to change his response, Grievant declined to do so, and the following day, March 10, 2016, Grievant was called into executive session with the Board without any prior notice, aggressively cross-examined by Board members Skillern-Jones and Jolanda Jones regarding the scanning matter and was suspended. To aggravate matters further, Grievant's response was not reported in the District's Disclosure, but a month later, the District amended its Disclosure to report Grievant's suspension.

Grievant has been blocked from accessing his District e-mail, records and personnel since his suspension. Once he is permitted such access he can present, still, additional evidence further demonstrating that his suspension, as discussed above, was done in violation of the Texas Whistleblower Act, and that he is entitled to full relief for same.

Remedy Requested:

Immediate reinstatement to duties as Chief Audit Executive with reasonable measures put into place to ensure no further retaliation against Grievant. In the interim, Grievant should also be permitted access to his e-mails, records and personnel, so that he may more fully present his Grievance.


Signature of Employee

6-6-16
Date

DISPUTE RESOLUTION FORM

LEVEL I:

- A. Date received by Principal/Work Location Supervisor _____
- B. Disposition by Principal/Work Location Supervisor:

Signature of Principal/ Date
Work Location Supervisor
(Return original form to employee. Retain copy for your file.)

I do not accept the above decision and am referring this dispute to the next level.
(Submit a copy to the Employee Relations Department.)

Signature of Employee Date

LEVEL II:

- A. Date received by Regional Superintendent/Next Level Vertical Line Supervisor _____
- B. Disposition by Regional Superintendent/Next Level Vertical Line Supervisor:

Signature of Regional Superintendent/ Date
Next Level Vertical Line Supervisor
(Return original form to employee. Retain copy for your file.
Submit a copy to the Employee Relations Department.)

I do not accept the above decision and am referring this dispute to the next level.
(Submit a copy to Board Services.)

Signature of Employee Date

LEVEL III:

- A. Date received by Board Services: _____

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LEGAL)

UNITED STATES
CONSTITUTION

The District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV*

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 174 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968) [See DG]

TEXAS CONSTITUTION

Employees shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] District*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

FEDERAL LAWS
SECTION 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 C.F.R. 104.7(b), .11*

AMERICANS WITH
DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107, .140*

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 C.F.R. 106.8(b); North Haven Bd. of Educ. v. Bell*, 456 U.S. 512 (1982)

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LEGAL)

STATE LAWS

WAGES, HOURS,
CONDITIONS OF
WORK

The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM-177 (1984)*; *Corpus Christi Fed. of Teachers v. Corpus Christi Indep. Sch. Dist.*, 572 S.W.2d 663 (Tex. 1978)

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.)

REPRESENTATIVE

The District cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.); *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984)

The District should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Atty. Gen. Op. H-422 (1974)*; *Corpus Christi Indep. Sch. Dist. v. Padilla*, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)

EMPLOYMENT
POLICY

The District's employment policy must provide each employee with the right to present grievances to the Board.

The policy may not restrict the ability of an employee to communicate directly with a member of the Board regarding a matter relating to the operation of the District, except that the policy may prohibit ex parte communication relating to:

1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and
2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the Board.

Education Code 11.1513

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LEGAL)

GRIEVANCE POLICY	<p>The District's grievance policy must permit an employee to report a grievance against a supervisor to a different supervisor if the employee alleges that the supervisor:</p> <ol style="list-style-type: none">1. Violated the law in the workplace; or2. Unlawfully harassed the employee.
TELEPHONE REPRESENTATION	<p>If the District's grievance policy provides for representation, the policy must permit an employee's representative to represent the employee through a telephone conference call at any formal grievance proceeding, hearing, or conference at which the employee is entitled to representation according to the policy. This provision applies to grievances under Education Code 11.171(a) and only if the District has the equipment necessary for a telephone conference call.</p> <p><i>Education Code 11.171(a), (c)</i></p>
AUDIO RECORDING	<p>The District's grievance policy must permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of a grievance that complies with the policy is investigated or discussed. The implementation of an employee's authorization to make an audio recording may not result in a delay of any time line provided by the grievance policy. The District is not required to provide equipment for the employee to make the recording. <i>Education Code 11.171(b)</i></p>
FINALITY OF GRADES	<p>An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the District's grading policy applicable to the grade, as determined by the Board.</p> <p>The Board's determination is not subject to appeal.</p> <p><i>Education Code 28.0214</i></p>
OPEN MEETINGS ACT	<p>The Board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, the Board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing. <i>Gov't Code 551.074</i> [See BEC]</p>
CLOSED MEETING	<p>The Board may conduct a closed meeting on an employee complaint to the extent required or provided by law. <i>Gov't Code 551.082</i> [See BEC]</p>
RECORD OF PROCEEDINGS	<p>An appeal of the Board's decision to the Commissioner shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic</p>

recording or written transcript of all oral testimony or argument.
Education Code 7.057(c), (f)

It is the District's responsibility to make and preserve the records of the proceedings before the Board. If the District fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the District. The record shall include:

1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
 - a. The tape recording must be complete, audible, and clear; and
 - b. Each speaker must be clearly identified.
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the decision of the hearing examiner;
7. A tape recording or transcript of the oral argument before the Board; and
8. The decision of the Board.

19 TAC 157.1073(d)

WHISTLEBLOWER
COMPLAINTS

Before bringing suit, an employee who seeks relief under Government Code Chapter 554 (whistleblowers) must initiate action under the District's grievance or appeal procedures relating to suspension or termination of employment or adverse personnel action. *Gov't Code 554.006* [See DG]

GOVERNMENT CODE

TITLE 5. OPEN GOVERNMENT; ETHICS

SUBTITLE A. OPEN GOVERNMENT

CHAPTER 554. PROTECTION FOR REPORTING VIOLATIONS OF LAW

Sec. 554.001. DEFINITIONS. In this chapter:

(1) "Law" means:

- (A) a state or federal statute;
- (B) an ordinance of a local governmental entity; or
- (C) a rule adopted under a statute or ordinance.

(2) "Local governmental entity" means a political subdivision of the state, including a:

- (A) county;
- (B) municipality;
- (C) public school district; or
- (D) special-purpose district or authority.

(3) "Personnel action" means an action that affects a public employee's compensation, promotion, demotion, transfer, work assignment, or performance evaluation.

(4) "Public employee" means an employee or appointed officer other than an independent contractor who is paid to perform services for a state or local governmental entity.

(5) "State governmental entity" means:

- (A) a board, commission, department, office, or other agency in the executive branch of state government, created under the constitution or a statute of the state, including an institution of higher education, as defined by Section 61.003, Education Code;
- (B) the legislature or a legislative agency; or
- (C) the Texas Supreme Court, the Texas Court of Criminal Appeals, a court of appeals, a state judicial agency, or the State Bar of Texas.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 721, Sec. 1, eff. June 15, 1995.

Sec. 554.002. RETALIATION PROHIBITED FOR REPORTING VIOLATION OF LAW. (a) A state or local governmental entity may not suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority.

(b) In this section, a report is made to an appropriate law enforcement authority if the authority is a part of a state or local governmental entity or of the federal government that the employee in good faith believes is authorized to:

- (1) regulate under or enforce the law alleged to be violated in the report; or
- (2) investigate or prosecute a violation of criminal law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 2, eff. June 15, 1995.

Sec. 554.003. RELIEF AVAILABLE TO PUBLIC EMPLOYEE. (a) A public employee whose employment is suspended or terminated or who is subjected to an adverse personnel action in violation of Section 554.002 is entitled to sue for:

- (1) injunctive relief;
- (2) actual damages;
- (3) court costs; and
- (4) reasonable attorney fees.

(b) In addition to relief under Subsection (a), a public employee whose employment is suspended or terminated in violation of this chapter is entitled to:

- (1) reinstatement to the employee's former position or an equivalent position;
- (2) compensation for wages lost during the period of suspension or termination; and
- (3) reinstatement of fringe benefits and seniority rights lost because of the suspension or termination.

(c) In a suit under this chapter against an employing state or local governmental entity, a public employee may not recover compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life,

and other nonpecuniary losses in an amount that exceeds:

(1) \$50,000, if the employing state or local governmental entity has fewer than 101 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(2) \$100,000, if the employing state or local governmental entity has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;

(3) \$200,000, if the employing state or local governmental entity has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year; and

(4) \$250,000, if the employing state or local governmental entity has more than 500 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year.

(d) If more than one subdivision of Subsection (c) applies to an employing state or local governmental entity, the amount of monetary damages that may be recovered from the entity in a suit brought under this chapter is governed by the applicable provision that provides the highest damage award.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 721, Sec. 3, eff. June 15, 1995.

Sec. 554.0035. WAIVER OF IMMUNITY. A public employee who alleges a violation of this chapter may sue the employing state or local governmental entity for the relief provided by this chapter. Sovereign immunity is waived and abolished to the extent of liability for the relief allowed under this chapter for a violation of this chapter.

Added by Acts 1995, 74th Leg., ch. 721, Sec. 4, eff. June 15, 1995.

Sec. 554.004. BURDEN OF PROOF; PRESUMPTION; AFFIRMATIVE DEFENSE. (a) A public employee who sues under this chapter has the burden of proof, except that if the suspension or termination of, or

adverse personnel action against, a public employee occurs not later than the 90th day after the date on which the employee reports a violation of law, the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report.

(b) It is an affirmative defense to a suit under this chapter that the employing state or local governmental entity would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under this chapter of a violation of law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 5, eff. June 15, 1995.

Sec. 554.005. LIMITATION PERIOD. Except as provided by Section 554.006, a public employee who seeks relief under this chapter must sue not later than the 90th day after the date on which the alleged violation of this chapter:

- (1) occurred; or
- (2) was discovered by the employee through reasonable diligence.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 554.006. USE OF GRIEVANCE OR APPEAL PROCEDURES. (a) A public employee must initiate action under the grievance or appeal procedures of the employing state or local governmental entity relating to suspension or termination of employment or adverse personnel action before suing under this chapter.

(b) The employee must invoke the applicable grievance or appeal procedures not later than the 90th day after the date on which the alleged violation of this chapter:

- (1) occurred; or
- (2) was discovered by the employee through reasonable diligence.

(c) Time used by the employee in acting under the grievance or appeal procedures is excluded, except as provided by Subsection (d),

from the period established by Section 554.005.

(d) If a final decision is not rendered before the 61st day after the date procedures are initiated under Subsection (a), the employee may elect to:

(1) exhaust the applicable procedures under Subsection (a), in which event the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under this chapter; or

(2) terminate procedures under Subsection (a), in which event the employee must sue within the time remaining under Section 554.005 to obtain relief under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 6, eff. June 15, 1995.

Sec. 554.007. WHERE SUIT BROUGHT. (a) A public employee of a state governmental entity may sue under this chapter in a district court of the county in which the cause of action arises or in a district court of Travis County.

(b) A public employee of a local governmental entity may sue under this chapter in a district court of the county in which the cause of action arises or in a district court of any county in the same geographic area that has established with the county in which the cause of action arises a council of governments or other regional commission under Chapter 391, Local Government Code.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 7, eff. June 15, 1995.

Sec. 554.008. CIVIL PENALTY. (a) A supervisor who in violation of this chapter suspends or terminates the employment of a public employee or takes an adverse personnel action against the employee is liable for a civil penalty not to exceed \$15,000.

(b) The attorney general or appropriate prosecuting attorney may sue to collect a civil penalty under this section.

(c) A civil penalty collected under this section shall be deposited in the state treasury.

(d) A civil penalty assessed under this section shall be paid by

the supervisor and may not be paid by the employing governmental entity.

(e) The personal liability of a supervisor or other individual under this chapter is limited to the civil penalty that may be assessed under this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 8, eff. June 15, 1995.

Sec. 554.009. NOTICE TO EMPLOYEES. (a) A state or local governmental entity shall inform its employees of their rights under this chapter by posting a sign in a prominent location in the workplace.

(b) The attorney general shall prescribe the design and content of the sign required by this section.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 721, Sec. 9, eff. June 15, 1995.

Sec. 554.010. AUDIT OF STATE GOVERNMENTAL ENTITY AFTER SUIT.

(a) At the conclusion of a suit that is brought under this chapter against a state governmental entity subject to audit under Section 321.013 and in which the entity is required to pay \$10,000 or more under the terms of a settlement agreement or final judgment, the attorney general shall provide to the state auditor's office a brief memorandum describing the facts and disposition of the suit.

(b) Not later than the 90th day after the date on which the state auditor's office receives the memorandum required by Subsection (a), the auditor may audit or investigate the state governmental entity to determine any changes necessary to correct the problems that gave rise to the whistleblower suit and shall recommend such changes to the Legislative Audit Committee, the Legislative Budget Board, and the governing board or chief executive officer of the entity involved. In conducting the audit or investigation, the auditor shall have access to all records pertaining to the suit.

Added by Acts 1995, 74th Leg., ch. 721, Sec. 10, eff. June 15, 1995.

EXHIBIT A

MEMORANDUM

March 10, 2016

TO: Richard Patton, Chief Executive Auditor
FROM: Gloria Cavazos, Chief Human Resource Officer
Human Resources
SUBJECT: REASSIGNMENT TO HOME DUTY

Based on allegations of misconduct and other performance concerns you are being temporarily relieved of your duties and reassigned to home duty, effective immediately. We believe it is in your best interest and that of the Houston Independent School District that you be temporarily reassigned until further notice.

During your reassignment, you are not to return to Hattie Mae White at 4400 West 18th Street, Houston, Texas 77092 without the written consent of Gloria Cavazos, Chief Human Resources Officer or Interim Superintendent, Kenneth Huewitt. We will use your current contact information on file to get in touch with you during the reassignment. If your contact information is incorrect or changes at any time during your reassignment, you are directed to immediately contact Gloria Cavazos and provide the updated information.

Effective March 10, 2016, you are directed as follows:

- You are not to have contact with staff, students, parents, colleagues, or participate in any district activities regarding official HISD business.
- You are to facilitate and cooperate with all district investigations, should that be necessary.
- Further you are not to obstruct, prevent, or cause to prevent any district investigation. Be reminded that retaliation against employees, students, parents, or patrons who make reports or who participate in district investigations is strictly prohibited.
- You may not work on any other HISD business without the express written consent by the Superintendent or Chief Human Resource Officer, Gloria Cavazos.

If you have any questions regarding your status, your responsibilities, or the district's expectations during this period, please contact Chief Human Resource Officer, Gloria Cavazos, at 713-556-7352.

