

MCKENZIE LAKE

LAWYERS

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Our File No. 94028

October 3rd, 2019

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Sent by E-mail

Mr. Peter Joshua
Director of Education
Peel District School Board
5650 Hurontario Street
Mississauga, ON

Dear Mr. Joshua:

**Re: Peel District School Board - External Investigation
Whistleblower Complaint
Complainant: Mr. Tim Spriel
Respondent: Ms. Poleen Grewal**

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I. BACKGROUND AND ENGAGEMENT

The writer was engaged by Peel District School Board (“the Board”) on July 11, 2019 to investigate allegations raised pursuant to the Board’s *Whistleblower Policy* with respect to the conduct of the Associate Director, Instruction and Equity Support, Ms. Poleen Grewal (“Grewal” or “the Respondent”). The complaint was lodged by a teacher at Mississauga Secondary School (“Mississauga”), Mr. Tim Spriel (“Spriel” or “the Complainant”) in a meeting with the Director of Education on June 18, 2019 regarding the Respondent’s involvement in the granting of Prior Learning Assessment and Recognition (“PLAR”) credits to her son, Ishaan Thandi (“Ishaan”) during the 2018-19 academic year.

My engagement was pursuant to Section 4 of the *Whistleblower Policy*, which provides for the investigation of reported allegations of wrongdoing by Board employees, parents, students, trustees and volunteers. I was retained to conduct a confidential fact-finding investigation and provide a report containing a summary of the evidence, together with my conclusions regarding the Respondent’s conduct. That report is contained herein.

II. OVERVIEW

The Respondent’s son, Ishaan entered grade nine at Mississauga in September 2016. An accomplished volleyball player, Ishaan competed in a high-level local program and as a player on the school’s volleyball teams. Academically, Ishaan “fast-tracked” in his first three years of secondary school by completing on-line courses in a private school while attending Mississauga. By her own acknowledgment, the Respondent took an active and vigorous role in communicating to teachers, Guidance, staff and administration at Mississauga her concerns about evaluation practices and curriculum in Ishaan’s courses during his first three years of high school.

After dropping two courses in the first semester of grade eleven, Ishaan applied for two credits in physical education through the PLAR program on the basis that his training and fitness programs as an elite-level athlete satisfied the curriculum expectations for those courses. The PLAR program established a formal assessment and credit-granting process whereby a student could obtain credits for prior learning, including knowledge acquired in formal and informal ways outside the classroom. Students who challenged for PLAR credits were subject to an application

and assessment procedure to determine whether their learned knowledge and skills met the relevant Ontario curriculum requirements. Ishaan was granted the two phys ed credits in the first semester of 2018-19, then successfully applied for and obtained a third PLAR credit in a Food and Nutrition course during the second semester. Marks of 100 percent were awarded to him with all three PLAR credits.

PLAR assessments for other students had been conducted by teachers at Mississauga who were recruited for that purpose at inception of the PLAR program in 2017. Ishaan's two applications for phys ed credits were assessed by an Instructional Coordinator at the Board after the Respondent requested that Mississauga staff not be employed for that purpose. Processing of Ishaan's first two applications was completed in advance of the usual second semester schedule, again at the Respondent's request. On Ishaan's behalf, the Respondent thereafter sought and was granted successive extensions of the deadline for filing the third PLAR application before that credit was awarded in May 2019.

The Complainant and colleagues at Mississauga alleged that these arrangements allowed Ishaan to bypass the regular PLAR process and amounted to the Respondent taking advantage of her position and influence as Associate Director to gain personal benefit for her son.

Ms. Grewal was notified of this investigation by letter from the Director of Education dated July 15, 2019 (**Tab "1"**). The Respondent was advised that the conduct alleged by the Complainant, if substantiated, could constitute a breach of the Board's *Conflict of Interest Policy* and/or *Code of Conduct*. The Director confirmed the writer's appointment to conduct the investigation under the provisions of the *Whistleblower Policy*.

The factual allegations which underpinned this complaint were disclosed when the writer conducted initial interviews with Mr. Sriel and the other individuals involved in the PLAR assessment process who are identified in this report. Ms. Grewal was provided with particulars of those factual allegations by letter dated September 12, 2019 (**Tab "2"**). For ease of reference, the relevant portions of that statement of particulars are excerpted, as follows:

Particulars of the factual allegations are set out below. You should clearly understand that I have made no findings with respect to these circumstances, nor

have I determined whether, if such factual allegations were substantiated, they would amount to a conflict of interest or wrongdoing on your part.

It is alleged that:

1. As Superintendent, Curriculum and Instruction, you were involved in implementation of the PLAR program in 2016-17 as well as recruitment of teacher assessors from Mississauga for the purpose of evaluating PLAR applications in Physical Education courses within the system;
2. As a parent of your son, Ishaan, you had extensive involvement with teachers and guidance counsellors on his behalf in each of Ishaan's Grade 9-11 academic years;
3. In 2017-18, you took issue with a coaching decision to require Ishaan to sit out part of a volleyball game for missing practice. At a meeting with Mississauga coaches and Phys. Ed. staff, you threatened the prospect of a human rights complaint arising from application of the team policy requiring such measure;
4. During the fall of 2018, you notified the Instructional Coordinator, Health and Physical Education, Joe Grdisa ("Grdisa") of Ishaan's intention to challenge for one or more PLAR credits in Grade 11 Phys. Ed.;
5. You thereafter requested through the Coordinating Principal, Carol Suhay ("Suhay") and/or the Instructional Coordinator who managed the PLAR program, Amy Melo ("Melo") that Ishaan's two PLAR applications be assessed during the fall semester, rather than after the February 1st, 2019 date otherwise applicable to students seeking PLAR credits; B. provided
2018/19
6. That privilege was granted for Ishaan in accordance with your request;
7. You provided one or both of Ishaan's subsequent PLAR applications to Grdisa in draft form for his comments prior to formal submission. Grdisa indicated his view that the applications were in order;
8. You directed Suhay, Melo and/or Grdisa that you did not wish the assessment of Ishaan's PLAR applications to be conducted by the Mississauga assessors who had previously evaluated such applications in the Phys. Ed. area. Grdisa was asked to find someone to help him do the assessments;
9. As a result, Ishaan's applications for PAF 30 and PPL 30 credits were assessed by Grdisa with the assistance of a new teacher participant, Brad MacNeil ("MacNeil"); B. provided
2018/19
10. Grdisa awarded Ishaan both Phys. Ed. credits, with one hundred percent marks in each course. Staff at Mississauga who subsequently reviewed the written applications did not consider that they warranted awarding one hundred percent

marks in either course, having regard to the seventy percent weighting afforded the written applications in the PLAR assessment process;

