

133. Respondent does not dispute that there has been a significant amount of media attention since the Ana Cordova recording was released to the media, nor does he dispute that it has been a distraction to the District. [Tr. Vol. 3, 247:25–248:6].

I. United ISD’s Grounds for Respondent’s Proposed Termination

134. The Texas Education Code states that a “board of trustees may terminate a term contract and discharge [an employee] for [] good cause as determined by the board.” TEX. EDUC. CODE § 21.211(a)(1). The Texas Education Code also states that a board of trustees is not prohibited “from discharging a superintendent for good cause during the term of a contract.” TEX. EDUC. CODE § 21.212(d).

135. At a duly called special Board meeting held on October 10, 2023, the Board voted to propose the termination of Respondent’s employment. [Exh. R-11].

136. UISD’s Second Amended Notice of Proposed Termination sets forth several grounds for the mid-contract termination of Respondent’s employment for good cause: (1) unethical conduct towards colleagues and lack of character; (2) failure to maintain a professional and positive working relationship with the Board and the community; and (3) conflict of interest and lack of trust. [Exh. P-8].

137. The first ground—unethical conduct toward colleagues and lack of character—is premised as per the District on Respondent’s April 21, 2021, telephone conversation with Ana Cordova, which the Board first learned about on August 10, 2023. [Exh. P-8, pp. 1–3; *see also* Exh. P-3; Exh. P-4]. The District contends that Respondent committed numerous policy violations during the telephone call with Ms. Cordova, including violations of the Employee Standard of Conduct set forth in Board Policy DH (Local), and the Educators’ Code of Ethics set forth in Board Policy DH (Exhibit).

138. Board Policy DH (Legal) states that UISD employees are required to comply with standard practices and ethical conduct towards students, professional colleagues, school officials, parents, and members of the community. [Exh. P-33].

139. Board Policy DH (Local) states that “[e]ach District employee shall perform his or her duties in accordance with state and federal law, District policy, and ethical standards,” and that “[e]ach employee shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to his or her status as a District employee.” [Exh. P-34, p. 1].

140. Board Policy DH (Local) states that “[t]he District holds all employees accountable to the Educators’ Code of Ethics.” [Exh. P-34, p. 1].

141. The Educators’ Code of Ethics in Board Policy DH (Exhibit) includes the following standards of conduct:

- Standard 1.4: The educator shall not use institutional or professional privileges for personal or partisan advantage.
- Standard 1.6: The educator shall not falsify records, or direct or coerce others to do so.
- Standard 1.7: The educator shall comply with state regulations, written local school board policies, and other state and federal laws.
- Standard 1.10: The educator shall be of good moral character and be worthy to instruct or supervise the youth of this state.
- Standard 2.1: The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.
- Standard 2.3: The educator shall adhere to written local school board policies and state and federal laws regarding the hiring, evaluation, and dismissal or personnel.
- Standard 2.6: The educator shall not use coercive means or promise of special treatment in order to influence professional decisions or colleagues.

Standard 3.1: The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.

[Exh. P-35, pp. 1–2].

142. Board Policy DH (Local), provides that “[v]iolation of any policies, regulations, or guidelines, including intentionally making a false claim, offering a false statement, or refusing to cooperate with a District investigation, may result in disciplinary action, including termination of employment.” [Exh. P-34, p. 1].

143. The second ground—failure to maintain a professional and positive working relationship with the Board and the community—the District alleges is premised on the widespread negative publicity stemming from the recording of Respondent’s April 21, 2021 telephone conversation with Ana Cordova as well as Respondent’s public statements following the August 2023 release of the recording, all of which the District contends have destroyed Respondent’s working relationship with the Board and the community, and have eliminated his ability to effectively lead the District. [Exh. P-8, pp. 3–5; *see also* Exh. P-3; Exh. P-4; Exhs. P-19–P-30].