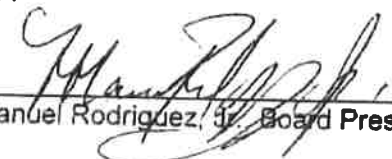
 _____ GC

I RECEIVED A COPY OF THIS COMMUNICATION ON THE DATE INDICATED BELOW:

Signature _____
Richard Patton

Date _____

Approved:



Manuel Rodriguez, Jr., Board President

EXHIBIT B

MEMORANDUM

April 7, 2016

TRANSMITTED VIA EMAIL
rapatton@hotmail.com

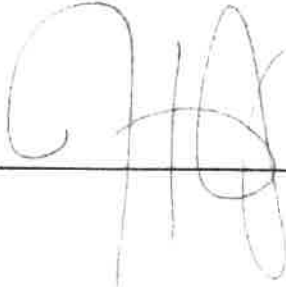
TO: Richard Patton

FROM: Jolanda Jones, Chair
Board Audit Committee

SUBJECT: PERSONNEL INVESTIGATION

The purpose of this memorandum is to inform you that a personnel investigation has been initiated into allegations of misconduct involving you, in your official capacity as Chief Auditor. Rick Morris of the law firm **Rogers, Morris & Grover, LLP**, is conducting the investigation and may be contacting you via the above-referenced email address that you provided to Chief Human Resources Officer Gloria Cavazos.

You are directed to cooperate and participate in the investigation. You may contact Mr. Morris at 713-960-6000 or rmorris@rmqllp.com.



WA

EXHIBIT C

INCIDENT MEMORANDUM

April 13, 2016

To: Richard Patton

From: Board President



Re: Performance issues

The purpose of this memorandum is to document Audit Committee discussion concerning your performance. Specifically, this memorandum addresses four instances where the Trustees present at the November 9, 2015 Board Audit Committee meeting discussed performance deficiencies, and you agreed with the assessment. These instances are:

- 1) your email response to Mr. Leo Bobadilla which was copied to trustees, the Superintendent, and others sent on October 16, 2015 at 8:40 PM addressing the management response to the audit of the request for additional funding for the 2012 bond program;
- 2) your requests to personnel in the Office of Government Relations to provide information to the local legislative delegation concerning bond program funding;
- 3) publicizing specific portions of the draft audit regarding the request for additional funding for the 2012 bond program before its completion as a final report; and
- 4) the omission of management response documents from the final report of the audit of job order contracting – implementation and execution.

These incidents and actions reflect performance deficiencies as detailed below:

1. Exceeding authority

Your complaints concerning the management response to the draft audit regarding additional funding for the 2012 bond should have been directed initially to the Board President and/or the Audit Committee Chair and without copying the Board as a whole, and should not be in the nature of an argumentative reply criticizing the duties of employees whom you do not supervise.

Similarly, complaints regarding information sent or not sent by the Office of Government Relations should have been directed to the Board President and/or the Audit Committee Chair.

You do not have the authority to direct employees outside your department or criticize their performance except in connection with an audit investigation under accepted practices of internal audits. In the incidents involving the Office of Government Relations, it appears that you were insistent that Ms. Ashlea Graves and her staff publicize information you believed supported the draft audit report regarding additional funding for the 2012 bond. Even if you sincerely believed you were correcting information or providing accurate information, you must channel your

request or complaint to your supervisor.

2. Improper communications with coworkers

Trustees found the tone of and words in your communications identified above to be disrespectful, accusatory and threatening to your coworkers. Your statements in your October 16th email that you were withholding information adverse to management appear calculated to threaten management to keep from responding to the audit in a way that is critical of or disagrees with the report. Similarly, the statement that "roadblocks and illogical play" raise "red flags" suggest that the response will cause you to seek additional issues to investigate based on a retaliatory motive rather than on the merits of the issues.

The Board received complaints from Government Relations employees that you improperly criticized their performance for failing to comply with your request to send information to the local legislative delegation concerning the draft audit regarding additional funding for the 2012 bond. They found your tone accusatory and threatening when you asked them to provide further information to the local delegation and accused them of providing misinformation to the local delegation.

The language in your October 16th email has an intimidating effect on persons who provide information on which an audit is based and undercuts your ability to obtain complete and accurate information.

As examples, you accuse management of rejecting an "olive branch" by "digging in its heels" and "responding flippantly." By stating that your team has taken the "high road" you imply and further state that management was unprofessional in its response in contrast to your department in its report. A similar statement in its effect is your accusation that management wants a "gunfight." Concluding that you "sleep good every night" implies that you may not be receptive to the facts in a management response because of your initial assessment of the facts. This viewpoint is counterproductive to your job duties.

3. Quality of performance.

Your October 16th email to the Trustees, Superintendent and others concerning the audit regarding additional funding for the 2012 bond contains statements which call the accuracy of the report into question. This email suggests that the report left out information, "leaving out all the dirt," "this district does not want the real dirt to be published," "[m]ore is available" Additionally, your statements that you changed the tone in your report imply that the tone of a report may depend on the degree of agreement by management, a strategy that cannot be a best practice.

Your public release of specific portions of the draft audit regarding the additional funding for the 2012 bond program during the public portion of a Board Audit Committee meeting is contrary to acceptable audit practices.

Based on the above, you are directed to:

1. Direct complaints about employees outside the Internal Audit Department to the Board Audit Committee Chair and/or the Board President for consideration by the Committee and Board and Superintendent;
2. Refrain from directing employees of other departments except for requesting information related to an authorized audit;
3. Refrain from criticizing or threatening employees of other departments with regard to their job duties except when objectively and dispassionately reporting actions in an audit report;
4. Refrain from statements which imply that the Internal Audit Department and its personnel would retaliate based on management or other employees' responses to a draft audit;
5. Refrain from using accusatory or threatening tones or attributing improper motives when addressing other employees unless objectively and dispassionately done in an audit report with regard to motives relevant to the audit;
6. Maintain the confidentiality of audit information except for the release of a properly authorized final audit.

If you disagree with the facts, conclusions or directives in this memorandum, please advise me in writing no later than five business days after delivery of this memorandum to you so that your concerns and questions may be addressed.

Signature of employee indicating receipt of Memorandum

EXHIBIT D

Vangie White

From: Richard Patton <rapatton@hotmail.com>
Sent: Friday, April 22, 2016 10:17 AM
To: Gloria Cavazos
Cc: Richard Patton
Subject: RE: Memorandum
Attachments: Response to Board President Memorandum 4-22-16.pdf; Exhibit 1 - Board President Memorandum.pdf; Exhibit 2 - HISD Home Duty Letter.pdf; Exhibit 3 - Quality Assurance Review of CAE Oct 2015.pdf; Exhibit 4 - HISD Board Policy CQ(LOCAL).pdf; Exhibit 5 - CAE Performance Evaluation 10-1-15.pdf; Exhibit 6 - HISD Board Policy BAA(LOCAL).pdf; Exhibit 7 - Audit Committee Charter 5-11-15.pdf; Exhibit 8 - E-mail to Mr. Bobadilla to Request Meeting 10-10-15.pdf; Exhibit 9 - CAE Communication to Board 11-3-15.pdf; Exhibit 10 -Internal Audit Activity Charter 9-8-15.pdf; Exhibit 11 - Procurement E-mail (and AECOM Memo Attachment) with Concern over AECOM Memo 8-4-14.pdf

Ms. Cavazos,

As requested, I have attached my response, questions, and request for data to the memo you referenced by E-mail on April 15, 2016. Also, I have attached eleven (11) exhibits related to my response. Please place all documents in my personnel file.

If you would like a signed copy, please advise.

Regards,

Richard Patton

From: GCAVAZOS@houstonisd.org
To: rapatton@hotmail.com
Date: Fri, 15 Apr 2016 14:52:06 -0500
Subject: Memorandum

Mr. Patton,

This document is being provided to you and will be placed in your personnel file.

Gloria Cavazos
Chief Human Resources Officer
Houston ISD
713-556-7353

RESPONSE TO INCIDENT MEMORANDUM (Dated 4-13-16/Delivered via e-mail on 4-15-16)

April 22, 2016

Board President,

Pursuant to your request, this memo provides my concerns, questions, and disagreements with the Incident Memorandum¹ dated April 13, 2016. I have included exhibits that I have in my possession to support my statements. As stated in the letter signed by you on March 10, 2016², you temporarily reassigned me to home duty and instructed me not to conduct any HISD business. As a result, I do not have access to my files and records, supporting documentation, and internal audit personnel who have supporting evidence to adequately respond to the incidents included in your memo. Access to my HISD e-mail, files, share drive, and HISD personnel will allow me to substantiate my information shown below. Please allow me this access so I am able to adequately defend against the performance concerns. I think this is only fair.

Question – This memo appears to be signed by the Board President, but Mr. Rodriguez was out due to unknown reasons and Ms. Adams was the acting President at the time. Has each member of the Board of Education participated in the memo dated April 13 or was it coordinated by a select few?

For the record, I have not previously agreed with any performance deficiencies that you state were discussed during the November 9, 2015 Audit Committee meeting. Contrary to your point, this meeting discussed the excellent report received from the Institute of Internal Auditors³, who performed a full scope quality assurance review of my department's compliance with professional standards, as requested by the Audit Committee. There were no discussions of any negative performance concerns during any committee meetings that I was involved with.

Ms. Skillern-Jones, who was Board President during the four instances noted in the April 13, 2016 memo, led the conversation that took place on March 10, 2016 in closed session regarding her view of my conduct. Her stated concern involved a lateral movement of an administrative assistant from one of my departments to another one of my departments. As stated in the closed session, this temporary movement was necessary in my judgment to improve the priority of AlertLine administration due to the doubling in volume of tips and concerns from others. In addition, she brought forward three (3) personal documents that I asked this assistant to scan for me. These brief documents are not inappropriate, but I admitted it required the use of HISD scanner equipment. One of these documents was scanned over a year ago. Per HISD Policy CQ Local⁴, I think this scanning qualifies for the "limited personal use" statement. With all due respect, a formal investigation and assignment to home duty based on this information seems extreme and questionable in my opinion.

¹ See Exhibit 1 – Incident Memorandum from Board President

² See Exhibit 2 – HISD Home Duty Letter

³ See Exhibit 3 – Quality Assurance Review of CAE October 2015 (with highlights)

⁴ See Exhibit 4 – HISD Board Policy CQ(LOCAL) (with highlights)

Although never addressing it with me personally, it is my understanding from others that Ms. Skillern-Jones had questioned my excellent performance evaluation⁵ which was conducted by the Audit Committee and signed by the Chairperson of the committee on October 1, 2015. Ms. Skillern-Jones has stated that the complete board was not engaged in my evaluation and attempted to rescind my performance evaluation. This evaluation was earned based on my successful transformation of the audit department as I was specifically hired to do, and also based on the excellent results of an external review of the department. For the record, this performance evaluation was mysteriously omitted from the initial release of my personnel file data requested by the media via the Public Information Act, while other evaluations were included. Board Policy BAA Local⁶ states, "At the discretion of the Board, the Chief Audit Executive's review may be conducted by the Board Audit Committee." In addition, the Audit Committee Charter⁷ states the committee will "At least once per year, review the performance of the chief audit executive...." and "Review the effectiveness of the internal audit function". The delegation of my performance evaluation was formally accomplished when Ms. Skillern-Jones and Ms. Juliet Stipeche signed the Audit Committee Charter on May 11, 2015.

Specific responses to the instances listed in the memo dated April 13, 2016 are shown below. Again, these matters were not raised in the November 9, 2015 Audit Committee meeting.

Instance 1 (Complaints concerning my e-mail to the COO's management response to the draft report covering the \$211 million request for additional funding)

I had previously sought counsel from the audit committee about communication protocols such as this. I was advised to use my own judgment in making such decisions; therefore, I copied the complete Board because this topic seemed to impact the whole board. The tone of the e-mail was not my normal style. I was not happy that my group was rushed to issue a draft report before the next board meeting and that the Audit Committee chairperson wanted to provide the public a summary of the draft even though it was known Mr. Bobadilla (COO) had limited time to review. Furthermore, I had communicated by e-mail to the COO that the communication to the public was out of my control and I wanted to work with him on the language of the draft since he indicated the draft was too harsh in places. I was surprised about the 300+ page response which was sent to all members of the board, especially when I attempted to meet with the COO on Sunday afternoon as the draft was being prepared (see E-mail to Mr. Bobadilla dated October 10, 2015⁸). Again, I had no control over the public dissemination or the requirement to accelerate completion of the project assignment. The COO was not present during my public statements at the beginning of the meeting. Also, the board members, excluding the members of the Audit Committee, were not present for any part of this meeting. When hearing no input from the COO for several days after the Audit Committee meeting, I even submitted a revised draft report (but no change to the conclusion or recommendations) to

⁵ See Exhibit 5 – CAE Performance Evaluation 10-1-15

⁶ See Exhibit 6 – HISD Board Policy BAA(LOCAL) (with highlights)

⁷ See Exhibit 7 – Audit Committee Charter 5-11-15 (with highlights)

⁸ See Exhibit 8 – E-mail to Mr. Bobadilla to Request Meeting 10-10-15 (with highlights)

the COO since he thought the language was too harsh. Hence, the use of the word “gunfight” in my e-mail you referenced.

In regard to the statement that I was withholding information and mentioned red flags in my e-mail, I did not feel it necessary to publish all sampling details in this report. All the pertinent facts were reported to support the results and recommendations. Including all details would have potentially created a more abrasive environment and barriers to change since typical management would be more defensive. The goal of an audit report is to obtain improvement and change by being diplomatic, and sometimes avoiding the details is the better option. Including the details would have had no impact to the audit results or recommendations. A Chief Audit Executive should be allowed some flexibility in the style of reporting. Once it was determined that management disagreed, the normal process would be to strengthen the observations in the next draft. Issuance of a second draft was not possible because quotes from the report were shared with the media, and the COO preferred to use the initial draft. When an auditor receives a 300+ page response to a report that contains only five basic recommendations, any astute auditor would question the reason for such an overreaction. That is what I meant by the red flag comment. No audit project of mine has ever been retaliatory, as suggested in the memo from the President.

Instance 2 (Phone conversation with the Office of Government Relation)

My phone conversation with the Office of Government Relations (Ms. Ashlea Graves) was specifically related to the draft report of the \$211 million request for additional funding. Therefore, I do not believe this exceeds my authority, especially since the draft report was not distributed at this point and the media statements were misleading. Due to media hype, I had heard that certain elected members of the Texas legislature were concerned about HISD control over the bond program and lack of integrity of public funds. This concern was further reinforced in my letter dated November 3, 2015⁹, to each member of the Board of Education. I called Ms. Graves and simply explained that the draft report (unissued at the time) contained five basic recommendations and does not use the word “mismanagement” or suggest fraud as the media had reported. In fact, the report specifically stated that fraud was not in our scope. The tone of my conversation with Ms. Graves was certainly not threatening and there was no “directive” or evaluation of anyone’s performance. I did not complain about her role. I merely suggested clarification would be beneficial to HISD. My discussion with Ms. Graves seems appropriate since the Internal Audit Activity Charter¹⁰ states that internal audit “...is authorized full, free, and unrestricted access to any and all of HISD’s records, physical properties, and personnel pertinent to carrying out any engagement.” I thought it was in the best interest of the district that I explain to Ms. Graves that the media had taken the unissued draft report out of context. I did

⁹ See Exhibit 9 – CAE Communication to Board 11-3-15 (with highlights)

¹⁰ See Exhibit 10 – Internal Audit Activity Charter 9-8-15 (with highlights)

not accuse, intimidate, or threaten anyone. There would be no reason to accuse, intimidate, or threaten. I will work more directly with my supervisor in the future as instructed.