11. While Ishaan was granted the two credits, informational materials made available to students, parents and assessors on the Board's website stated that PLAR challenges could not be made for both PAF 30 and PPL 30 courses by reason of duplicative curriculum;
12. During the spring semester of 2019, you advised Melo and/or Suhay of Ishaan's intention to challenge for a third grade 11 PLAR credit, this time in a Food and Nutrition course;
13. You suggested to Melo and Suhay by email that, since Ishaan would be challenging for the credit from an athlete's perspective, it would be appropriate for the assessment team to include someone from a Health and Phys. Ed. background;
14. You requested and obtained from Suhay and Melo two successive extensions of the deadline for submission of the third PLAR application, to accommodate Ishaan's volleyball schedule and workload;
15. Ishaan was again granted the PLAR credit with a one hundred percent grade; and
16. Each of Suhay, Melo, Grdisa and MacNeil was at all material times your subordinate within the Board system. ← *

III. CONDUCT OF THE INVESTIGATION

(A) The Applicable Board Policies

Commitment to upholding public trust and demonstrating integrity in the dealings of Board personnel is affirmed in the *Whistleblower Policy*, which provides a mechanism for the disclosure and investigation of wrongdoing, as well as protection from reprisal for those who make disclosures under such policy. For the purposes of the *Whistleblower Policy*, "wrongdoing" is defined in Section 2 to mean illegal or inappropriate conduct and includes, but is not limited to, such actions as fraud, misappropriation of resources, improper computer usage and the following:

2.5 *Conflicts of Interest (Personal or otherwise) influencing the objectives and decision-making of one's duties...*

2.8 *Conduct or practices that present a danger to the health, safety or well-being of the Board's students, employees or other parties, where applicable...*

2.9 Unprofessional conduct or conduct that contravenes Peel District School Board's Policy 8 – Conflict of Interest and Policy 65 – Code of Conduct.

The *Whistleblower Policy* imposes an obligation upon the Director of Education to ensure that all instances of alleged or suspected wrongdoing are investigated in a confidential manner. When wrongdoing is confirmed by the investigation, the policy mandates that appropriate disciplinary action shall be taken. An individual who makes an unsubstantiated report, “*which is knowingly false or made with vexatious or malicious intent*”, will similarly be subject to discipline.

The substantive provisions of the two other Board policies mentioned above also came into play in this complaint. The *Conflict of Interest Policy* contains an expansive definition of conflict of interest and imposes a duty upon Board employees to report any actual, possible or perceived conflict of interest to their supervisors. Conflict of interest is defined to mean any situation in which an individual has a personal or financial interest that may:

- *Affect their judgment and/or the performance of their duties or responsibilities to the Peel Board; and/or*
- *Cause them to act, or appear to act, in a way that is not in the best interest of the Peel Board; and/or*
- *Negatively affect the reputation of the Peel Board in the community.*

An individual is in a conflict of interest when he/she obtains or hopes to obtain personal gain by using his/her position, influence, Board time, resources, facilities and/or student and staff administration, according to the *Conflict of Interest Policy*. Personal gain is not limited to gain by such individual: “*Personal gain from a conflict of interest could include something gained for a friend, family member or a business associate*”. The policy prohibits an individual from involvement in any direct or indirect personal or financial interest that would, or could, “*negatively affect the reputation of the Peel Board and/or interfere with his/her independent exercise of judgment on behalf of the Peel Board*”.

The *Conflict of Interest Policy* imposes a specific reporting requirement upon Board employee's with respect to any actual, plausible or perceived conflict of interest which they encounter, as follows:

“Peel Board employees and volunteers must report any actual, possible or perceived conflict of interest that they have, or may have, to their immediate supervisor and/or direct report at the Peel Board, as soon as they become aware of the conflict”.

The Board’s *Code of Conduct* recites the public expectation that Board employees shall discharge their duties and responsibilities professionally, efficiently and impartially. The *Code of Conduct* mandates that employees shall at all times “*act in the best interest of the Board and not compromise themselves or the Board in the discharge of their duties by using their positions or the resources of the Board for personal or private gain or to promote political or religious interests*”.

The subject of conflict of interest in the local government sector has been the subject of attention in recent years through a succession of arbitral awards and reports issued following the 2010 Toronto Computer Leasing Inquiry and the subsequent Mississauga Judicial Inquiry by the Honourable Justice Douglas Cunningham. Those authorities provide useful guidelines for determining whether conflict of interest exists within the meaning of provisions like those recited above. The principles which emerge from judicial and arbitral consideration of these issues are briefly summarized in the concluding section of this report. For the purposes of this investigation, however, we adopted the approach endorsed by the Federal Court of Appeal in *Threader v. Canada (Treasury Board)* [1987] 1 F.C. 41, as follows:

Would an informed person, viewing the matter realistically and practically and having thought the matter through, think it more likely than not that the public servant, whether consciously or unconsciously, will be influenced in the performance of his official duties by considerations having to do with his private interests?

(B) Witnesses

With the assistance of my colleague, Ms. Victoria Yang, the writer conducted interviews with a total of eight witnesses, including the Complainant and Respondent. All witnesses were informed of the requirement in the *Whistleblower Policy* for confidentiality in the investigation process and agreed to participate on that basis. We were provided with a number of documents relevant to the allegations in the complaint, including downloaded email communications between Board officials involved in administering the PLAR program. Where pertinent to our findings, those materials are referred to in this report and appended hereto.

An investigation of this nature is not an adversarial proceeding. None of the witnesses was subjected to the rigorous cross-examination which might have been experienced in a contest between the Complainant and the Respondent. While the central facts were clearly established, the inferences to be drawn from the circumstances of the Respondent's involvement in Ishaan's PLAR applications were vigorously disputed. In considering whether any violation of Board policy was established, therefore, the writer canvassed the parties' conflicting positions with them carefully and, where required, made assessments of the witnesses' credibility. In assessing credibility, we applied the factors prescribed as the traditional test, namely the witnesses' opportunities for knowledge of the material events, their powers of observation and recollection, ability to describe clearly what occurred and the extent of the witnesses' apparent interest in the outcome. We kept in mind that the parties' differing observations should be measured against the evidence of other witnesses and assessed in light of the probabilities which a practical and informed person would recognize as reasonable in such circumstances.