144. Board Policy BJA (Legal) states that a superintendent “is the educational leader and chief executive officer of a district.” [Exh. P-38, p. 1]. It also states that “a superintendent shall, on a day-to-day basis, ensure the implementation of the policies created by the board.” [Exh. P-38, p. 2].

145. Board Policy BJA (Local) requires the Superintendent, “[i]n addition to responsibilities specifically provided by law or in the Superintendent’s contract,” to “provide educational leadership, demonstrate district management, and maintain positive Board and community relations.” [Exh. P-39].

146. Board Policy DH (Local) states that “[e]ach District employee shall recognize and respect the rights of students, parents, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the District.” [Exh. P-34, p. 1].

147. Additionally, as noted above, Board Policy DH (Local) provides that “[v]iolation of any policies, regulations, or guidelines, including intentionally making a false claim, offering a false statement, or refusing to cooperate with a District investigation, may result in disciplinary action, including termination of employment.” [Exh. P-34, p. 1].

148. The third ground—conflict of interest and lack of trust—the District alleges is premised on the District’s recent discovery of Respondent’s emails with Linda Garza. [Exh. P-8, pp. 5; *see also* Exh. P-10; Exh. P-11]. The District contends that the Respondent improperly failed to disclose his inappropriate relationship with Linda Garza and failed to abstain from employment decisions relating to Linda Garza, in violation of Board Policy DBD (Local), Board Policy DH (Local), and the express terms of his Contract.

149. Board Policy DBD (Local) states that an employee “shall disclose to his or her immediate supervisor a personal financial interest, a business interest, or any other obligation or relationship that in any way creates a potential conflict of interest with the proper discharge of assigned duties and responsibilities or with the best interest of the District.” [Exh. P-37, p. 1].

150. Board Policy DH (Local) requires District employees to “[c]ooperate with the investigative process by answering questions, furnishing written statements, and volunteering information important to the investigation.” [Exh. P-34, p. 2].

151. Board Policy DH (Local) also states that, “[t]hroughout the course of an official District investigation or inquiry, every District employee has an affirmative duty to provide all relevant and factual information about the situation to his or her supervisor or any other District

official investigating the matter.” [Exh. P-34, p. 2]. “Intentional falsification, misstatement, or the concealment of a material fact in connection with the investigation shall be grounds for disciplinary action up to and including termination.” [Exh. P-34, p. 2].

152. Section 9.3 of Respondent’s Contract states: “The Superintendent represents that any records or information provided in connection with his employment application are true and correct. Any false statements, misrepresentations, omissions of requested information, or fraud by the Superintendent in or concerning any required records or in the employment application may be grounds for termination or nonrenewal, as applicable.” [Exh. R-1, § 9.3].

153. As noted in the previous findings, Board Policy DH (Local) provides that “[v]iolation of any policies, regulations, or guidelines, including intentionally making a false claim, offering a false statement, or refusing to cooperate with a District investigation, may result in disciplinary action, including termination of employment.” [Exh. P-34, p. 1].

154. Respondent timely requested a hearing on his proposed termination pursuant to Chapter 21 of the Texas Education Code.

155. The hearing on Respondent’s request commenced on January 15, 2024, and evidence closed on January 18, 2024.

156. The record as a whole establishes by a preponderance of the credible evidence that Respondent: engaged in improper, bad judgment and unethical conduct with or toward colleagues; failed to maintain a positive working relationship with the Board and the community and professional one with the community; failed to disclose a potential conflict of interest; failed to disclose material information to the Board during his superintendent information; failed to disclose relevant information during the District’s 2017 investigation; used his institutional or professional privileges for personal or partisan advantage; directed or encouraged another employee to falsify