Instance 3 (Publicizing portions of the draft report covering the \$211 million request for additional funding)

This is simply incorrect. Our standard practice is that our project should not be constrained by deadlines and that we do not discuss draft reports outside the direct owner of any recommendation, including the members of the Audit Committee. The audit project covering the \$211 million request for additional funding was discussed during the October 12, 2015 Audit Committee meeting only because I was instructed by Board President Ms. Skillern-Jones to complete the report before the October 15, 2015 Board Meeting. Even after objecting to the limited timeframe and strongly suggesting this topic be covered by a third party audit firm, it was determined that we needed to escalate our conclusions to enable a board vote on the additional funding.

The facts are that Ms. Stipeche, Audit Committee Chairperson in October 2015, drove the meeting where she desired the public to hear a summary of the findings. I made it clear numerous times that this was not my preference. Based on a previous discussion with the COO, we both did not wish to discuss this in a public setting. We were successful at first when the meeting was moved to a closed session, but outside counsel moved the session back into general session where Ms. Stipeche read aloud certain portions of the executive summary against my desire. The only Board members present at this meeting were Ms. Stipeche, Ms. Eastman, and Mr. Rodriguez, so I am confused who is stating this information incorrectly.

My concern that portions of the draft report were shared with the media during the October 12, 2015 Audit Committee was further reinforced in my letter dated November 3, 2015⁹, to each member of the Board of Education. In that letter, I specifically recommended that the Board, "Require draft reports to be vetted with the administration prior to discussions in general session or closed session to enable internal audit time to work with management in compliance with departmental policies and procedures which are designed to encourage change through a collaborative process. This would allow for internal audit to operate without restrictive time constraints."

Instance 4 (Omission of management response documents from the Job Order Contracting (JOC) Implementation and Execution report)

Ms. Skillern-Jones approached me after a meeting to question why a document from AECOM (an outside vendor of HISD) was omitted from this report. I stated honestly that I had not seen the AECOM memo after she shared a copy with me. Upon my subsequent discussion with the audit manager of this project and analysis of pertinent audit workpapers, I learned that Construction Facilities Services (CFS) management had approved our recommendation but in

the 11th hour of the final report issuance, they desired to attach the AECOM memo as part of their response. This was suggested after CFS management's responses were inserted and management approved the draft report. The AECOM memo basically stated that Procurement provided direction to AECOM that it was ok for CFS to proceed with multiple concurrent job order contracts where no single job order may exceed \$500,000 (i.e., ok to issue a series of JOCs on the same site for different sub-trade work). This memo was determined to be inaccurate, lacking in credibility, and misleading to a reader of the report, which was confirmed with legal counsel for the District. The AECOM memo also pitted CFS against Procurement, who was not responsible for the weakness or recommendation included in the report. The audit manager discussed the AECOM memo with senior CFS management and obtained the ok to proceed without its inclusion. CFS was advised by the audit manager that they were welcome to summarize the AECOM memo in their response, but they chose not to update their response. We also have evidence where Procurement management issued an e-mail questioning AECOM's statement and also sent an e-mail to outside counsel for their input¹¹. Procurement could not identify any evidence of any input from outside counsel. Even prior communications from Procurement to CFS personnel are consistent with this theme. I believe these reasons justify the omission of the AECOM memo as an attachment to the audit report.

After I discussed these facts with the audit manager, I sent an e-mail to Ms. Skillern-Jones to request a meeting with her so I could discuss all the evidence and the complete audit trail maintained in our workpapers. She did not get back with me regarding my request for a meeting. Internal audit's professional judgment to exclude a false or misleading document seems very appropriate and in compliance with professional audit standards.

Please send me an official copy of any video recording of the Audit Committee meetings on October 12, 2015 and November 9, 2015, and access to my HISD e-mails, audit workpapers, and files so I can have an opportunity to prove my statements are completely factual.

In conclusion, I also wish to point out that the supposed deficiencies mentioned in the memo seem quite subjective and not based on evidence. Furthermore, if these concerns were critical, it seems they would have been addressed more timely than waiting for five (5) weeks after my home duty assignment began and even a greater time span (several months) after these so-called deficiencies occurred.

Please let me know if you have any questions or desire additional support for my comments.

Sincerely,

Richard Patton

Attachments: Exhibits 1 - 11

¹¹ See Exhibit 11 – Procurement E-mail (and AECOM Memo Attachment) with Concerns over AECOM Memo 8-4-14 (with highlights)

INCIDENT MEMORANDUM

April 13, 2016

To: Richard Patton

From: Board President



Re: Performance issues

The purpose of this memorandum is to document Audit Committee discussion concerning your performance. Specifically, this memorandum addresses four instances where the Trustees present at the November 9, 2015 Board Audit Committee meeting discussed performance deficiencies, and you agreed with the assessment. These instances are:

- 1) your email response to Mr. Leo Bobadilla which was copied to trustees, the Superintendent, and others sent on October 16, 2015 at 8:40 PM addressing the management response to the audit of the request for additional funding for the 2012 bond program;
- 2) your requests to personnel in the Office of Government Relations to provide information to the local legislative delegation concerning bond program funding;
- 3) publicizing specific portions of the draft audit regarding the request for additional funding for the 2012 bond program before its completion as a final report; and
- 4) the omission of management response documents from the final report of the audit of job order contracting – implementation and execution.

These incidents and actions reflect performance deficiencies as detailed below:

1. Exceeding authority

Your complaints concerning the management response to the draft audit regarding additional funding for the 2012 bond should have been directed initially to the Board President and/or the Audit Committee Chair and without copying the Board as a whole, and should not be in the nature of an argumentative reply criticizing the duties of employees whom you do not supervise.

Similarly, complaints regarding information sent or not sent by the Office of Government Relations should have been directed to the Board President and/or the Audit Committee Chair.

You do not have the authority to direct employees outside your department or criticize their performance except in connection with an audit investigation under accepted practices of internal audits. In the incidents involving the Office of Government Relations, it appears that you were insistent that Ms. Ashlea Graves and her staff publicize information you believed supported the draft audit report regarding additional funding for the 2012 bond. Even if you sincerely believed you were correcting information or providing accurate information, you must channel your

request or complaint to your supervisor.

2. Improper communications with coworkers

Trustees found the tone of and words in your communications identified above to be disrespectful, accusatory and threatening to your coworkers. Your statements in your October 16th email that you were withholding information adverse to management appear calculated to threaten management to keep from responding to the audit in a way that is critical of or disagrees with the report. Similarly, the statement that "roadblocks and illogical play" raise "red flags" suggest that the response will cause you to seek additional issues to investigate based on a retaliatory motive rather than on the merits of the issues.

The Board received complaints from Government Relations employees that you improperly criticized their performance for failing to comply with your request to send information to the local legislative delegation concerning the draft audit regarding additional funding for the 2012 bond. They found your tone accusatory and threatening when you asked them to provide further information to the local delegation and accused them of providing misinformation to the local delegation.

The language in your October 16th email has an intimidating effect on persons who provide information on which an audit is based and undercuts your ability to obtain complete and accurate information.

As examples, you accuse management of rejecting an "olive branch" by "digging in its heels" and "responding flippantly." By stating that your team has taken the "high road" you imply and further state that management was unprofessional in its response in contrast to your department in its report. A similar statement in its effect is your accusation that management wants a "gunfight." Concluding that you "sleep good every night" implies that you may not be receptive to the facts in a management response because of your initial assessment of the facts. This viewpoint is counterproductive to your job duties.

3. Quality of performance.

Your October 16th email to the Trustees, Superintendent and others concerning the audit regarding additional funding for the 2012 bond contains statements which call the accuracy of the report into question. This email suggests that the report left out information, "leaving out all the dirt," "this district does not want the real dirt to be published," "[m]ore is available" Additionally, your statements that you changed the tone in your report imply that the tone of a report may depend on the degree of agreement by management, a strategy that cannot be a best practice.

Your public release of specific portions of the draft audit regarding the additional funding for the 2012 bond program during the public portion of a Board Audit Committee meeting is contrary to acceptable audit practices.

Based on the above, you are directed to:

1. Direct complaints about employees outside the Internal Audit Department to the Board Audit Committee Chair and/or the Board President for consideration by the Committee and Board and Superintendent;
2. Refrain from directing employees of other departments except for requesting information related to an authorized audit;
3. Refrain from criticizing or threatening employees of other departments with regard to their job duties except when objectively and dispassionately reporting actions in an audit report;
4. Refrain from statements which imply that the Internal Audit Department and its personnel would retaliate based on management or other employees' responses to a draft audit;
5. Refrain from using accusatory or threatening tones or attributing improper motives when addressing other employees unless objectively and dispassionately done in an audit report with regard to motives relevant to the audit;
6. Maintain the confidentiality of audit information except for the release of a properly authorized final audit.

If you disagree with the facts, conclusions or directives in this memorandum, please advise me in writing no later than five business days after delivery of this memorandum to you so that your concerns and questions may be addressed.

Signature of employee indicating receipt of Memorandum

Exhibit 2

MEMORANDUM

March 10, 2016

TO: Richard Patton, Chief Executive Auditor

FROM: Gloria Cavazos, Chief Human Resource Officer
Human Resources

SUBJECT: **REASSIGNMENT TO HOME DUTY**

Based on allegations of misconduct and other performance concerns you are being temporarily relieved of your duties and reassigned to home duty, effective immediately. We believe it is in your best interest and that of the Houston Independent School District that you be temporarily reassigned until further notice.

During your reassignment, you are not to return to Hattie Mae White at 4400 West 18th Street, Houston, Texas 77092 without the written consent of Gloria Cavazos, Chief Human Resources Officer or Interim Superintendent, Kenneth Huewitt. We will use your current contact information on file to get in touch with you during the reassignment. If your contact information is incorrect or changes at any time during your reassignment, you are directed to immediately contact Gloria Cavazos and provide the updated information.

Effective March 10, 2016, you are directed as follows:

- You are not to have contact with staff, students, parents, colleagues, or participate in any district activities regarding official HISD business.
- You are to facilitate and cooperate with all district investigations, should that be necessary.
- Further you are not to obstruct, prevent, or cause to prevent any district investigation. Be reminded that retaliation against employees, students, parents, or patrons who make reports or who participate in district investigations is strictly prohibited.
- You may not work on any other HISD business without the express written consent by the Superintendent or Chief Human Resource Officer, Gloria Cavazos.

If you have any questions regarding your status, your responsibilities, or the district's expectations during this period, please contact Chief Human Resource Officer, Gloria Cavazos, at 713-556-7352.

 _____ GC

I RECEIVED A COPY OF THIS COMMUNICATION ON THE DATE INDICATED BELOW:

Signature _____
Richard Patton

Date _____

Approved:



Manuel Rodriguez, Jr. Board President

Exhibit 3

Internal Audit Quality Assessment

Presented To:

Houston Independent School District

October 2015

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List of Acronyms

CAE	Chief Audit Executive
EQA	External Quality Assessment
HISD	Houston Independent School District
IIA	The Institute of Internal Auditors
Internal Audit	Office of Internal Audit
IPPF	<i>International Professional Practices Framework</i>
QAIP	Quality Assurance and Improvement Program
Standards	<i>International Standards for the Professional Practice of Internal Auditing</i>

Executive Summary

Under the *International Standards for the Professional Practice of Internal Auditing ("Standards")*, an external quality assessment ("EQA") of an internal audit activity must be conducted at least once every five years by a qualified assessor or assessment team from outside the organization. The qualified assessor or assessment team must demonstrate competence in both the professional practice of internal auditing and the EQA process. The Houston Independent School District ("HISD") Office of Internal Audit ("Internal Audit") selected the Institute of Internal Auditors ("IIA") Quality Services, LLC to lead their review. The EQA was concluded on October 16, 2015 and provides management and the Audit Committee with information about Internal Audit as of that date. Future changes in environmental factors and actions by personnel, including actions taken to address recommendations, may have an impact upon the operation of Internal Audit in a manner that this report did not and cannot anticipate. Considerable professional judgment is involved in evaluating the findings and developing recommendations. Accordingly, it should be recognized that others could evaluate the results differently, and draw different conclusions.

Opinion as to Conformance to the Standards, the IIA Code of Ethics, and the Definition of Internal Auditing

It is our overall opinion that Internal Audit generally conforms to the Standards, the IIA Code of Ethics, and the Definition of Internal Auditing. A detailed list of conformance to individual Standards is shown on page 6 of this report.

The IIA's *Quality Assessment Manual* suggests a scale of three ratings, "generally conforms," "partially conforms," and "does not conform." "Generally Conforms" is the top rating and means the assessor has concluded that the relevant structures, policies, and procedures of the activity, as well as the processes by which they are applied, comply with the requirements of the Standards, the IIA Code of Ethics, or the Definition of Internal Auditing in all material respects. Detailed definitions for rating criteria associated with "Generally Conforms", "Partially Conforms", and "Does Not Conform" are described in Attachment A found on page 16 of this report and are consistent with the guidance provided by the IIA in their *Quality Assessment Manual*.

Objectives / Scope / Methodology

- The principal objectives of the EQA were to (1) assess Internal Audit conformance to the Standards, the IIA Code of Ethics, and the Definition of Internal Auditing; (2) assess the effectiveness of Internal Audit in providing assurance and advisory services to the Audit Committee, senior executives, and other interested parties; and (3) identify opportunities, offer recommendations for improvement, and provide counsel to the Chief Audit Executive ("CAE") and Internal Audit staff for improving their performance and services and promoting the image and credibility of Internal Audit.
- The scope of the EQA included Internal Audit, as set forth in the Internal Audit charter. The Internal Audit charter, approved by the Audit Committee, defines the authority, responsibility, and accountability of the activity.
- To accomplish the objectives, the external independent assessment team reviewed information prepared by Internal Audit at the team's request; conducted interviews with selected key stakeholders to Internal Audit including the Audit Committee chair, senior executives of the HISD administration, the external auditors, and Internal Audit management; reviewed a sample of audit projects and associated work papers and reports; reviewed benchmark and survey data; and prepared diagnostic tools consistent with the methodology established for an EQA in the *IIA Quality Assessment Manual*.