As applied here, the test for determining whether the Respondent's conduct amounted to wrongdoing was an objective one, to be determined according to the ordinary civil standard of proof on the balance of probabilities. We adopted the approach taken in that regard by most courts, arbitrators and human rights tribunals in examining allegations of workplace misconduct. It was not sufficient proof of wrongdoing, in other words, for the Complainant or others to show merely that they found the Respondent's involvement in her son's academic efforts to be distressing or improper.

(C) The Respondent's Position

The Respondent contended forcefully that the steps which she took on Ishaan's behalf in the course of his several years as a Mississauga student were part of her right and responsibility to advocate for him as a parent. At no time did she direct Board personnel to afford Ishaan special treatment, or apply pressure, directly or indirectly, using her position as Associate Director with the Board.

To appreciate the need for assertive interventions on her son's behalf, the Respondent explained, it was important to understand the manner in which Ishaan (and the Respondent) had been targeted for unfair treatment after Ishaan began his studies at Mississauga. Ms. Grewal presented

a detailed chronology of the deficiencies which she observed in teaching and evaluations in Ishaan's courses starting when he entered grade nine. She made her criticisms known directly to teachers and administration at Mississauga, the Respondent indicated, with the result that there was resentment around her role as a parent and senior Board administrator. The relationship between Ishaan and staff in the phys ed department became especially "fractured" in grade ten following a dispute about Ishaan's participation on the junior boys' volleyball team. Ultimately, the Respondent maintained, she became the subject of "*deep-rooted animus*" on the part of some Mississauga staff.

It was for that reason that the Respondent requested that Ishaan be accommodated by assignment of PLAR assessors other than Mississauga phys ed staff, she indicated. The request that Ishaan's first two PLAR applications be processed earlier than the usual deadline was because he had dropped two courses during the first semester of 2018-19 and was anxious at the prospect of falling behind. Extensions of the deadline for filing the third PLAR application during second semester were routine requests stemming from Ishaan's busy schedule and his confusion about the number of grade eleven credits which he required. The Respondent's involvement in communicating these requests to personnel at the Board office was solely wearing her parent's "hat", Ms. Grewal reiterated, and would not have been seen by any such individuals as amounting to a form of direction or pressure by the Associate Director.

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The Respondent went further in this submission. This whistleblower complaint formed part of the same pattern of mistreatment which she and Ishaan had experienced at Mississauga, Ms. Grewal argued. Staff there were unhappy with her involvement and advocacy for her son, despite the fact that her requests on Ishaan's behalf were consistent with Ministry of Education and Board policy and direction. She had been scrupulously careful to distinguish between her parental and professional roles. If she were prevented by reason of her position of employment from advocating for Ishaan in the manner demonstrated here, the Respondent suggested, it would constitute a form of discrimination against each of them on the basis of her family status as sole custodial parent.

The Respondent was represented by legal counsel when we conducted a lengthy interview with her on September 16th. Ms. Grewal changed legal counsel following that meeting. By letter dated

September 24, 2019, her new counsel, Mr. Andrew Pinto (“Pinto”) advised the writer of the Respondent’s concern that the investigation was not being conducted “*in as impartial, thorough and objective manner as is required*”. (Tab “3”) Mr. Pinto recited a number of complaints put forward by Ms. Grewal about the matters on which she had been questioned, including her role in the implementation of the PLAR program in 2017, her request that Mississauga phys ed staff not be assigned to evaluate her son’s PLAR applications and the circumstances in which she requested extensions of the deadline for the third PLAR application. Listed in Mr. Pinto’s letter were most of the main points on which the Respondent’s evidence was questioned or challenged in any manner during the interview.

The Complainant took special exception to the writer’s suggestion at the conclusion of the interview that this was not a case where it was open to me to find that the Complainant’s report to the Director was knowingly false or made with vexatious or malicious intent, within the meaning of Section 3.6 of the *Whistleblower Policy*. That suggestion demonstrated that I had already decided important aspects of the investigation, the Respondent contended, and was not open to considering her perspective.

The writer replied to Mr. Pinto by letter dated September 25, 2019 (Tab “4”). On the last point, I indicated as follows:

Ms. Grewal is correct in one of the factual contentions excerpted in your letter at page four. The writer indicated at the conclusion of our interview that I did not expect to make any finding under Section 3.6 of the Whistleblower Policy to the effect that the complaint was made falsely and with vexatious or malicious intent, within the meaning of that provision. Having heard evidence from a total of eight witnesses (including the whistleblower and Respondent), it was my view that it would not be open to me find that the difficult test in Section 3.6 is met. Whether the Complainant’s concerns give rise to any finding of wrongdoing on Ms. Grewal’s part is a different matter, and one which I will be addressing in my report to the Director.

None of the other issues raised in Mr. Pinto’s letter caused me to question the fairness of the investigation process, the writer indicated in the same letter. Ms. Grewal was well-organized and well-prepared for our September 16th interview. She provided a coherent response to each element of the complaint. I tested some of her assertions in a manner that required her to explain and justify her position. She was direct and forthcoming in doing so. I paid close attention to her contention that Ishaan’s difficult experience at Mississauga was the sole impetus for her actions

in support of his academic success and well-being. I advised Mr. Pinto that my further comments on that and other issues would be confined to my report to the Director.

In his September 24th letter, Mr. Pinto requested that another meeting with Ms. Grewal be scheduled in order to address her concerns and “*cover off the aspects of this investigation that appear to be lacking*”. I responded to that request as follows:

Ms. Grewal and her counsel gave no indication prior to your letter that she felt precluded from canvassing any aspect of the complaint, or that there were other areas which she wished to address. I was equally satisfied that I had obtained the information necessary for the purposes of the investigation. While I have no additional questions for Ms. Grewal, I do not wish to preclude her from bringing to my attention any new matter which she considers relevant. She is welcome to do so in writing, either through your office or directly to my attention. If such additional evidence requires a further in-person meeting with the Respondent, I will certainly request that attendance. I do not otherwise consider that there is anything to be gained by a further meeting.

The Respondent accepted my invitation to make additional representations by delivering a further written submission on October 2. While that submission did not contain new information, we took it carefully into account. I remained satisfied with the thoroughness of the investigation and confident in the fairness and impartiality with which it was conducted.