matters of a past complaint; failed to comply with state regulations, written local school board policies, and other state and federal laws; engaged in matters that gave the appearance of impropriety; failed to be of good moral character as an employee of the District and prospective and current superintendent; revealed and/or engaged in conversation about confidential personnel and/or private information of another employee, student or parent, without their consent and with no professional purpose given the conversation itself was wrong and improper; failing to adhere to written local school board policies and state and federal laws regarding the hiring or continued employment, evaluation, and dismissal of personnel; used coercive means or promises of special treatment in order to influence professional decisions or colleagues; revealed confidential information concerning students without consent and during an improper conversation; violated Board Policy DBD (Local); violated Board Policy DH (Legal), (Local), and (Exhibit); violated Board Policy BJA (Legal) and (Local); and engaged in conduct constituting good cause for termination under Board policies and the express terms of his Contract.

157. The record as a whole establishes by a preponderance of the credible evidence that Respondent failed to perform his duties in the scope of employment that a person of ordinary prudence would have done under the same or similar circumstances, and that Respondent's actions were inconsistent with the continued existence of the employer-employee relationship.

158. Standard 1.1 of the Educators' Code of Ethics provides that: "The Educator shall not intentionally, knowingly or recklessly engage in deceptive practices regarding official policies of the district, educational institution, educator preparation program, the Texas Education Agency, or the State Board for Educator Certification (SBEC) and its certification process." Exh. P – 35.

159. The Texas Educators' Code of Ethics purpose and scope requires a Texas educator such as Mr. Gonzalez to "comply with standard practices and ethical conduct toward students,

professional colleagues...” He must “respect and obey the law, demonstrate personal integrity, and exemplify honesty and good moral character”. In “exemplifying ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession”. Exh. P - 35.

160. Standard 2.5 of the Educators’ Code of Ethics provides that “The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, gender, disability, family status, or sexual orientation.” Exh. P – 35.

161. Standard 3.1 of the Educators’ Code of Ethics provides that “The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.” Exh. P – 35.

162. The Educators’ Code of Ethics further states that: “The Texas educator shall comply with standard practices and ethical conduct towards students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom. The Texas educator, in maintaining the dignity of the profession, shall respect and obey the law, demonstrate personal integrity, and exemplify honesty. The Texas educator, in exemplifying ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession.” Exh. P – 35.

163. The Record as a whole establishes the fact that the Respondent failed to meet the accepted standards of conduct of a term contract employee educator. (*Record as a whole*).

164. The Record as a whole establishes the fact that the Respondent’s proposed termination of his term contract was not done for political reasons. (*Record as a whole*).

165. The Record as a whole establishes the fact that the Respondent failed to comply with standard practices and conduct toward colleagues and failed to enforce school district policy with his own conduct and intentional omissions. (*Record as a whole*).

166. The IHE finds the Growth Plan of January 12, 2023, given to Respondent was unreasonable and unrealistic. Exh. R – 12. See also [Tr. Vol. 4, 256:10-25, 257:1-25, and 258:1-13].

Discussion

This Independent Hearings Examiner (IHE) is tasked with passing judgment on an educator who has been employed as an educator or teacher up through Superintendent in some form or fashion for over 23 years with United ISD. His performance evaluations as Superintendent for school years 2021 – 2022 and 2022-2023 were either meeting expectations, exceeding expectations and/or clearly outstanding performance. Exhs. R – 15 and 16.

Respondent had been the subject of three complaints, two of which stem from the same time period of August 29, 2011 (Ana Cordova), and resurfacing on August 10, 2023 (Ana Cordova), and the other of April 29, 2017 (Rosalinda Perez). The August 29, 2011, one found “no evidence to corroborate the allegations” and the other no evidence to support of June 21, 2017. Exhs. R - 8 and 20. The most recent one was re-routed through DIA (LOCAL). Exh. R – 2. The First Cordova complaint was investigated by David Garcia, then Assistant Superintendent of Human Resources, who left the District under allegations of inappropriate comments and touch and with remedial directives issued to avoid “future complaints” from Respondent himself. Exhs. P – 50 and 51.