Executive Summary

Observations Specific to Internal Audit

Internal Audit Generally Conforms to the *Standards*, the IIA Code of Ethics, and the Definition of Internal Auditing. They operate in a very dynamic environment and their ability to adapt and be responsive to change, combined with their ability to leverage insight on risks impacting the organization into focused audit plans, will continue to be critical to their success and value to the organization. The internal quality processes they have in place demonstrate a strong commitment to continuous improvement and alignment with the *Standards*. Their annual risk assessment process has identified Internal Audit priorities consistent with areas of highest risk impacting HISD. Significant progress has been made to address areas of non-conformance or partial conformance with the *Standards* as noted in the prior external assessment conducted in March 2013.

Attribute Standards

Internal Audit has the infrastructure in place to support sustainability of internal audit processes in a quality and consistent manner. Their charter is comprehensive and is foundational to all their activities. The functional and administrative reporting relationships are appropriate and support organizational independence and objectivity. Internal Audit management and staff, together with third party resources, collectively possess the knowledge, skills, and other competencies necessary to demonstrate professional proficiency; and work is performed with due professional care that includes an appropriate level of supervisory review and approval. Training and professional development processes support proficiency of Internal Audit management and staff. The CAE has established a Quality Assurance and Improvement Program (“QAIP”) that promotes quality and continuous improvement.

Performance Standards

Internal Audit is appropriately managed and the annual audit plan is supported by a risk assessment process that incorporates input from Internal Audit stakeholders including HISD administration and the Audit Committee and that is linked to HISD’s strategies and objectives. Internal Audit resource levels and skills sets are appropriate to meet objectives established for the approved annual audit plan. Deviations from the approved plan resulting from specific audit requests and areas of emerging or changing risks should be clearly communicated to and approved by the Audit Committee to ensure continued alignment of Internal Audit resources with the audit plan. Documentation of policies and procedures for Internal Audit infrastructure and key processes support sustainability, consistency, and quality. Periodic reports to the Audit Committee are of a high quality and appropriately communicate Internal Audit activities, but should be enhanced to include status of established performance metrics and open observations. Engagement level planning is supported by engagement level risk assessments to focus audit activities. Objectives evaluate technology, operational, financial, and compliance components as appropriate for individual engagements. Individual audits are performed consistent with underlying audit plan objectives. Audit reports are consistent with the underlying work product and focus the reader on those areas of highest relevance. A monitoring and follow-up process needs to be established to track reported observations through to resolution. Results of monitoring and follow-up should be reported to HISD administration and the Audit Committee on a periodic basis.

Executive Summary

Standards Conformance Summary

OVERALL	GC	PC	OME	NA
	X			

ATTRIBUTE STANDARDS	GC	PC	OME	NA
1000 Purpose, Authority, and Responsibility	X			
1010 Recognition of the Definition of Internal Auditing, the Code of Ethics and the Standards in the Internal Audit Charter	X			
1100 Independence and Objectivity	X			
1110 Organizational Independence	X			
1111 Direct Interaction with the Board	X			
1120 Individual Objectivity	X			
1130 Impairments to Independence or Objectivity	X			
1200 Proficiency and Due Professional Care	X			
1210 Proficiency	X			
1220 Due Professional Care	X			
1230 Continuing Professional Development	X			
1300 Quality Assurance and Improvement Program	X			
1310 Requirements of the Quality Assurance and Improvement Program	X			
1311 Internal Assessments	X			
1312 External Assessments	X			
1320 Reporting on the Quality Assurance and Improvement Program	X			
1321 Use of "Conforms with the International Standards for the Professional Practice of Internal Auditing"	X			
1322 Disclosure of Nonconformance	X			

PERFORMANCE STANDARDS	GC	PC	OME	NA
2000 Managing the Internal Audit Activity	X			
2010 Planning	X			
2020 Communication and Approval	X			
2030 Resource Management	X			
2040 Policies and Procedures	X			
2050 Coordination	X			

	GC	PC	OME	NA
2060 Reporting to Senior Management and the Board	X			
2070 External Service Provider and Organizational Responsibility for Internal Auditing				X
2100 Nature of Work	X			
2110 Governance	X			
2120 Risk Management	X			
2130 Control	X			
2200 Engagement Planning	X			
2201 Planning Considerations	X			
2210 Engagement Objectives	X			
2220 Engagement Scope	X			
2230 Engagement Resource Allocation	X			
2240 Engagement Work Programs	X			
2300 Performing the Engagement	X			
2310 Identifying Information	X			
2320 Analysis and Evaluation	X			
2330 Documenting Information	X			
2340 Engagement Supervision	X			
2400 Communicating Results	X			
2410 Criteria for Communicating	X			
2420 Quality of Communications	X			
2421 Errors and Omissions	X			
2430 Use of "Conducted in Conformance with the International Standards for the Professional Practice of Internal Auditing"	X			
2431 Engagement Disclosure of Nonconformance	X			
2440 Disseminating Results	X			
2450 Overall Opinions				X
2500 Monitoring Progress				
2600 Communicating the Acceptance of Risks	X			

IIA CODE OF ETHICS	GC	PC	OME	NA
DEFINITION OF INTERNAL AUDITING	X			

Executive Summary

During the EQA, several areas were noted where Internal Audit is operating in a successful internal audit practice manner. In addition, one area was noted where there was a gap to conformance with the *Standards* and several areas were noted where opportunities for continuous improvement to enhance efficiency and effectiveness of internal Audit processes exist. Detailed observations, recommendations, and Internal Audit responses to this gap to conformance with the *Standards* or these opportunities for continuous improvement are included in the following section of this report.

Successful Internal Audit Practices Noted

Standard 1000 Purpose, Authority, and Responsibility – The Internal Audit charter is comprehensive and contains all the mandatory elements of the *International Professional Practices Framework (“IPPF”)*.

Standard 1130 Impairment to Independence and Objectivity – Internal Audit management and staff sign an “Annual Statement of Professional Conduct” on an annual basis and an “Auditor Assignment & Independence Statement” for each Internal Audit project.

Standard 2040 Policies and Procedures – The Internal Audit Manual that documents the underlying policies, procedures, and infrastructure supporting the Internal Audit methodology is particularly well done.

Gap to Conformance with the Standards Noted

Standard 2500 Monitoring Progress – Develop and implement an active monitoring and follow-up process to ensure that open observations are addressed in a timely manner.

Opportunities for Continuous Improvement Noted

Standard 1220 Due Professional Care – Consider developing a strategy to enhance the use of data analytics in support of Internal Audit risk assessment, planning, and engagement execution.

Standard 1230 Continuing Professional Development – Enhance the continuing professional development process within Internal Audit by fully implementing a project level feedback process for each staff member assigned to an engagement.

Standard 1311 Internal Assessments – Consider defining, implementing, measuring, and reporting key performance indicators as an inherent component of the ongoing internal monitoring of performance process.

Standard 1311 Internal Assessments – Consider enhancing the periodic internal assessment process by evaluating conformance with all *Standards* on an annual basis.

Standard 2000 Managing the Internal Audit Activity – Consider defining and implementing a multi-year strategic plan for Internal Audit that supports the very dynamic nature of HISD and that will guide activities of Internal Audit in a proactive, thoughtful, systematic, and practical manner.

Standard 2020 Communication and Approval – Report significant interim changes in the annual audit plan and associated changes to resource requirements to the Audit Committee for review and approval.

Standard 2060 Reporting to Senior Management and the Board – Consider adopting a “Required Communications with the Audit Committee Checklist” to demonstrate that all requirements are met in the appropriate time frames.

Executive Summary

Thank you for the opportunity to be of service to Internal Audit. We will be pleased to respond to further questions concerning this report and furnish any desired information.



Basil Woller, CIA, CRMA
Team Leader

Team Members:

Robert Shipway, CIA, CRMA
David MacCabe, CIA, CGAP, CRMA



Joyce P. Vassiliou, CIA, CRMA, CCSA
Director, Quality Services
IIA Quality Services, LLC

Successful Internal Audit Practices Noted

Successful Internal Audit Practice	Description
<p>Standard 1000 – Purpose, Authority, and Responsibility – The Internal Audit charter is comprehensive and contains all the mandatory elements of the IPPF.</p>	<p>Especially noteworthy are the following: (1) There is specific language that recognizes the mandatory nature of the Definition of Internal Auditing, the Code of Ethics, and the <i>Standards</i>; (2) The charter is reviewed and approved on an annual basis by the Audit Committee. As a result, the charter is updated in a timely manner when changes in the IPPF become effective. Additionally, this demonstrates an appropriate “tone at the top” related to the Audit Committee fiduciary oversight over Internal Audit; (3) The charter appropriately establishes the functional and administrative reporting relationship of the CAE, and specifically describes the nature of the functional relationship consistent with the <i>Standard 1000 – Purpose, Authority, and Responsibility</i> requirement; (4) The charter requires the CAE to confirm the organizational independence of Internal Audit to the Audit Committee on an annual basis; and (5) The charter describes the responsibility of the CAE to report results of the established QAIP.</p>
<p>Standard 1130 – Impairment to Independence and Objectivity – Internal Audit management and staff sign an “Annual Statement of Professional Conduct” on an annual basis and an “Auditor Assignment & Independence Statement” for each Internal Audit project.</p>	<p>The “Annual Statement of Professional Conduct acknowledges agreement with the following statements:</p> <ul style="list-style-type: none"> • I have read and will comply with the IPPF and Practice Advisories of the IIA. • My work product will be unbiased and impartial with respect to presentation of any findings, recommendation, or deliverable. • I will not serve as an advocate or adversary of any special interest party and will not allow such to impact my judgment or depth of reporting. • I will disclose to Internal Audit management any official, professional, personal, or financial relationship that might affect my independence in fact and/or the appearance of my independence or objectivity over the course of my employment, but before the commencement or any project or deliverable. <p>The “Auditor Assignment & Independence Statement” requires a signature to the following statement from each auditor assigned to a project:</p> <ul style="list-style-type: none"> • By my signature below, I acknowledge my assignment to the above project and profess I know of nothing that might impair my independence and impartiality on the project. <p>Requiring a positive confirmation for critical aspects of professional conduct on an annual basis, including disclosure of potential impairments to independence or objectivity in fact and/or appearance, and positively confirming independence and objectivity for individual engagements are successful internal audit practices.</p>

Successful Internal Audit Practices Noted

Successful Internal Audit Practice	Description
<p>Standard 2040 – Policies and Procedures – The Internal Audit Manual that documents the underlying policies, procedures, and infrastructure supporting the Internal Audit methodology is particularly well done.</p>	<p>This manual is comprehensive and includes all required elements that are embedded in the <i>Standards</i> as well as good business practice. The manual supports sustainability, consistency, and quality in the performance of audit work as well as the on-boarding of new personnel. The manual is reviewed and updated on an annual basis to ensure changes in the <i>IPPF</i> are appropriately captured and incorporated into the manual.</p>

Gap to Conformance with the Standards Noted

Gap to Conformance with the Standards	Internal Audit Response
<p>Standard 2500 – Monitoring Progress – Develop and implement an active monitoring and follow-up process to ensure that open observations are addressed in a timely manner.</p> <p>A process should be established to accumulate, monitor, and report the status of all open observations. This process should be fully documented in the Internal Audit Manual. The status of open issues, that includes an aging and resolution, should be periodically reported to both the HISD administration and the Audit Committee. Reporting of open issues is consistent with successful internal audit practice and provides evidence that the follow-up process is functioning effectively.</p>	<p>We concur. We self-reported this requirement to the Audit Committee during a previous meeting and have committed to utilizing the built in feature of the Team Central module within TeamMate that was recently implemented. The Audit Manual includes the basic requirements for conducting follow-up reviews, but will be expanded as necessary.</p> <p>Prior to TeamMate, the department monitored outstanding recommendations on a manual basis with a focus on critical, high profile findings. We are currently uploading all recommendations from January 2015 through the current date so we can utilize the benefits provided by TeamMate. We plan to include sufficient time in the 2016 Audit Plan to conduct a follow-up of key recommendations. Follow-up reviews will be conducted effective January 2016, with updates provided to the Audit Committee and the administration.</p>

Opportunities for Continuous Improvement Noted

Opportunity for Continuous Improvement	Internal Audit Response
<p>Standard 1220 – Due Professional Care – Consider developing a strategy to enhance the use of data analytics in support of internal Audit risk assessment, planning, and engagement execution.</p> <p>Internal Audit management has identified expanding the effective use of data analytics as an opportunity for improvement in their function. For individual engagements, data analytics can effectively identify observations and support root-cause analysis for those observations reported to management. Expanding data analytics capability is consistent with successful internal audit practice and provides the opportunity to (1) enhance the audit process so it is faster and more efficient and effective, (2) shorten the audit cycle time to provide more timely risk and control assurance, (3) achieve greater audit coverage without the need to expand Internal Audit resource requirements, (4) audit 100% of data populations rather than a sample, (5) improve the quality of assurance through the use of data and transactional analysis, and (6) enhance the value to management, the Audit Committee, and audit clients.</p>	<p>We concur. Use of analytics by the department is addressed in the audit manual. The department has used ACL software to review key controls of the district’s Pro-Card process and agree that its use can be expanded. To my knowledge, this is the first use of ACL by internal audit. We have successfully trained four employees in developing scripts and have found the tool to be very useful. We have previously shared the benefits of this tool with the Audit Committee as well as our future plans. We believe this tool will be helpful in the identification of campus grading trends and the identification of accounts payable anomalies, and other areas. We will develop a formal strategy for review and approval by the Audit Committee by April 2016.</p>
<p>Standard 1230 – Continuing Professional Development – Enhance the continuing professional development process within Internal Audit by fully implementing a project level feedback process for each staff member assigned to an engagement.</p> <p>The Internal Audit Manual requires feedback forms to be filled out after each project for staff participants that rates performance against budget and the identification of risk issues with meaningful recommendations as feedback metrics. The engagement level feedback process has not been fully implemented at this time. Providing feedback on performance specific to an engagement is a successful internal audit practice that supports continuing professional development and that links actual engagement performance with the annual evaluation process.</p>	<p>We concur. The individual staff evaluation for each engagement will be implemented effective February 2016.</p>