(D) Summary of Outcome

At the conclusion of the investigation, we found that the Respondent engaged in conduct which amounted to a conflict of interest by using her position and influence as a member of the Board’s senior administration to secure benefits for her son in the PLAR process. That violation of the *Conflict of Interest Policy* and *Code of Conduct* in turn constituted wrongdoing on the applicable definition in the *Whistleblower Policy*. We determined the complaint to be substantiated, therefore.

IV. EVIDENCE AND ANALYSIS

(A) Evidence of the Complainant

(i) Background – Involvement in the PLAR Process

The Complainant began teaching in 1993. He was assigned to his current school, Mississauga approximately fifteen years ago and held the position of department head in physical education

over the intervening period. Spriel served as OSSTF Branch President at the school over the same period.

In March 2017, Spriel was contacted by email by the Respondent, who was then Superintendent of Curriculum and Instruction (**Tab "5"**). Grewal inquired about Spriel's interest in becoming involved in PLAR assessments for students seeking Phys. Ed. credits. The Respondent wrote as follows:

"I am emailing to inquire whether you or one of your department members would be interested in looking at some student packages for PLAR. PLAR is used to give students who have had prior learning an opportunity to get credits. The Curriculum department has received 2 PLAR applications for the grade 11 Personal Fitness course and we wanted to moderate them for credit granting purposes. We thought HPE staff at Mississauga SS would be the ideal choice to help us moderate because of the High Performer Program coming to Mississauga SS and many of these students next year will apply for PLAR. We would be looking to provide release time and moderate at the Board office during the day.

Please let me know if you require any further information, and if you or any of your department staff would be interested in this opportunity.

Thank you for your consideration of this request."

The PLAR procedure had seldom, if ever, been utilized prior to that date, Spriel believed. He responded to the inquiry by saying that he was interested in participating in the program. Two other teachers in his department, David Chee ("Chee") and Christina Martins ("Martins") also put their names forward in response to the request for potential assessors.

Spriel was accepted as an assessor, he recalled, but he was scheduled to go off work for a knee operation for three months during the spring of 2017. As a result, he opted not to participate in advance of his leave of absence. Chee and Martins did complete some PLAR assessments that year, Spriel understood.

The recruitment process for PLAR assessors was relatively informal. The applicants were not interviewed. Chee and Martins shared with Spriel a PowerPoint presentation which they were

shown early in the process, but there was otherwise no formal training. The assessors were paid forty-five dollars per hour for their work, Spriel remembered.

PLAR assessments continued in 2017-18. By email dated February 14th, 2018, the Instructional Coordinator – Pathways Guidance and Career Education, Amy Melo (“Melo”) inquired of Spriel, Chee and Martin whether they were interested in serving as teacher assessors for two Mississauga students who intended to challenge for PLAR credits during that school year. Both students had been granted extensions of the deadline for applying until April 1st, 2018, Melo explained. Three other students outside Mississauga were also challenging for PLAR credits in Phys. Ed., she indicated (**Tab “6”**).

Spriel and Melo exchanged additional emails on February 15th-16th, 2018 with respect to Spriel’s questions about the PLAR procedure (**Tab “7”**). Melo explained that it would take several hours to go through the application packages, with one member of the team to be the “main assessor” for each student in order to conduct the final evaluation. It was expected that any “gaps” in students’ application packages would be made known to them through follow-up conversations prior to the final assessment, Melo indicated.

Martins elected not to continue her participation in 2018. Spriel took her place. He described for us the steps in the PLAR assessment process that were followed in 2017-18 (and in the following year).

All PLAR challenges in any subject area were received by Melo. Applications in the Phys. Ed. field were then directed to Melo’s colleague, Joe Grdisa (“Grdisa”), who in turn distributed the application packages to Spriel and Chee as assessors. That occurred variously by couriering the PLAR application packages or at meetings between Grdisa, Spriel and Chee to discuss the student applicants.

Spriel outlined the specific steps in the procedure as follows:

- Grdisa, Spriel and Chee conducted an initial review of paper applications and all supporting documentation, including videos, PowerPoint demonstrations, essays, charts and certificates;

- the same three individuals conferred following this initial review and discussed the merits of the applications, identifying missing information that needed to be collected in order to evaluate them more completely;
- Spriel or Chee wrote a preliminary feedback report using a template for that purpose, in which they posed questions to each student for the purpose of obtaining the missing information. Typically, Spriel explained, a student athlete might have submitted a video showing a demonstration of techniques or movements, but omitted to explain how the activity related to the curriculum “strands” in the course for which credit was sought;
- the student was usually given around two weeks to respond to the feedback request;
- after obtaining the student’s response, the assessors met with the student for an in-person interview, with Grdisa in attendance;
- following such interviews, the assessors considered whether the student satisfied the course requirements and what mark should be awarded. Marks were generally related to the breadth and depth of the student’s qualifications and the knowledge which he or she demonstrated during the interview;
- Spriel and Chee thereupon wrote up PLAR report cards containing an explanation of the mark that was awarded. The report cards were sent to Grdisa for review, usually about three or four days after the interviews;
- through Grdisa, the reports went back to Melo, who contacted the student applicants to inform them of the results;
- report cards and the supporting PLAR challenge packages were forwarded to the Guidance head at each school as the final step in the process, in order that the credit and mark could be entered in each student’s individual Ontario Student Record (“OSR”).

Spriel estimated that the assessors evaluated about four students in each of the three academic years of 2016-17, 2017-18 and 2018-19. He did not keep a list of the students. Paper copies of the application packages were distributed for review by the assessors, Spriel said, but he did not retain them following completion of the assessments.

None of the applicants was evaluated by Spriel and Chee was denied the credit being sought. Students were permitted to submit additional information to “*get them to a pass*”, as Spriel put it, based upon feedback from the assessors during the evaluation process.

Spriel described the timeline that was applied during the PLAR process in successive years. There was a deadline for applications in February. Initial pre-screening and evaluation usually began in March, he said. Interviews were conducted during the month of April and reports were normally issued by the end of the same month. There was a need for a clear deadline, Spriel explained, because students sometimes required PLAR credits and marks for the purposes of university applications.

(ii) *Ishaan Thandi*

Ishaan was known to him even before the student came to Mississauga, Spriel recalled. He had heard of the student from Mr. Kelly Smith (“Smith”), a teacher at David Leader Middle School, a feeder school for Mississauga. Smith was a founder and organizer of the Pakmen volleyball program, a club which operated volleyball programs for players at different age levels in the Mississauga, Oakville and Burlington areas. Smith often flagged Pakmen athletes who were coming to Spriel’s school as potential competitive volleyball players. Ishaan was identified in advance of his grade nine year as one such athlete.

From the start of Ishaan’s time at Mississauga, according to Spriel, the student’s mother played an active role in relation to Ishaan’s academic performance. Spriel taught Ishaan during the student’s grade nine year. The second semester of that year coincided with Spriel’s absence for his surgery. Upon his return, Spriel was about to administer a test when he was contacted by telephone by Grewal. According to Spriel, the Respondent challenged him as to whether he should be setting the test when he had been absent for the teaching of much of the course content. Spriel assured Grewal that other sections were taking precisely the same test, and that

he planned to compare the results from his class to other sections to ensure that there were no anomalous results between classes.

Concurrently, Spriel said, other teachers who had Ishaan in their classes began to come to him as OSSTF Branch President with reports that they were being contacted by Grewal about such matters as Ishaan's test marks, essays and gradings on assignments. Those reports were relayed to him during each of Ishaan's grade nine, ten and eleven years at the school. He was approached separately by a total of three English teachers and two Science teachers, Spriel estimated, all of whom expressed common concern about Grewal's criticism of evaluation practices used in their classrooms. Those practices needed to be changed, based on her son's experience, Grewal had suggested to each of them.

As reported to him, Spriel said, teachers who had Ishaan in their classes almost invariably received a contact from Grewal whenever Ishaan did poorly on a test. In most instances, the Respondent questioned the steps which had been taken to support and prepare her son for the evaluation. In one instance, Spriel recalled, she was said to have queried the teacher as to his choice of topic area for an assignment, commenting that the topic which had been selected held little interest for Ishaan.

During his own interaction with Grewal, and for other teachers, Spriel suggested, it was difficult to distinguish when she was expressing concerns as a parent and when she was giving advice or direction as a senior administrator in the Board. He did not take the matter up with his own administration, however, or otherwise register any formal complaint about Grewal's involvement. Spriel did not teach Ishaan again after grade nine.

(iii) *The Volleyball Incident*

Ishaan played on the junior volleyball team at the school in each of grades nine and ten. Chee was a junior team coach for both years.

There was an incident involving Ishaan's participation on the team while he was in grade ten, Spriel recalled. Chee and his co-coach applied the policy that any player who missed a practice was required to sit out the first set of the next game played by the team. That rule had been

applied to everyone on the team, Spriel understood. When Ishaan missed one or more practices during the fall of 2017, he learned that he would be sitting out a set during the next game.

As an aside, the Complainant said, the junior team had a record of something like 14-0 that year. The game in which Ishaan was intended to be sat out was a league game, not a tournament or playoff match. Ishaan became very upset at the prospect, nevertheless. He vowed to his coaches that he was quitting the team.

The Respondent became involved. Grewal contacted the coaches by phone or email. She requested a meeting to discuss the policy which was being applied. Chee and his co-coach came to Spriel as OSSTF representative and requested that he attend the meeting with them. Spriel did so, along with the school's athletic director, Peter Woo ("Woo"), Grewal, Ishaan and the vice-principal, Dan Drmanic ("Drmanic").

At the meeting, Grewal expressed the strong view that the team should not have such a policy requiring players to sit out because of missed practices. The rule could be challenged on human rights grounds, Grewal said, given that Ishaan was being penalized for his absence due to illness. She threatened to do so, according to Spriel.

The Phys. Ed. department contingent felt that this was a clear form of intimidation by a Board superintendent. They did not back down, although the coaches thereafter talked with Ishaan and agreed to allow him back on the team despite his declaration that he was quitting. The student did sit out part of the next game. There were no direct repercussions from the Respondent, who continued to attend her son's games and gave no obvious indication of lingering resentment.

The above incident occurred during the 2017-18 school year. Ishaan was a starter on the senior team during the following year, when he was in grade eleven. Mississauga was one of the premier volleyball schools in Ontario, Spriel explained, in large measure due to the training its players received in the Pakmen program. The team won gold at the OFSA championships this past year.

(iv) *Ishaan's PLAR Credits*

The Phys. Ed. department (formally “Healthy Active Living Education”) offered multiple courses at grade eleven level, the Complainant explained, including courses coded as PAF 30 and PPL 30. PAF 30 was a “Personal and Fitness” course which centred around weight room work, cardio training and core strengthening. PPL 30 was a more mainstream Phys. Ed. course in recreation involving broad exposure to a number of activities.

In late January 2019, Spriel recalled, a Guidance counsellor at the school, Greg Carrega (“Carrega”) came to see him in the Phys. Ed. office. Carrega’s words were, roughly: “*You won’t believe what I just received – two PLAR reports for Ishaan, each with a one hundred percent mark*”. Carrega had the two PLAR packages in hand. The final reports were contained with them. The PLAR credits were for PAF 30 and PPL 30. Carrega remarked to Spriel that the evidence provided with the applications seemed to overlap for the two courses. For example, Ishaan had submitted a training calendar showing his workout times. That rigorous training schedule appeared to be relevant to the PAF credit, but the student seemed to have used the same fitness evidence to support the PPL credit.

Both reports were signed by Grdisa. There was nothing particularly unusual about that, Spriel indicated; in the past, he and Chee had signed some reports, but others which they had forwarded to Grdisa electronically may have been signed by Grdisa before being passed on. Grdisa was an elementary teacher, Spriel informed the writer, who had never taught a secondary school course. He was shown as the teacher assessor on Ishaan’s reports, nevertheless. The reports were also signed by an individual identified as “Coordinating Principal, Secondary”. That individual, whom Spriel understood to be Ms. Carol Suhay (“Suhay”) was Grdisa’s supervisor, he believed.

Carrega told Spriel further that he had received the reports and packages from Melo by courier after getting an email from Melo telling him to expect them. Carrega did not want to enter these marks, he told Spriel, because he was uncomfortable with the appearance of involvement in granting credits which he regarded as questionable.

For his part, Spriel agreed that the granting of these credits was highly irregular. When he scanned the packages, Spriel recalled, he saw no reference to any interview with the student. The two reports had far less detail than Chee and Spriel usually included in their reports. There

was no indication in the packages whether Ishaan had submitted a video or PowerPoint presentation in support of either application, to explain how the elements of the course curriculum were met. Application packages that had earned such high marks from Spriel and Chee had been far more extensive, Spriel thought. He could not be more specific. He conceded that it was possible that the student had supplied a USB stick containing more information, but that device had not found its way with these packages when they were delivered to Carrega.