Opportunities for Continuous Improvement Noted

Opportunity for Continuous Improvement	Internal Audit Response
<p>Standard 1311 – Internal Assessments – Consider defining, implementing, measuring, and reporting key performance indicators as an inherent component of the ongoing internal monitoring of performance process.</p> <p>Consider developing a balanced scorecard with input from key stakeholders including senior management and the Audit Committee as these metrics are being defined. The IIA Practice Guide “<i>Measuring Internal Audit Effectiveness and Efficiency</i>” (December 2010) might be considered a resource when developing this approach. Using a balanced scorecard to measure and report internal audit effectiveness is a successful internal audit practice.</p>	<p>We agree and have reported this concept to the Audit Committee in a prior meeting. KPIs and balanced scorecards will be developed after consultation with the Audit Committee, the administration, and after review of the practice guide. We are planning to implement by April 2016 and communicate the results to the committee and administration periodically.</p>
<p>Standard 1311 – Internal Assessments – Consider enhancing the periodic internal assessment process by evaluating conformance with all <i>Standards</i> on an annual basis.</p> <p>Conclusions drawn as a result of periodic internal assessment, should be based upon a process that evaluates all aspects of the <i>Standards</i> – both <i>Attribute and Performance Standards</i>. The current process performed by Internal Audit is focused on reviewing a sample of audit projects on a periodic basis to evaluate the level of conformance with the defined Internal Audit methodology and certain <i>Performance Standards</i>. While this is done very effectively, it translates into a partial view of conformance with <i>Performance Standards</i> rather than a full evaluation of <i>Attribute and Performance Standards</i>. Performing periodic assessment in a holistic manner that evaluates all aspects of the <i>Standards</i> is a requirement of <i>Standard 1311 – Internal Assessments</i> and ensures that infrastructure and processes are kept current with changes in internal auditing professional guidance. This is especially relevant over the near-term as significant changes in the <i>International Professional Practices Framework</i>, recently approved in July 2015, will result in changes to <i>Standards</i> that will require modification of Internal Audit processes and supporting infrastructure.</p>	<p>We focused on performance standards to assist us with building our process within TeamMate since it was most urgent at the time. We will alter our current internal assessments to capture both attribute and performance standards effective April 2016.</p>

Opportunities for Continuous Improvement Noted

Opportunity for Continuous Improvement	Internal Audit Response
<p>Standard 2000 – Managing the Internal Audit Activity – Consider defining and implementing a multi-year strategic plan for Internal Audit that supports the very dynamic nature of HISD and that will guide activities of Internal Audit in a proactive, thoughtful, systematic, and practical manner.</p> <p>While Internal Audit has established goals and objectives for the activity, developing and documenting a formalized strategic plan for Internal Audit is an emerging and evolving leading practice that supports Internal Audit activities operating in very dynamic environments. The strategic plan to be developed might have a 3-year planning horizon that is adjusted on an annual basis and presented to senior management and the Audit Committee in conjunction with the annual risk assessment and audit plan for review and approval. Strategic plans and related initiatives are generally supported by a “Strengths, Weaknesses, Opportunities, Threats” analysis. Consider establishing strategies in the 3-year rolling Strategic Plan to (1) ensure internal audit resources are aligned with the annual plan requirements from an organizational, staffing and on-boarding, credentials and experience, and professional development perspective – especially critical as organizations implement risk-based internal audit plans; and (2) enhancing execution of data analytics for engagement planning and execution. The IIA Practice Guide “<i>Developing the Internal Audit Strategic Plan</i>” (July 2012) might be considered as a resource when developing this plan.</p>	<p>This is a great improvement opportunity for the department that should enable us to achieve best practices. As suggested, this effort will require considerable planning with the Audit Committee and the administration to be successful. We desire to accomplish this by October 2016.</p>
<p>Standard 2020 – Communication and Approval – Report significant interim changes in the annual audit plan and associated changes to resource requirements to the Audit Committee for review and approval.</p> <p>Deviations from the approved plan resulting from specific audit requests and areas of emerging or changing risks should be clearly communicated to and approved by the Audit Committee to ensure continued alignment of Internal Audit resources with the audit plan.</p>	<p>We do share changes in the Audit Plan with the Audit Committee as evidenced by meeting minutes. We do sometimes get sidetracked with special requests from the administration and individual board members as a natural part of any organization. We agree to improve the alignment of resources with the approved audit plan. To accomplish this, the department will suggest in February 2016, that all special requests be evaluated</p>

Opportunities for Continuous Improvement Noted

Opportunity for Continuous Improvement	Internal Audit Response
<p>Standard 2060 – Reporting to Senior Management and the Board – Consider adopting a “Required Communications with the Audit Committee Checklist” to demonstrate that all requirements are met in the appropriate time frames.</p> <p>While communications appear to take place as required, documentation that demonstrates they occur is maintained in different places and at different times. An efficient and effective way to demonstrate required communication is by using a checklist that is integrated into the annual Audit Committee agenda and that is updated as changes to <i>Standards</i> become effective. When combined with Audit Committee minutes, this checklist provides documentation that all required communications are considered and take place in the appropriate time frames. An example of this checklist is included as Attachment B to this report.</p>	<p>This is currently handled on the internal audit department calendar since there are many different requirements and time periods involved. We will implement the checklist effective February 2016 when the new Audit Committee is formed.</p>

Attachment A

Conformance Rating Criteria

GC – “Generally Conforms” means the assessor has concluded the following:

- For individual standards, that the internal audit activity conforms to the requirements of the standard (e.g., 1000, 1010, 2000, 2010, etc.) or elements of the IIA Code of Ethics (both Principles and Rules of Conduct) in all material respects.
- For the sections (Attribute and Performance) and major categories (e.g., 1000, 1100, 2000, 2100, etc.), the internal audit activity achieves general conformity to a majority of the individual standards and/or elements of the IIA Code of Ethics, and at least partial conformity to others, within the section/category.
- For the internal audit activity overall, there may be opportunities for improvement, but these should not represent situations where the internal audit activity has not implemented the *Standards* or the IIA Code of Ethics, has not applied them effectively, or has not achieved their stated objectives.

PC – “Partially Conforms” means the assessor has concluded the following:

- For individual standards, the internal audit activity is making good faith efforts to conform to the requirements of the standard (e.g., 1000, 1010, 2000, 2010, etc.) or element of the IIA Code of Ethics (both Principles and Rules of Conduct) but falls short of achieving some major objectives.
- For the sections (Attribute and Performance) and major categories (e.g., 1000, 1100, 2000, 2100, etc.), the internal audit activity partially achieves conformance with a majority of the individual standards within the section/category and/or elements of the IIA Code of Ethics.
- For the internal audit activity overall, there will be significant opportunities for improvement in effectively applying the *Standards* or IIA Code of Ethics and/or achieving their objectives. Some deficiencies may be beyond the control of the internal audit activity and may result in recommendations to senior management or the board of the organization.

DNC – “Does Not Conform” means the assessor has concluded the following:

- For individual standards, the internal audit activity is not aware of, is not making good faith efforts to conform to, or is failing to achieve many/all of the objectives of the standard (e.g., 1000, 1010, 2000, 2010, etc.) and/or elements of the IIA Code of Ethics (both Principles and Rules of Conduct).
- For the sections (Attribute and Performance) and major categories (e.g., 1000, 1100, 2000, 2100, etc.), the internal audit activity does not achieve conformance with a majority of the individual standards within the section/category and/or elements of the IIA Code of Ethics.
- For the internal audit activity overall, there will be deficiencies that will usually have a significant negative impact on the internal audit activity’s effectiveness and its potential to add value to the organization. These may also represent significant opportunities for improvement, including actions by senior management or the board.

Attachment B

Required Communications with the Audit Committee Checklist

Example of Documentation

Standard	Communication Requirement	Annual Communication Documentation
1000	The CAE <u>must</u> periodically review the Internal Audit Department Charter and present it to Senior Management and the Audit Committee for review and Audit Committee approval.	The Internal Audit charter was amended and presented to senior management and the Audit Committee for review and approval at the January XX, 20XX, Audit Committee Meeting.
1010	The CAE <u>should</u> discuss the Definition of Internal Auditing, the Code of Ethics, and the IIA Standards with Senior Management and the Audit Committee.	The Definition of Internal Auditing, the Code of Ethics, and the Standards were discussed with senior management and the Audit Committee in conjunction with the Internal Audit charter review at the January XX, 20XX, Audit Committee meeting.
1110	The CAE <u>must</u> confirm to the Audit Committee, at least annually, the organizational independence of the internal auditing activity.	As the CAE, I hereby confirm the organizational independence of the internal audit activity as of May XX, 20XX.
1111	The CAE <u>must</u> communicate and interact directly with the Audit Committee.	As the CAE, I confirm that an appropriate level of communication and interaction has taken place between me and the Audit Committee.
1312	The chief audit executive <u>must</u> discuss with the Audit Committee the form and frequency of external assessment as well as the qualifications and independence of the external assessor or assessment team, including any potential conflicts of interest.	Discussions were held at the November XX, 20XX, Audit Committee Meeting related to the need for and the frequency of the periodic external assessments, the form of the external assessment, and the qualification and independence of the external assessor.
1320	The CAE <u>must</u> communicate the results of the quality assurance and improvement program to senior management and the Audit Committee. The results of external and periodic internal assessments are communicated upon completion of such assessments and the results of ongoing monitoring are communicated at least annually. The results include the reviewer's or review team's assessment with respect to the degree of conformance.	Results of the Continuous Monitoring and Annual Internal Quality Assessment Review of Internal Audit was communicated to Executive Management on January XX, 20XX, and to the Audit Committee on January XX, 20XX. The results of the external quality assessment performed by XXXX was communicated to Executive Management and the Audit Committee on February XX, 20XX.
2020	The CAE <u>must</u> communicate the internal audit activity's plans and resource requirements, including significant interim changes, to senior management and the Audit Committee for review and approval. The CAE <u>must</u> also communicate the impact of resource limitations.	Communication of status of internal audit plans and resource requirements was reported on at least a quarterly basis to the Audit Committee. At the November XX, 20XX, Audit Committee Meeting, Internal Audit reported that there were no audits below the resource cut line on the Proposed 20XX Audit Plan that Internal Audit believed were necessary to be performed in 20XX. Accordingly, there were no material impacts associated with resource limitations.
2060	The CAE <u>must</u> report periodically to senior management and the Audit Committee on the internal audit activity's purpose, authority, responsibility, and performance relative to its plan. Reporting <u>must</u> also include significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by senior management and the Audit Committee.	Communication of Internal Audit's purpose, authority, and responsibility was reported to the Audit Committee on January XX, 20XX. On a periodic basis, the CAE also reports significant risk exposures and control issues, including fraud risks, governance issues, and other matters at the request of the Audit Committee.

TECHNOLOGY RESOURCES

CQ
(LOCAL)

Note: For Board member use of District technology resources, see BBI. For student use of personal electronic devices, see FNCE.

For purposes of this policy, "technology" and "technology resources" mean electronic communication systems and electronic equipment.

BOARD'S FIVE BASIC BELIEFS

Regarding the use of technology resources, the District shall be guided by the Board's Declaration of Beliefs and Visions for Technology Goals, as listed below: 0)

1. The District's core business is education:

GOAL – to ensure that all activities, expenditures, actions, and efforts are designed and undertaken to enhance student performance.

2. Technology is a process that will have an impact on student achievement:

GOAL – to ensure continual improvement of quality while ensuring effective use of the District's resources.

3. Only technology models with proven success shall be used in the District:

GOAL – to maximize the likelihood of project success and minimize both the occasion for errors and the time required for implementation.

4. Districtwide technology shall be viewed as infrastructure:

GOAL – to ensure the availability of information to those who need it when they need it.

5. Both the District and the schools have technology responsibilities:

GOAL – to provide direction and focus for technology activity.

GENERAL INFORMATION

In A Declaration of Beliefs and Visions by the 2010 Board of Education, the District acknowledges that the world is changing rapidly, and students must be prepared to live and work productively in a new economy with new technology, new competition, and new expectations. A deeply held belief of the District is that schools must be empowered to develop and implement the methods that best achieve their unique and individual instructional goals. The District is fully committed to a decentralized system of schools, giving prin-

TECHNOLOGY RESOURCES

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principals the authority over the educational and operational systems. In such a system, the Board remains accountable to the public for high-quality educational services for all children. This policy provides guidance and support by establishing a clear, consistent security framework with high standards and expectations for all who use District resources. While the District holds innovation and instructional results with high regard, the District will also hold all who use District resources accountable for their actions.

APPLICABILITY

This policy shall govern all students, employees (part-time or full-time), contractors, consultants, temporary employees, vendors, and other individuals affiliated with third parties who access any District-owned information, property, or device.

In addition, this policy shall govern all information systems for which the District has administrative responsibility including all information created, processed, or used in support of the District's business, without respect to form or format.

DEFINITION

USER

The term "user" shall refer to all categories of individuals who access any District-owned information, property, or device including, but not limited to, a student, an employee (part-time and full-time), a contractor, a consultant, a temporary employee, a vendor, and any individual affiliated with a third party.

SECURITY
FRAMEWORK

District information technology (IT) resources, such as, but not limited to computers, networks, network connectivity, information, storage, e-mail accounts, and the like shall only be provided for approved academic and business purposes by the office of the Chief Technology Information Officer (CTIO), IT, and Information Security. The District shall implement the necessary controls over access to data via a combination of adequate physical, system, remote access and application-based security mechanisms.

In an effort to protect the sensitive information under District care, authorized access to District IT resources shall be limited to the access permissions required for an individual to perform assigned duties or academic activities. Access permissions beyond those needed for those duties or activities shall not be granted.

Passwords shall never be shared with anyone, including District IT security administrators.

Users of District IT resources do not have an expectation of privacy. The District shall reserve the right to monitor and/or record any and all use of District IT resources to ensure compliance with prevailing laws, policies, and regulations to identify misuse as well as for general resource management purposes. [See Children's Internet Protection Act (CIPA), Family Education Rights and Privacy

Act (FERPA)] Use of District IT resources constitutes acceptance of this policy.

As an additional protection measure, District information, including personally identifiable information, shall not be released except through approved processes and in accordance with governing laws. [See references above]

Violations for misuse of District IT resources may result in the imposition of administrative, civil, or criminal penalties.

TECHNOLOGY
RESOURCES

The Department of Information and Technology Systems, in coordination with various user departments, shall be responsible for analysis, development, maintenance, and operation of technology resources for both instructional and administrative purposes. These resources shall provide and facilitate instruction to students, as well as gather, process, and report information relating to all administrative functions within the District.

The District shall maintain and support the goals outlined in the Long-Range Plan for Technology. Any purchase of technology shall support the goals of the District as outlined in the Long-Range Plan for Technology.

AVAILABILITY OF
ACCESS

Access to the District's wide-area networks (WANs), local area networks (LANs), and technology resources, including the Internet, shall be made available to students and employees primarily for instructional and administrative purposes and in accordance with guidelines set forth in the *Technology and Information Systems Policies and Procedures Manual*.

LIMITED PERSONAL
USE

Limited personal use of the District's technology resources shall be permitted if the use:

1. Imposes no tangible cost on the District;
2. Does not unduly burden the District's technology resources; and
3. Has no adverse effect on an employee's job performance or on a student's academic performance.

USE BY MEMBERS
OF THE PUBLIC

Access to the District's technology resources, including the Internet, shall be made available to members of the public, in accordance with administrative regulations. Such use shall be permitted so long as the use:

1. Imposes no tangible cost on the District; and
2. Does not unduly burden the District's technology resources.

TECHNOLOGY RESOURCES

CQ
(LOCAL)

ACCEPTABLE USE

The Superintendent or designee shall develop and implement administrative regulations, guidelines, and user agreements consistent with the purposes and mission of the District and with law and policy.

Access to the District's technology resources is a privilege, not a right. All users shall be required to acknowledge receipt and understanding of all administrative regulations governing use of the District's technology resources and shall agree to comply with such regulations and guidelines. Noncompliance with applicable regulations may result in suspension of access or termination of privileges and other disciplinary action consistent with District policies. [See DH, FN series, FO series, and the Student Code of Conduct] Violations of law may result in criminal prosecution as well as disciplinary action by the District.

The District's Acceptable Use Policy is available at CQ(EXHIBIT)-B. [See policy FNCE for student-owned devices]

INTERNET SAFETY

The Superintendent or designee shall develop and implement an Internet safety plan to:

1. Control students' access to inappropriate materials, as well as to materials that are harmful to minors;
2. Ensure student safety and security when using electronic communications;
3. Prevent unauthorized access, including hacking and other unlawful activities;
4. Restrict unauthorized disclosure, use, and dissemination of personally identifiable information regarding students; and
5. Educate students about cyberbullying awareness and response and about appropriate online behavior, including interacting with other individuals on social networking Web sites and in chat rooms.

FILTERING

Access to the Internet via the District's network systems shall be filtered to block access to visual depictions that are obscene, pornographic, inappropriate for students, or harmful to minors, as defined by the federal CIPA and as determined by the Superintendent or designee.

The Superintendent or designee shall enforce the use of such filtering controls. Upon approval from the Superintendent or designee, an administrator, supervisor, or other authorized person may disable the filtering controls for bona fide research or other lawful purpose for adults.

TECHNOLOGY RESOURCES

CQ
(LOCAL)

MONITORED USE	Electronic mail transmissions, social media, and other use of the District's technology resources by students, employees, and members of the public shall not be considered confidential and may be monitored at any time by designated District staff to ensure appropriate use.
DISCLAIMER OF LIABILITY	The District shall not be liable for users' inappropriate use of the District's technology resources, violations of copyright restrictions or other laws, users' mistakes or negligence, or costs incurred by users. The District shall not be responsible for ensuring the availability of the District's technology resources or the accuracy or usability of any information found on the Internet.
RECORD RETENTION	A District employee shall retain electronic records, whether created or maintained using the District's technology resources or using personal technology resources, in accordance with the District's records management program. [See CPC(LOCAL)]
SECURITY BREACH NOTIFICATION	<p>Upon discovering or receiving notification of a breach of system security, the District shall disclose the breach to affected persons or entities in accordance with the time frames established by law.</p> <p>The District shall give notice by using one or more of the following methods:</p> <ol style="list-style-type: none">1. Written notice;2. Electronic mail, if the District has electronic mail addresses for the affected persons; or3. Notices in accordance with Section 521.053(f) of the Business and Commerce Code for situations where the cost to provide notice is expected to be greater than \$250,000 or is affecting 500,000 or more individuals.
PROCUREMENT OF SOFTWARE	The District has an ongoing need for the implementation of major applications to meet business and student data management and reporting requirements. The District shall pursue the acquisition of commercially packaged software to meet these business needs in lieu of developing systems in-house unless the following criteria cannot be met. For a software package to be considered, it should meet 80 percent of the user requirements and be able to be implemented within project cost and time constraints. In addition, any packaged software acquired should not be customized by the District.
ALLOCATIONS	Technology resources shall be allocated to meet the requirements of state mandates in accordance with the needs of schools as defined in the school improvement plans and as reflected in the goals of the Long-Range Plan for Technology. All acquisitions of tech-

TECHNOLOGY RESOURCES

CQ
(LOCAL)

nology resources, both hardware and software, must be reviewed and coordinated by the Department of Information and Technology Systems in accordance with the *Technology and Information Systems Policies and Procedures Manual* and shall meet the requirements described in the *Finance Procedures Manual*.

DONATIONS

Technology donations must be coordinated through the Department of Information and Technology Systems. Donations must meet the minimum approved standards as described in the *Technology and Information Systems Policies and Procedures Manual*. Any donations from technology service providers must also be routed for review and approval by the Ethics and Compliance Office and the Board in accordance with CDC(LOCAL).

Although donated equipment may be configured to run on the District's wide-area network, the Department of Information and Technology Systems will not guarantee that all District-approved applications will run on the donated equipment.

EFFECTIVE DATE

This policy shall be effective as of the adoption date, October 16, 2015.



Performance Evaluation Chief Audit Executive & Office of Internal Audit

PURPOSE OF THIS TOOL: Pursuant to BDB Local Policy (BOARD INTERNAL ORGANIZATION - INTERNAL COMMITTEES) and best practices for audit committees, one of the Audit Committee's key responsibilities is to evaluate the effectiveness of the internal audit effort.

INSTRUCTIONS FOR USING THIS TOOL: The sample questions included in this tool are only a starting point to assist the Audit Committee in evaluating the performance and effectiveness of the internal audit effort, which covers the Chief Audit Executive and staff members of the Office of Internal Audit (OIA). Follow-up questions should be considered as appropriate.

Evaluation of Chief Audit Executive & Office of Internal Audit	Yes	No	Not Sure	Comments
1. Does the Chief Audit Executive effectively manage the internal audit activity to ensure it adds value to the District's Strategic Direction, District's goals & objectives, and mission of the OIA department?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>The on boarding of the first year has been difficult due to dramatic changes and improvements needed for the department, but Mr. Patton and his team have been working diligently to effectuate the IA's recommendations.</i>
2. Does the Chief Audit Executive document a period assessment of risks after consultation with senior management and the Audit Committee?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. Has the Chief Audit Executive established an annual or long range Audit Plan based on its risk assessment to establish priorities of internal audit, consistent with the District's mission?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Does the audit plan contain sufficient flexibility to adjust for any unforeseen risks that may surface during the year?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>Yes, and we appreciate Mr. Patton and his team's flexibility and responsiveness.</i>
5. Does the Chief Audit Executive and his or her staff assess management's "tone at the top" in developing the audit plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Does senior management have professional respect for the internal audit function?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Evaluation of Chief Audit Executive & Office of Internal Audit	Yes	No	Not Sure	Comments
7 Are the Audit Plan, resource requirements, and significant changes impacting productivity reviewed by the Audit Committee at least annually?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8 Does the department appear to be using its time and resources effectively and efficiently in performing the audit plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9 Are the department's size and structure adequate to meet its established objectives?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	We are trying to make investment to strengthen or
10 Is the experience level of the internal auditors adequate?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	at least bring them up to the staffing needs required
11 Does the department appear to be objective?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
12 Is the technical knowledge of the department members sufficient to ensure that duties are performed appropriately?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	But, we do need additional construction and if expertise
13 Does the department have an appropriate continuing education program?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	grow the scope and size of the 2012 travel audit.
14 Are there department members with sufficient information systems auditing expertise to address the level of technology used by the organization?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
15 Is the department's work planned appropriately?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
16 Does planning include written audit plans and programs?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
17 Are formal, written audit reports issued by the OIG to the Audit Committee and the senior management team?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
18 Are the internal audit reports issued on a timely basis?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
19 Do the internal audit reports include sufficient detail for effective action by management or the audit committee, or both?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
20 Does management respond in an appropriate and timely fashion to significant recommendations and comments made by the internal auditors?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	While our auditor is trying his best to help make system improvements, we have found
21 Do internal audit procedures encompass operational as well as financial areas?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	administration being a lack of and obstruction of them. However we know that Mr. Poffen is trying his best and some improvements

Evaluation of Chief Audit Executive & Office of Internal Audit		Yes	No	Not Sure	Comments
22	Does the OIA perform certain preparatory audit procedures, including internal control grids, risk assessments, etc for the external auditors that would alleviate management from this task?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
23	Does the OIA "dialog" with the organization's external auditors, including review of management letter comments and audit reports?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
24	Does the OIA share with the external auditors the internal audit areas reviewed since the last external audit?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
25	Was the department's involvement in the annual audit effective?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
26	Is outsourcing done to gain expertise not found in the internal audit department?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
27	Is outsourcing done to minimize costs?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
28	Does the OIA have a periodic peer review performed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
29	Is the appropriate criteria are used to establish and prioritize the annual and long-range internal audit plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
30	Is the department's work concentrated in areas of high risk, judgment, and sensitivity?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
31	Does the OIA keep itself informed about, and involved in, professional activities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
32	Does the Chief Audit Executive have an adequate view regarding controls, the risk of fraud, and compliance matters?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
33	Has the charter of the internal audit department been evaluated to determine that it is still appropriate?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
34	Does the OIA remain abreast of the industry, including memberships and leadership in monitoring and watchdog groups?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
35	Does the OIA react appropriately to news and information about industry wide events and possible areas of exposure posed by other organizations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Evaluation of Chief Audit Executive & Office of Internal Audit	Yes	No	Not Sure	Comments
36. Is the OIA involved with the exit conferences between management and regulatory and compliance auditors?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Mr. Patton is attempting to do so through collaboration but has a lack of understanding regarding this audit requirement! i.e. Edout Sura n/ssa Dabosh
37. Does the OIA "sign-off" on resolutions of management comments by outside external auditors?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Notes:

Review Period:
September 22, 2014 – July 31, 2015

Signatures:


Richard Patton
Chief Audit Executive

10/1/15
Date


Juliet Stipeche
Audit Committee Chairperson

10/1/15
Date

Cc: Audit Committee Members

BOARD LEGAL STATUS
POWERS AND DUTIES

BAA
(LOCAL)

The Board shall be responsible for the leadership, guidance, and direction in educating the youth of the District and shall endeavor to provide the educational programs and physical facilities that best meet community needs at the lowest required cost in all of the schools and other institutions.

The Board recognizes that the Superintendent is responsible under state law for managing the day-to-day operations of the District as its chief administrative officer.

It shall be the policy of the Board to determine and maintain the distinction between activities that are appropriately the responsibility of the Board as the governing body of the District and those activities that are administrative in nature and performed by the administrative staff on duly authorized and delegated authority of the Board. The Board, as a corporate body and as individual Board members, shall not engage in activities that interfere with the administrative responsibilities of the Superintendent and staff, which include but are not limited to the following:0)

1. Assignment and evaluations of District personnel, other than the Superintendent and the Chief Audit Executive;
2. Recommendations regarding selection and promotion of District personnel, other than the Superintendent and the Chief Audit Executive;
3. Termination and suspension of an employee, or the nonrenewal of an employee's term contract;
4. Preparation of the proposed budget;
5. Implementation of adopted Board policies;
6. Development of administrative procedures;
7. Organization of the District's central administration except that the Chief Audit Executive shall report functionally to the Board and administratively to the Superintendent;
8. Recommendations for student disciplinary action; and
9. Any other activities included as responsibilities of the Superintendent and administrative staff, including principals.

ADDITIONAL POWERS
AND DUTIES

In addition to exercising the powers and duties conferred by statute, the Board shall:0.

1. Maintain suitable offices within the administration building for the staff to handle the work of the Board and Board committees and keep the minutes, policies, and Board files current.
2. Adopt broad goals and objectives for each aspect of the District's operation based upon the identified needs of the com-

- munity. Said goals shall be documented, reviewed, and revised periodically in light of changing community needs and state accreditation guidelines.
3. Establish basic policies to implement these goals and objectives and provide a framework of general rules and guidelines for District administration affecting major educational and financial problems of the District.
 4. Act upon all recommendations of the Superintendent as they relate to implementation of Board policies.
 5. Evaluate the performance and progress of the District against the stated goals and objectives. The measures used shall be:
 - a. Progress toward objectives;
 - b. Administrative operations within the Board policy;
 - c. Concise and meaningful management reports on current operations provided to Board members by the Superintendent on a regular, recurring basis; and
 - d. Performance of the Superintendent.
 6. Evaluate the Superintendent's performance on a continuing basis. Criteria for appraisal shall be specific and communicated to the Superintendent. Performance appraisals based on the stated criteria shall be conducted privately or publicly at his or her discretion. Formal evaluation shall occur annually; informal evaluation shall occur as the parties deem appropriate. [See BJCD(LEGAL) and (LOCAL)]
 7. Evaluate the Chief Audit Executive's performance on a continuing basis. Appraisal criteria shall be specific and communicated to the Chief Audit Executive. Formal evaluation shall occur annually; informal evaluation shall occur as the parties deem appropriate. Appraisals shall be consistent with the standards set forth in the *International Professional Practices Framework* issued by the Institute of Internal Auditors. **At the discretion of the Board, the Chief Audit Executive's review may be conducted by the Board Audit Committee.**
 8. Review and act upon the annual operating budget of the District prepared by the Superintendent and staff to provide prudent stewardship of public resources. [See CE(LEGAL) and (LOCAL)]
 9. Review and act upon proposed bond issues to finance long-term capital expenditures and approve spending funds derived from the sale of bonds. [See CCA(LEGAL)]
 10. Act upon the selection of sites for new school facilities.

11. Act upon architects' plans for new buildings or remodeling of old buildings for the District. [See (LEGAL) and (LOCAL) policies in the CV series]
12. Act upon recommendations for naming schools and other facilities (or portions thereof) in the District. [See CW(LOCAL)]
13. Delegate final authority for selection and employment of all personnel (except the Superintendent and the Chief Audit Executive) to the Superintendent and further delegate final authority to the Superintendent to determine the terms of employment within the District, consistent with the budget approved by the Board and applicable Board policy.
14. Provide leadership in presenting needs of the District to local, state, and federal governments or agencies, the general public, and the media by a planned program of external relations; actively support appropriate regulations, ordinances, or legislation necessary to meet these needs.
15. Review and act upon the recommended attendance boundaries within the District in compliance with state and federal mandates.
16. Authorize expenditures and approve bills presented for payment of said expenditures. [See policies in the CH and CV series]
17. Act upon legal matters with advice from attorneys.
18. Act upon textbooks and courses of study recommended by the Superintendent. [See EFA(LOCAL)]
19. Act as a body of final appeal for employees and patrons appealing a decision of the Superintendent or designee, or of an independent hearing officer in accordance with provisions of the procedures for appeals and hearings established by the Texas Education Agency and applicable federal requirements. [See policies at DFD, DGBA, FNG, and GF]
20. Employ for the District independent auditors, who will be responsible directly to the Board. In accordance with prudent business practices, employment of auditors shall be rotated periodically as required under CFC(LOCAL).

EFFECTIVE DATE

This policy shall be effective as of the adoption date, December 12, 2014.

AUDIT COMMITTEE CHARTER Houston Independent School District

Purpose:

To assist the Board of Education in fulfilling its oversight responsibilities for the financial reporting process, the system of internal control, the internal and external audit processes and Houston Independent School District's process for monitoring compliance with laws and regulations and the code of conduct.