Moreover, Spriel understood, both Chee and Martins had been instructed in their PLAR training session that two separate PLAR credits could not be conferred for the specific Phys. Ed. credits granted to Ishaan, PAF 30 and PLP 30, because of the extent of overlap between those courses. That stipulation was contained in the PowerPoint presentation given during their training, Spriel said, a copy of which Chee had retained.

Spriel was frankly concerned that the PLAR packages supporting these credits might somehow disappear, he said, so he made photocopies of the materials which Carrega had in hand. Spriel turned those materials over to the writer during our interview (**Tab “8” and Tab “9”**). He had no idea why Ishaan’s applications had been assessed during first semester rather than according to the usual schedule, Spriel told us, or why the Mississauga assessors had been excluded from the process.

Thereafter, the Complainant said, he “let the matter sit”. The PLAR assessment process for 2018-19 had not yet begun, at least insofar as his own involvement was concerned. He was uncertain whether he and Chee were even going to be part of the process at that point, having been left out of Ishaan’s applications. Spriel decided that he would raise Ishaan’s case with Grdisa directly as and when they were called upon to assist.

On February 19, 2019, Spriel and Chee received an email from Grdisa asking if they were still interested in being part of the PLAR assessment process for that year (**Tab “10”**). Both agreed to do so. There followed a series of emails by which Grdisa and the assessors arranged a meeting at the Board office during the first week of April in order to do the pre-assessment of PLAR packages which had been submitted that year. The assessors did not actually see the packages until they attended for that meeting. They reviewed and discussed the PLAR challenges with the packages in front of them.

Grdisa had brought two additional Phys. Ed. teachers into the PLAR assessments that year, Spriel noted. One was Mr. Brad MacNeil (“MacNeil”). Spriel could not recall the name of the other new participant. Both attended the pre-assessment meeting.

(v) *Discussions with Grdisa and Melo*

At that April meeting, Spriel raised the subject of Ishaan’s PLAR credits during a break in proceedings. While both new teachers on the assessment team were out of the room, Spriel recalled, he asked Grdisa as follows:

“Ishaan – what happened there? Why was it done in January and not as part of this process?”

Although he could not recall Grdisa’s precise words in response, Spriel said, it was roughly to the effect of: *“Off the record, she didn’t want you guys to be part of the assessment”*. Spriel understood that *“she”* meant the Respondent. Grdisa offered no further explanation. Spriel shrugged and remarked that he felt disappointed that the student had apparently received special privileges or an exception to the rules which applied to PLAR challenges. He did not understand why that was done, Spriel told Grdisa. Grdisa replied *“it is what it is”*, Spriel recalled.

One other comment during the April pre-assessment meeting touched upon Ishaan’s case. As those in attendance were reviewing another student’s application package, Grdisa made a comparison to material which had appeared in Ishaan’s package, or some piece of information which had emerged during the assessment of Ishaan’s PLAR challenges. Grdisa’s comment appeared to be directed to MacNeil. *“Remember how much Ishaan knew on that question?”* Grdisa asked MacNeil, in those or similar words. Ishaan had had a great interview, Grdisa added. This was the first indication to Spriel that there had actually been an interview with Ishaan, and that MacNeil had been involved in his evaluation.

Following his discussion with Grdisa at the April pre-assessment, Spriel sent an email to Melo on April 10, 2019 with some questions about PLAR challenges. He included a specific inquiry about Ishaan’s assessment (**Tab “11”**). Without naming him, Spriel noted that one student had by-passed the usual assessors and had obtained two credits based upon similar curriculum. Spriel was concerned about the integrity of the program, he told Melo:

Spriel did not drop the matter at that point. He repeated to Melo the concern which he had expressed to Grdisa. He did not understand why one student had been granted an exception to the normal procedure, both as to timing and assessment team. That student seemed to be getting the benefit of privileges not available to other students. Melo's only response was: "*I agree*".

That was the end of the conversation, the Complainant recalled. He was left to infer that Melo's boss, Suhay had directed her to steer Ishaan's applications in a different route than PLAR challenges by other students.

(vi) *The Complainant's Further Steps*

At the end of May 2019, the Complainant told the writer, he learned that Ishaan had been granted a third PLAR credit in grade eleven.

The source of that information was Carrega, who again approached Spriel about the matter. Carrega had entered the two Phys. Ed. marks for Ishaan at the urging of the principal, Carrega reported, but he was now being asked to enter another credit for Ishaan, this time in Family Studies. Carrega had the Family Studies report with him, though not the evidence which had been filed in support of the application. The Complainant made a copy of the assessment report (Tab "13").

The PLAR report for Ishaan's Family Studies credit was well beyond the date when Spriel's Phys. Ed. team had finished its evaluations of PLAR challenges. The Complainant believed, although he was not certain, that PLAR challenges in all subject areas system-wide had historically been assessed at the same time, namely prior to the end of April. He was unaware whether there had been any other PLAR challenges for Family Studies courses, apart from Ishaan's. The late evaluation was yet another example of Ishaan's differential treatment, Spriel felt.

Spriel next met with Mr. Robert Crocker ("Crocker"), a Board trustee who was also a former teacher and former OSSTF District President. Spriel had known Crocker for many years. They met at a Tim Horton's outlet on Mavis Road in early June, Spriel estimated. He wanted Crocker's opinion firstly whether the circumstances surrounding Ishaan's PLAR credits were something that was worth looking into, as Spriel put it, or if he were simply making too much of

the matter. He also wanted feedback from Crocker as to what steps could or should be taken if the issue ought to be pursued.

At the meeting with Crocker, the Complainant gave the trustee an overview of the circumstances described above, including the terse explanations which had been provided by Grdisa and Melo regarding the processing of Ishaan's PLAR challenges. Crocker's first suggestion was that the Complainant could go to OSSTF District 19 leadership. Spriel saw little prospect that OSSTF would be able to accomplish anything in this situation. Crocker next mentioned that the Board had a whistleblower process. Spriel was then unfamiliar with that policy. While Crocker told the Complainant that he wanted to think about the matter further, Crocker definitely felt that the circumstances needed to be examined, he assured Spriel.

Either during that initial discussion or in a subsequent email exchange, the Complainant recalled, Crocker suggested that he could set up a meeting between Spriel and the Director, Mr. Joshua. Spriel agreed.

That meeting occurred at the Board offices on June 18th, with Crocker in attendance. Spriel told no one about the meeting in advance, he told the writer, with the possible exception of Chee, who was in the Phys. Ed. office on the morning of June 18th as the Complainant was preparing to leave for the Board offices. He disclosed to the Director verbally an outline of the circumstances described above, Spriel told us.

(B) Evidence of David Chee

(i) Initial Involvement

Mr. Chee was in his eleventh year in the Phys. Ed department at Mississauga at the time of this investigation. His involvement in the PLAR program went back to 2016-17, Chee confirmed, when the process was first implemented in the system.

Along with a Phys. Ed colleague, Martins, Chee attended a preparatory meeting at the Board office in early 2017 with the Instructional Coordinator for their subject area, Grdisa and the Respondent, who was then a superintendent. The PLAR program was part of Grewal's portfolio, Chee understood. This was not a formal, structured training session, Chee explained. Instead, the group went through two PLAR application packages which had been submitted by students at

Humberview Secondary School in Caledon. Both students were seeking Phys. Ed credits. Chee could not recall what instructional materials were before them, if any. The group reviewed the applications and talked about the process that should be adopted in evaluating them. That was the extent of the training. Both students were given the PLAR credits.

He joined a “writing team” during the following summer to produce a guide or “tip sheet” for students seeking PLAR credits, Chee recalled. That opportunity was advertised on the Board website. The team included Grdisa and a vice-principal, Mark Bottnick. The group spent two or three days writing PLAR related materials, Chee said. He was not involved in preparing the PowerPoint presentation which described PLAR requirements and procedure. He reviewed that presentation at the beginning of his participation, however, then downloaded and printed it in its entirety in December 2018 (Tab “14”).

The seventh slide in the presentation stipulated that students could not be granted PLAR credits for a course where curriculum expectations overlapped with those in a course in which a credit had previously been granted, Chee noted. Two Phys. Ed courses were cited as specific examples of that prohibition: PAF30 and PPL30.

Chee had a kind of dual involvement in the PLAR process, he explained. First, Mississauga was the site of the High Performance Program (“HPP”), which was established to support students who were attending school while simultaneously pursuing training programs in sports, music or arts. HPP students’ schedules were arranged around their intensive training sessions, with the result that they sometimes attended only for the first three or the final three classroom periods in order to accommodate practices. Most HPP students at Mississauga were athletes, Chee said. Chee was the in-school assessor for HPP students who made PLAR challenges, with another teacher, Jennifer Boyer (“Boyer”).

Chee made a presentation to students in the HPP about the PLAR program during the first semester of 2018-19, he recalled, at the request of the HPP coordinator, Cristina Bonasia (“Bonasia”).

Chee’s other role was as assessor for the non-HPP PLAR applicants, including those from other schools. Spriel replaced Martins as Chee’s partner for that purpose starting with the 2017-18

academic year. They reviewed at least three applications during that second year, Chee recalled, none of whom was a Mississauga student.

Chee's account of the evaluation procedure mirrored Spriel's description. PLAR applications were submitted to either Melo or Grdisa at the Board office and were forwarded to Chee and Spriel via courier. In one or more instances, Chee recalled, he and Spriel went to the Board office and reviewed the contents of the packages with Grdisa, who was their primary contact there. After that joint initial review of the packages, they provided feedback for applicants in order that the students could "fill in the gaps", as Chee put it. After the final PLAR packages were submitted, there were individual interviews. All of this occurred during the second semester of the academic year, since the due date for submission of applications was at the beginning of February.

After the interviews, Chee recalled, he and Spriel prepared report cards and submitted them to Grdisa via email. Chee believed that Grdisa submitted the report cards to Melo, who was responsible for managing the entire PLAR program.

The same process was followed in 2018-19, Chee said, except for Ishaan's applications.

(ii) *Ishaan's Case*

Although a skilled volleyball player, Ishaan was not a participant in the HPP, Chee told us. Chee was Ishaan's junior volleyball coach during the student's first two years at the school, 2016-17 and 2017-18. Chee became acquainted with Ishaan's mother, who was frequently in attendance at games. They had one difficult interaction during the second year of Ishaan's participation on the junior team.

It was a standing rule for the volleyball team that a student who missed a practice was required to sit out the first set of the next match, Chee confirmed. That rule was among the conditions of play which were made known to members of the team each year, including Ishaan's grade nine year in 2016-17. As it turned out, Ishaan was ill several times during the volleyball season in grade ten. A missed practice triggered the requirement that he sit out during the next game. When Chee informed him of that result after a practice, Ishaan became immediately upset. He

declared on the spot that he was quitting the team. Chee chose not to engage with the student at that point, he recalled, and walked away.

Chee subsequently received a call from the Respondent, who said that she wanted to have a meeting to discuss the matter. Chee agreed, but decided that he wanted to have his OSSTF Branch President, Spriel in attendance, along with the athletic director at the school, Woo. The vice-principal, Grmanic also attended.

The resulting discussion mainly involved both Grewal and Ishaan criticizing the conditions of play policy, Chee recalled. Grewal felt that it was unfair that a student who was legitimately ill and away from practice should be penalized by sitting out. Grewal's tone was "quite forceful and dominating", as Chee put it. He attempted to point out to her that she had signed a permission form for Ishaan in grade nine which had the conditions of play outlined on the form. Grewal cut him off, saying "*I know the conditions of play*". Chee should have left it at that, he remarked to us, but he added that Grewal had effectively agreed to those conditions. They had not been an issue for Ishaan during grade nine, but were now an issue because it had impacted him directly, Chee suggested.

They agreed to disagree, Chee said, except that Grewal threatened that she would take the unfair policy "*to Human Rights*" if Ishaan elected not to come back to the team. At the end of the meeting, Chee recalled, he and Spriel wondered aloud to each other what Grewal meant by that reference. Neither of them fully understood what she was threatening.

Ishaan wanted to come back to the team. Chee and his co-coach, Hubert Wong agreed that the student should be permitted to do so. Ishaan did sit out the first set of the next game.

At no time during the meeting described above did Grewal refer to her Board position, or suggest that her role as a senior administrator gave her special insight into the missed practices rule, Chee conceded. On the other hand, he said, it was always in the back of his mind during this tense discussion that he was talking to a Board superintendent, not merely an engaged parent.

It was during the second semester of the following year, 2018-19 that Chee became aware that Ishaan had been granted two PLAR Phys. Ed credits. Chee learned that from Spriel, he recalled. Chee was baffled by this, since HPP PLAR applicants from the school were evaluated by Chee

and Boyer, while other students seeking PLAR credits in Phys. Ed challenged through Chee and Spriel. How Ishaan could have obtained the credits without going through Chee was unclear to him.