Authority:

The Audit Committee has authority, in accordance with Board policy and as requested from time to time by the Board, to conduct or authorize audits or investigations into any matters within its scope of responsibility. It is empowered to:

1. Recommend to the Board the appointment and compensation of, and oversee the work of any registered public accounting firm and the chief audit executive employed by the organization;
2. Resolve any disagreements between management and the auditor regarding financial reporting;
3. Pre-approve all auditing and non-audit services conducted by the public accounting firm;
4. Recommend to the Board the retention of independent counsel, accountants, or others to advise the committee or assist in the conduct of an audit or investigation;
5. Seek any information it requires from the Superintendent who is directed to cooperate with the committee's requests or external parties; and
6. Meet with the Board of Education, Superintendent and his/her staff, internal and external auditors, or outside counsel, as necessary.

Composition:

The Audit Committee will consist of at least three (3) members of the Board of Education upon nomination and vote of the Board. Members' terms shall be staggered to minimize the impact of member turnover. The Audit Committee shall elect a Chairperson who will serve the entire calendar year. An Audit Committee member may not serve more than four (4) consecutive years as chair.

Each Audit Committee member will be both independent and financially literate. Members of the Audit Committee should reflect the Board's commitment to diversity, have a basic understanding of finance and accounting and be able to understand and interpret financial statements and audit reports. Members should preferably have a background in auditing, accounting, finance, business, management consulting, or law.

The term of service is two (2) calendar years, unless reduced by vote of the Board or by vote of the members. A member's term may be extended beyond the two (2) year term by nomination by any Board member and approved by the Board, but no member shall serve more than three (3) consecutive terms. Members of the Audit Committee shall attend all duly noticed regular meetings and may not miss more than three (3) consecutive regular meetings without good cause.

Meetings:

The Audit Committee will meet at least six (6) times a year, with authority to convene additional meetings as circumstances require. All committee members are expected to attend each meeting, in person or via tele- or video-conference. The committee will invite members of management, auditors or others to attend meetings and provide pertinent information, as necessary. It will hold private meetings with auditors and closed sessions. Meeting agendas will be prepared and provided in advance to members, along with appropriate briefing materials. Minutes will be prepared and approved for the record for the open session portion of the meeting.

Responsibilities:

The committee will carry out the following responsibilities:

1. Financial Statements

- Review significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.
- Review with management and the external auditors the results of the audit, including any difficulties encountered.
- Review the annual financial statements, audit reports, and any related management letters, including but not limited to the comprehensive annual financial report and the single audit report, and consider whether they are complete, consistent with information known to committee members. Review with management and the external auditors all matters required to be communicated to the committee under Generally Accepted Auditing Standards.
- Understand how management develops financial information, and the nature and extent of internal and external auditor involvement.

2. Internal Control

- Consider the effectiveness of the internal control system, including but not limited to, information technology security and control.
- Understand the scope of internal and external auditors' review of internal control over financial reporting and operations, and obtain reports on significant findings and recommendations, together with management's responses.

3. Internal Audit

- Approve the internal audit charter at least on an annual basis.
- Approve decisions regarding the appointment and removal of the chief audit executive. Ensure there are no unjustified restrictions or limitations, and review and recommend to the Board the appointment, replacement, or dismissal of the chief audit executive.
- Review and discuss periodic risk assessments and approve the annual audit plan and all major changes to the plan. Review the internal audit activity's performance relative to its plan.
- Review and monitor significant internal audit reports, the implementation of audit recommendations, corrective action plans by management, and follow-up audits to confirm implementation.
- Review with the chief audit executive the internal audit budget, resource plan, activities, staff expertise, and organizational structure of the internal audit function, and recommend to the Board for inclusion in the District's annual operating budget.
- **At least once per year, review the performance of the chief audit executive** and recommend to the Board the annual compensation and any salary adjustment.
- **Review the effectiveness of the internal audit function**, including conformance with The Institute of Internal Auditors' Definition of Internal Auditing, Code of Ethics and the International Standards for Professional Practice of Internal Auditing and Generally Accepted Auditing Standards, and as applicable, the standards and guidelines promulgated by the American Institute of Certified Public Accountants, Government Auditing Standard (GAGAS), the United States Government Accountability Office, special auditing and reporting guidelines as may be required by the Texas State Comptroller's Office, the Texas Education Agency, or any other regulatory or oversight authority based upon the specific areas reviewed.

- Oversee a periodic external quality assurance review of the chief audit executive and internal audit function as required by professional standards.
- On a regular basis, meet separately with the chief audit executive to discuss any matters that the committee or internal audit believes should be discussed privately, as authorized by law.

4. External Audit

- Review the external auditors' annual audit plan, including but not limited to, their proposed audit scope and approach, engagement letter, risks assessments, and coordination of audit effort with internal audit.
- Review the performance of the external auditors, and recommend approval on the appointment or discharge of the auditors.
- Review and confirm the independence of the external auditors by obtaining statements from the auditors on relationships between the auditors and the HISD, including non-audit services, and discussing the relationships with the auditors.
- On a regular basis, meet separately with the external auditors to discuss any matters that the committee or auditors believe should be discussed privately, as authorized by law.

5. Compliance

- Review the effectiveness of the system for monitoring compliance with Board policies and Federal/State laws and regulations and the results of management's investigation and follow-up (including disciplinary action) of any instances of noncompliance.
- Review the findings of any examinations by regulatory agencies, and any auditor observations.
- Review the process for communicating the code of conduct to HISD personnel, and for monitoring compliance therewith.
- Obtain regular updates from management, legal counsel, and the ethics & compliance office regarding compliance matters.

6. Reporting Responsibilities

- Regularly report to the Board of Education about committee activities, issues, and related recommendations.
- Provide an open avenue of communication between internal audit, the external auditors, and the Board of Education.
- Report annually to the Board of Education, describing the committee's composition, responsibilities and how they were discharged, and any other information required by rule, including approval of non-audit services.
- Review any other reports issued by HISD that relate to committee responsibilities.

7. Other Responsibilities

- Perform other activities related to this charter as requested by the Board of Education.
- Institute and oversee special investigations as needed.
- Review and assess the adequacy of the committee charter annually, requesting Board approval for proposed changes, and ensure appropriate disclosure as may be required by law or District policy.
- Confirm annually that all responsibilities outlined in this charter have been carried out.
- Evaluate the committee's and individual members' performance on a regular basis.

Audit Committee Charter:

Approved this 11th day of May, 2015.

SIGNATURE ON FILE

Rhonda Skillern-Jones
President of the Board

SIGNATURE ON FILE

Juliet K. Stipeche
Chairperson of the Audit Committee

[Print](#)[Close](#)**FW: Updafe****EXHIBIT 8**

From: **Patton, Richard A** (RPATTON@houstonisd.org)
Sent: **Tue 10/27/15 7:57 PM**
To: **rapatton@hotmail.com** (rapatton@hotmail.com)

From: Patton, Richard A
Sent: **Saturday, October 10, 2015 4:56 PM**
To: Bobadilla, Leo
Cc: Gerwin, John
Subject: Updafe

Leo,

John and I worked all day today and will work tomorrow to finalize this project. I have not started planning for the AC meeting at 2:00 Monday. We are hoping to have a draft for you around 2-3:00 tomorrow. Since I have to prepare for the AC meeting on Monday morning and will be busy, **are you interested in meeting with me at the office tomorrow around 2 or 3:00 to discuss the report?**

Regardless, I will send you a draft once completed for your review.

Thanks.



HOUSTON INDEPENDENT SCHOOL DISTRICT
HATTIE MAE WHITE EDUCATIONAL SUPPORT CENTER
4400 WEST 18th STREET • HOUSTON, TEXAS 77092-8501

RICHARD A. PATTON, CPA, CFE
Chief Audit Executive
Tel: 713-556-7500 • Fax: 713-556-6374

www.Houstonisd.org
www.twitter.com/HoustonISD

November 3, 2015

Members of the Board of Education,

I would like to commend the Audit Committee and the rest of the Board for always setting the "tone at the top", and supporting the internal audit function. As you know, my office has a very challenging job within the district. We, on occasion, deal with multiple bosses who desire different outcomes. In addition, we are tasked with handling difficult situations that are not always black or white, even when all details are known, but have an obligation to make difficult recommendations for management's consideration. The Audit Committee's efforts and support have been instrumental in allowing the audit department to achieve the highest rating possible from the Institute of Internal Auditors, who were brought in to perform an external assessment of processes to ensure compliance with professional standards.

I do realize that this department reports to the Board of Education through the arm of the Audit Committee. When reports are issued by the Office of Internal Audit, we exercise professional judgment using corroborating evidence, and stand by our results regardless of anyone's personal or political motive. The Audit Committee has allowed us to work uninterrupted, and without concern of reprisal, and I am sincerely thankful for that.

I have recently been alerted to media reports which indicate that some board members are not supportive of the work performed by the Office of Internal Audit. While I have detected this discontent through their actions as well as through verbal interactions, I have always had an open door policy and have invited all members of the Board of Education to drop by to review supporting documentation or discuss concerns, but I have yet to have anyone take me up on my offer.

As noted in the Audit Committee Charter and the Internal Audit Activity Charter, the Office of Internal Audit needs continued freedom to conduct audits without fear or threat. We do not react to political or personal needs, as we are professional auditors and base our recommendations on tangible evidence. While our conclusions sometime put us in an unpopular position, we do not decide or determine the responding actions of management.

We learn from our prior experiences and strive to continuously improve our processes. I am asking the following of the Board of Education:

- Understand the role of internal audit within the district as well as related components in both charters.
- Allow us to comply with the charters.
- Provide us with the freedom to make unfettered recommendations. While it is acceptable for management to disagree with audit recommendations, the Board of Education must be aware of the acceptance of risks. In all due respect, it is also difficult

for the Office of Internal Audit to meet the demands of each individual board member, but we strive to do so.

- Require draft reports to be vetted with the administration prior to discussions in general session or closed session to enable internal audit time to work with management in compliance with departmental policies and procedures which are designed to encourage change through a collaborative process. This would allow for internal audit to operate without restrictive time constraints.
- Route all future requests for audits not included in the Audit Plan through the Committee for their approval prior to project commencement.

I have recently heard that some elected officials have concerns that our report mentioned "mismanagement" by Construction and Facilities Services (CFS), and stated a "lack of integrity with public funds". This was not stated, or even alluded to in our report. This leads me to believe that these officials and the general public have apparently relied solely on media coverage rather than reading the actual report. This is largely due to the fact that portions of our draft were discussed in an open session of an Audit Committee meeting against my wishes. I believe the aforementioned suggestions will prevent future occurrences, and I look forward to working with the Board and the administration in improving public confidence.

I think it is also appropriate that I update you about my communication on September 10, 2015 with Chief Robert Mock of the HISD Police Department, whom I believe is the appropriate law enforcement authority. I feel I have a professional obligation as your CAE to report my concern with the actions by CFS to split job order contract work orders in order to fall below the \$500,000 State law maximum. The split orders occurred at the same address and specific location, same date, sequentially numbered, and the work was performed by the same vendor. In my professional judgment and due diligence, several work orders were inappropriately split and not approved by the Board. In my opinion, this is a violation of HISD policy and State law pursuant to Section 44.032 of the Education Code and Section 2269.403 of the Texas Government Code. This conclusion was reached during an audit requested by the Audit Committee earlier this year. Please note that this opinion was reached by my construction audit team and I agreed with their assessment. As a Certified Public Accountant and Certified Fraud Examiner, I feel I have the necessary experience to make this determination, and I have a professional obligation to comply with internal audit professional standards. It is important to note that internal audit has evidence that one of the vendors informed CFS of the \$500,000 maximum limit. I have also provided a copy of the audit report entitled "Job Order Contracting – Implementation and Execution" and supporting documentation to Chief Mock.

Please let me know if Chief Mock is not the appropriate law enforcement authority to report this matter.

Sincerely,



Richard A. Patton
Chief Audit Executive
Office of Internal Audit

Cc: Board Services

INTERNAL AUDIT ACTIVITY CHARTER Houston Independent School District

Introduction:

Internal Auditing is an independent and objective assurance and consulting activity that is guided by a philosophy of adding value to improve the operations of the Houston Independent School District (HISD). It assists HISD in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of the organization's governance, risk management, internal control.

Role:

The internal audit activity is established by the HISD Board of Education, Audit Committee, or highest level of governing body (hereafter referred to as the Board). The internal audit activity's responsibilities are defined by the Board as part of their oversight role.

Professionalism:

The internal audit activity will govern itself by adherence to The Institute of Internal Auditors' mandatory guidance including the Definition of Internal Auditing, the Code of Ethics, and the International Standards for the Professional Practice of Internal Auditing (Standards). This mandatory guidance constitutes principles of the fundamental requirements for the professional practice of internal auditing and for evaluating the effectiveness of the internal audit activity's performance. The Institute of Internal Auditors' Practice Advisories, Practice Guides, and Position Papers will also be adhered to as applicable to guide operations. In addition, the internal audit activity will adhere to HISD's relevant policies and procedures and the internal audit activity's standard operating procedures manual.

The internal audit department will also perform its work in accordance with Generally Accepted Auditing Standards (GAAS), as promulgated by the American Institute of Certified Public Accountants, Generally Accepted Government Auditing Standards (GAGAS), as promulgated by the United States Government Accountability Office, and any special auditing and reporting guidelines as may be required by the Texas Education Agency, the Texas State Comptroller's Office, or any other regulatory or oversight authority. The auditing standards that need to be applied depend upon the nature of the audit.

Authority:

The internal audit activity, with strict accountability for confidentiality and safeguarding records and information, is authorized full, free, and unrestricted access to any and all of HISD's records, physical properties, and personnel pertinent to carrying out any engagement. All employees are requested to assist the internal audit activity in fulfilling its roles and responsibilities. The internal audit activity will also have free and unrestricted access to the Superintendent and the Board.

Organization:

The Chief Audit Executive will report functionally to the Board's Audit Committee and administratively to the Superintendent. The Audit Committee responsibilities are completely detailed in the Audit Committee Charter. In summary, the Audit Committee shall:

- Approve the internal audit charter.
- Approve the risk based internal audit plan.
- Approve the internal audit budget and resource plan.
- Receive communications from the Chief Audit Executive on the internal audit activity's performance relative to its plan and other matters.
- Approve decisions regarding the appointment and removal of the Chief Audit Executive.
- Approve the remuneration of the Chief Audit Executive.

- Make appropriate inquiries of management and the Chief Audit Executive to determine whether there is inappropriate scope or resource limitations.

The Chief Audit Executive will communicate and interact directly with the Board, including in closed session as authorized by law and between Board meetings as appropriate.

Independence and Objectivity:

The internal audit activity will remain free from interference by any element in the organization, including matters of audit selection, scope, procedures, frequency, timing, or report content to permit maintenance of a necessary independent and objective mental attitude. Internal auditors will have no direct operational responsibility or authority over any of the activities audited. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair internal auditor's judgment. Internal auditors will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined. Internal auditors will make a balanced assessment of all the relevant circumstances and not be unduly influenced by their own interests or by others in forming judgments. The Chief Audit Executive will confirm to the Board, at least annually, the organizational independence of the internal audit activity.

Responsibility:

The scope of internal auditing encompasses, but is not limited to, the examination and evaluation of the adequacy and effectiveness of the organization's governance, risk management, and internal controls as well as the quality of performance in carrying out assigned responsibilities to achieve the organization's stated goals and objectives. This includes:

- Evaluating risk exposure relating to achievement of the organization's strategic objectives.
- Evaluating the reliability and integrity of information and the means used to identify, measure, classify, and report such information.
- Evaluating the systems and internal controls established to ensure compliance with policies, plans, procedures, laws, and regulations which could have a significant impact on the organization.
- Evaluating the means of safeguarding assets and, as appropriate, verifying the existence of such assets.
- Evaluating the effectiveness and efficiency with which resources are employed.
- Evaluating operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.
- Performing general audits, analytical reviews, or investigative audits by applying various audit techniques and procedures to evaluate the system of internal controls and/or for the detection of fraud or deterrence to fraud.
- Monitoring and evaluating governance processes.
- Monitoring and evaluating the effectiveness of the organization's risk management processes.
- Evaluating the quality of performance of external auditors and the degree of coordination with internal audit.
- Performing consulting and advisory services related to governance, risk management and control as appropriate for the organization.
- Reporting periodically on the internal audit activity's purpose, authority, responsibility, and performance relative to its plan.
- Reporting significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by the Board.
- Evaluating specific operations at the request of the Board or management, as appropriate.

Internal Audit Plan:

At least annually, the Chief Audit Executive will work collaboratively with the Audit Committee for input to create the internal audit plan. The Chief Audit Executive will submit the completed internal audit plan for the Audit Committee's review and approval, and a copy shall be provided to senior management. The internal audit plan will consist of a work schedule as well as budget and resource requirements for the next fiscal/calendar year. The Chief Audit Executive will communicate the impact of resource limitations and significant interim changes to the Audit Committee. The internal audit plan will be developed based on a prioritization of the audit universe using a risk-based methodology, including input and collaboration with senior management, the Audit Committee, and the Board. The Chief Audit Executive will review and adjust the plan, as necessary, in response to changes in HISD's business, risks, operations, programs, systems, and controls. Any significant deviation from the approved internal audit plan will be communicated to the Audit Committee through periodic activity reports.

Reporting and Monitoring:

A written report will be prepared and issued by the Chief Audit Executive or designee following the conclusion of each internal audit engagement and will be distributed others as appropriate. The internal audit report may include management's response and corrective action taken or to be taken in regard to the specific findings and recommendations. Management's response, whether included within the original audit report or provided thereafter (i.e. within thirty days) by management of the audited area should include a timetable for anticipated completion of action to be taken and an explanation for any corrective action that will not be implemented. The internal audit activity will be responsible for appropriate follow-up on engagement findings and recommendations. All significant findings will remain in an open issues file until cleared.

The Chief Audit Executive will periodically report to senior management and the Audit Committee on the internal audit activity's purpose, authority, and responsibility, as well as performance relative to its plan. Reporting will also include significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by senior management and the Board.

Quality Assurance and Improvement Programs:

The internal audit activity will maintain a quality assurance and improvement program that covers all aspects of the internal audit activity. The program will include an evaluation of the internal audit activity's conformance with the Definition of Internal Auditing and the Standards and an evaluation of whether internal auditors apply the Code of Ethics, and other applicable professional standards.. The program also assesses the efficiency and effectiveness of the internal audit activity and identifies opportunities for improvement.

The Chief Audit Executive will communicate to senior management and the Audit Committee on the internal audit activity's quality assurance and improvement program, including results of ongoing internal assessments and external assessments conducted at least every five years.

Internal Audit Activity Charter:

Approved this 8th day of September, 2015.

SIGNATURE ON FILE

Richard Patton
Chief Audit Executive

SIGNATURE ON FILE

Rhonda Skillern-Jones
President of the Board

SIGNATURE ON FILE

Paula Harris
Secretary of the Board

[Print](#)[Close](#)**FW: re: Follow-up****EXHIBIT II****From:** Patton, Richard A (RPATTON@houstonisd.org)**Sent:** Thu 10/29/15 8:45 AM**To:** rapatton@hotmail.com (rapatton@hotmail.com)

2 attachments

140402 HISD AECOM Meeting Minutes on Job Order Contracts.docx (33.6 KB) , FW
JOC Meeting Memo.eml (8.2 KB)**Richard Patton****Chief Audit Executive, Internal Audit Office**

713-556-7500 (office)

rpattton@HoustonISD.org (email)

HOUSTON INDEPENDENT SCHOOL DISTRICT

Hattie Mae White Educational Support Center

4400 West 18th Street | Houston, TX 77092-8501

Keep up with the latest news from HISD: www.HoustonISD.org

Follow HISD on Twitter: @HoustonISD

Like HISD on Facebook: www.facebook.com/HoustonISD**From:** Gerwin, John**Sent:** Thursday, October 29, 2015 8:41 AM**To:** Patton, Richard A**Subject:** FW: re: Follow-up**John Gerwin, CPA****Construction Auditing Manager, Office of Internal Audit**

713-556-9370 (office) 713-556-9314 (fax)

jgerwin@HoustonISD.org

HOUSTON INDEPENDENT SCHOOL DISTRICT

Construction and Facility Services (CFS)

3200 Center Street Houston, TX 77007-5909

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From: Finley, Wm Earl

Sent: Wednesday, October 21, 2015 2:11 PM

To: Gerwin, John

Subject: FW: re: Follow-up

Per your request...re-forwarding...

Elvis forwarded the email to me August 4, 2014 and the memo is dated April 2, 2014.

If Elvis sent a response via email it may have occurred on or after August 4, 2014.

Thank You,

Wm. Earl Finley, C.P.M., A.P.P

Sr. Sourcing Specialist, Procurement Dept.

Tel: 713-556-9306 or 713-556-6546

wfinley@houstonisd.org

HOUSTON INDEPENDENT SCHOOL DISTRICT

Procurement Services Department

4400 West 18th Street Houston, Texas 77092

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From: Finley, Wm Earl
Sent: Friday, September 04, 2015 3:54 PM
To: Gerwin, John
Subject: re: Follow-up

Note: This email includes an attached email between attorney and client (HISD) and is to be regarded as such.

John, I sought guidance from Sandy Hellums-Gomez, Attorney for Thompson and Horton law firm.

I have no written response back from Sandy to this email in my email archive file, and I cannot remember any details of what we might have discussed.

I checked my email archive to see if I emailed Elvis back a reply, and I did not email Elvis back a response. I also cannot remember what Elvis and I may have discussed.

However, whatever I may have discussed with either Sandy or Elvis I feel it would have been **consistent with my expressed concern in the attached email to Sandy.**

Thank You,

Wm. Earl Finley, C.P.M., A.P.P

Sr. Sourcing Specialist, Procurement Dept.

Tel: 713-556-9306 or 713-556-6546

wfinley@houstonisd.org

HOUSTON INDEPENDENT SCHOOL DISTRICT
Construction Facilities Services
3200 Center Street | Houston, TX 77007
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Follow HISD on Twitter: @HoustonISD

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--Forwarded Message Attachment--

From: **WFINLEY@houstonisd.org** — *PROCUREMENT*

To: **shellums@thompsonhorton.com**

Date: Mon, 4 Aug 2014 17:36:21 -0500

Subject: FW: JOC Meeting Memo

Sandy,

Please review. There may be a slippery slope that can and might occur in if proper parameters are not provided.

For example: Potentially they can do a series of JOC jobs on same site all under 500K that are different sub trade work, but when added up all JOC work will not exceed 1,000,000 million cap and each sub trade JOC job will not exceed 500K in a one year period.

Am I missing something? I have not read the statute in a while...

Thank You,

Wm. Earl Finley, C.P.M., A.P.P

Sr. Sourcing Specialist

Houston, Independent School District

3200 Center Street

Houston, Texas 77007

Tel: 713-556-9306 or 713-556-6546

wfinley@houstonisd.org

From: Eaglin, Elvis - PROCUREMENT
Sent: Monday, August 04, 2014 4:59 PM
To: Finley, Wm Earl - PROCUREMENT
Subject: FW: JOC Meeting Memo

Earl, do you agree with what Ken wrote (in Yellow) regarding the meeting we attended?

SEE ATTACHMENT

Exhibit 11 Attachment



5444 Westheimer Rd, Suite 200., Houston, TX 77056
T 713.780.4100 F 713.780.0838 www.aecom.com

Memorandum

Date: **April 2, 2014**
To: Meredith Smith, Senior Project Manager, CFS, Houston ISD
From: Kenneth L English, Program Director
Subject: HISD Job Order Contractor Contracts

The following is a summary of our meeting last week with Elvis Eaglin and Earl Finley regarding the limitations on JOC contracts set by state law. Present in this meeting were:

- Dillon Brady, General Manager of Construction HISD CFS
 - Elvis Eaglin, Procurement Manager, HISD,
 - Earl Finley, Sr. Source Specialist, Procurement, HISD
 - Meredith Smith, Senior Project Manager, HISD, CFS
 - Bruce Green, Senior Project Manager, HISD, CFS
 - Kenneth English, Program Director, AECOM
1. The direction received from procurement team members at this meeting regarding the use job order contracts is that we may proceed with multiple, concurrent job orders contracts, with one or more vendors, as long as the job order contracts do not exceed the limits established by the HISD Board. That is, no single job order contract may exceed \$500,000 and the total aggregate of job order contracts per campus, per fiscal year, may not exceed \$1,000,000.
 2. To confirm this direction, we reviewed the HISD Board Resolution approved on April 11, 2013 regarding JOC contract limits and discussed the applicable state laws regarding the use of job order contractors by school districts.
 3. While the statutes do not address how work scope may be assigned to job order contracts and do not define terms such as "projects", "jobs", or "tasks", the CFS team prefers that overall work scope be assigned sequentially or by trades, rather than by division of similar work.

EXHIBIT E



HOUSTON INDEPENDENT SCHOOL DISTRICT

HATTIE MAE WHITE EDUCATIONAL SUPPORT CENTER
4400 WEST 18th STREET • HOUSTON, TEXAS 77092-8501

RICHARD A. PATTON, CPA, CFE
Chief Audit Executive
Tel: 713-556-7500 • Fax: 713-556-6374

www.Houstonisd.org
www.twitter.com/HoustonISD

November 3, 2015

Members of the Board of Education,

I would like to commend the Audit Committee and the rest of the Board for always setting the "tone at the top", and supporting the internal audit function. As you know, my office has a very challenging job within the district. We, on occasion, deal with multiple bosses who desire different outcomes. In addition, we are tasked with handling difficult situations that are not always black or white, even when all details are known, but have an obligation to make difficult recommendations for management's consideration. The Audit Committee's efforts and support have been instrumental in allowing the audit department to achieve the highest rating possible from the Institute of Internal Auditors, who were brought in to perform an external assessment of processes to ensure compliance with professional standards.

I do realize that this department reports to the Board of Education through the arm of the Audit Committee. When reports are issued by the Office of Internal Audit, we exercise professional judgment using corroborating evidence, and stand by our results regardless of anyone's personal or political motive. The Audit Committee has allowed us to work uninterrupted, and without concern of reprisal, and I am sincerely thankful for that.

I have recently been alerted to media reports which indicate that some board members are not supportive of the work performed by the Office of Internal Audit. While I have detected this discontent through their actions as well as through verbal interactions, I have always had an open door policy and have invited all members of the Board of Education to drop by to review supporting documentation or discuss concerns, but I have yet to have anyone take me up on my offer.

As noted in the Audit Committee Charter and the Internal Audit Activity Charter, the Office of Internal Audit needs continued freedom to conduct audits without fear or threat. We do not react to political or personal needs, as we are professional auditors and base our recommendations on tangible evidence. While our conclusions sometime put us in an unpopular position, we do not decide or determine the responding actions of management.

We learn from our prior experiences and strive to continuously improve our processes. I am asking the following of the Board of Education:

- Understand the role of internal audit within the district as well as related components in both charters.
- Allow us to comply with the charters.
- Provide us with the freedom to make unfettered recommendations. While it is acceptable for management to disagree with audit recommendations, the Board of Education must be aware of the acceptance of risks. In all due respect, it is also difficult

for the Office of Internal Audit to meet the demands of each individual board member, but we strive to do so.

- Require draft reports to be vetted with the administration prior to discussions in general session or closed session to enable internal audit time to work with management in compliance with departmental policies and procedures which are designed to encourage change through a collaborative process. This would allow for internal audit to operate without restrictive time constraints.
- Route all future requests for audits not included in the Audit Plan through the Committee for their approval prior to project commencement.

I have recently heard that some elected officials have concerns that our report mentioned "mismanagement" by Construction and Facilities Services (CFS), and stated a "lack of integrity with public funds". This was not stated, or even alluded to in our report. This leads me to believe that these officials and the general public have apparently relied solely on media coverage rather than reading the actual report. This is largely due to the fact that portions of our draft were discussed in an open session of an Audit Committee meeting against my wishes. I believe the aforementioned suggestions will prevent future occurrences, and I look forward to working with the Board and the administration in improving public confidence.

I think it is also appropriate that I update you about my communication on September 10, 2015 with Chief Robert Mock of the HISD Police Department, whom I believe is the appropriate law enforcement authority. I feel I have a professional obligation as your CAE to report my concern with the actions by CFS to split job order contract work orders in order to fall below the \$500,000 State law maximum. The split orders occurred at the same address and specific location, same date, sequentially numbered, and the work was performed by the same vendor. In my professional judgment and due diligence, several work orders were inappropriately split and not approved by the Board. In my opinion, this is a violation of HISD policy and State law pursuant to Section 44.032 of the Education Code and Section 2269.403 of the Texas Government Code. This conclusion was reached during an audit requested by the Audit Committee earlier this year. Please note that this opinion was reached by my construction audit team and I agreed with their assessment. As a Certified Public Accountant and Certified Fraud Examiner, I feel I have the necessary experience to make this determination, and I have a professional obligation to comply with internal audit professional standards. It is important to note that internal audit has evidence that one of the vendors informed CFS of the \$500,000 maximum limit. I have also provided a copy of the audit report entitled "Job Order Contracting – Implementation and Execution" and supporting documentation to Chief Mock.

Please let me know if Chief Mock is not the appropriate law enforcement authority to report this matter.

Sincerely,



Richard A. Patton
Chief Audit Executive
Office of Internal Audit

Cc: Board Services