That question was answered later during the semester, Chee recalled, when he attended a meeting with Grdisa, Spriel and two new assessors, MacNeil and Justin Ambrose ("Ambrose"). That meeting was held to assess PLAR applications by non-Mississauga students. Both MacNeil and Ambrose were Phys. Ed teachers who had just been brought into the process by Grdisa, Chee understood.

During that working session at the Board office, Spriel brought up Ishaan's name while MacNeil and Ambrose were out of the room. Spriel asked as follows:

*"I heard that Ishaan was able to challenge for these two credits.
Why was that possible?"*

Chee recalled Grdisa's response. "Off the record", Grdisa said, he had been asked by the Respondent to start the PLAR process for Ishaan early and to conduct the evaluation of Ishaan's PLAR packages. That request had been made by Grewal directly, Chee understood. MacNeil and Ambrose then returned to the conversation, Chee recalled, with the result that he and Spriel could not ask Grdisa to elaborate. Chee had no further discussion with Grewal about the matter.

Chee saw the report cards awarding marks of one hundred percent on each of the two Phys Ed courses when they were forwarded to the school for recording in Ishaan's OSR. Chee also examined "bits and pieces" of the evidence submitted by Ishaan in support of the PLAR challenges. He did not consider that the student deserved the marks which he attained, Chee told us. Grading PLAR challenges was a weighted process in which seventy percent of the mark was attributable to the written package and thirty percent to the interview with the student. A female student in the first year of Chee's PLAR involvement had received a perfect mark, and the same student had received the same mark in the following year for another PLAR Phys. Ed credit. That student was a high-level soccer player. Her written package was simply outstanding on each occasion, Chee said. Ishaan's written packages were both more sparse. There was significant duplication in the form of the training schedule which he submitted with both applications. Having regard to the weighting of the two components, Chee said, a student who

had a weak written package would not ordinarily earn a one hundred percent mark even on the basis of a very strong interview.

Spriel had voiced a “principled” objection to these circumstances, Chee recalled, believing that the awarding of these Phys. Ed credits – and a third credit which was granted to Ishaan in a Food and Nutrition course – was simply wrong. Spriel wanted to pursue the matter, but Chee “just didn’t want to be part of the whole thing”, as he told us. Chee expressed grave concern that he might be identified as having participated in this investigation, even indirectly. He was scheduled to teach Ishaan during the first semester of 2019-20, Chee explained during our interview with him. He was worried about that prospect, because he had heard stories from various teachers who had been held to account by Ishaan and his mother for negative results in Ishaan’s classes.

(C) Evidence of Greg Carrega

The head of the Guidance Department at Mississauga, Carrega indicated that he had no direct role in processing or evaluating PLAR challenges, but had considerable familiarity with that process because the school housed the HPP program from which a number of students had made PLAR applications. There were about fifty to sixty HPP students out of a school population of just under thirteen hundred, Carrega explained. Most were participants in sports like hockey, gymnastics and lacrosse, but a small minority were involved in dance or music. Carrega’s role as department head and one of three Guidance counsellors was to provide such students with information about PLAR opportunities, and ultimately to enter their PLAR credits as and when granted.

Guidance counsellors usually divided up responsibility for supporting students by part of the alphabet. It was not uncommon, however, for one of the school administrators to suggest to Carrega that he assume responsibility for a particular student outside his “alpha”. As head of the department, Carrega was viewed as the most experienced person to handle students who required particular management, he thought. Those requests typically related to the needs of a particular student.

Carrega was asked by the then-principal at Mississauga, Ms. Judith Beriault to assume responsibility for Ishaan when the student arrived at the school for grade nine. Neither the

principal nor Carrega had any particular information about Ishaan except that he was the son of a Board superintendent, Carrega recalled. He was not directed to treat Ishaan differently than any other student. Over the course of the next several years, however, Carrega had extensive involvement in planning and supporting Ishaan's high school program, including frequent contact with the student's mother.

Those contacts came in the form of telephone calls, email messages and in-person meetings with the Respondent, Carrega said. Grewal was polite and respectful when she spoke with him. He was always aware, on the other hand, that he was dealing with a supervisory officer who did not need to be bold or demanding to gain his support, Carrega remarked. Grewal communicated with him on everything from Ishaan's overall pathway plan to course prerequisites for that plan and course selection and timetabling matters. There was an instance when she wanted Ishaan's math course taught in a particular semester because the workload collided with his volleyball season. On another occasion Grewal arranged for Ishaan to drop out of a math course and take it in a private school. There were seemingly constant course changes, Carrega recalled. During the second semester of 2018-19, the Respondent asked Carrega to withdraw Ishaan from a course in the Science department after he had encountered unexplained "issues" with the teacher. Carrega could not recall that the Respondent provided him with details, but merely advised in words to the effect of: "*He's not successful with this teacher. I'd like him to be dropped from that class*".

The Respondent sometimes came to Mississauga and dropped into Carrega's office unannounced for a conversation about Ishaan. The conversations were always cordial. Carrega knew from occasional comments by other teachers in the school that they regarded some of the Respondent's direct communications with them as objectionable. That was second or even third-hand information, Carrega said. He personally had what he described as a courteous relationship with the Respondent.

Carrega referred during our interview to a status sheet which he had pulled from Ishaan's OSR. From Ishaan's transcript, Carrega said, it appeared that the student was being "fast-tracked" through credit accumulation during private school summer sessions and PLAR credits. Ishaan earned the normal progression of eight credits in grade nine and eight credits in grade ten, then

earned a math credit over the summer following grade ten. Ishaan was enrolled in the Specialist High Skills Major program in Health and Wellness and began accumulating credits in that area in grade eleven. It appeared from his transcript that the student completed another private school course that year, Carrega said, with the result that Ishaan had obtained ten credits over the course of his grade eleven year in 2018-19.

The first two PLAR credits were entered for Ishaan in January 2019 and a third PLAR credit was entered in May 2019. Accordingly, Carrega told us, Ishaan was ahead of his "normal" progress to that point.

Prior to receiving notification of Ishaan's PLAR credits, Carrega said, he had only seen PLAR packages submitted by HPP students at Mississauga. Those applications were evaluated internally by PLAR assessors in the building, who submitted the package to Carrega with a report card completed and mark assigned, in order that it could be added to the student's transcript as a credit update. The PLAR package was then placed with the report card in the OSR, as a record of the work which had been completed by the student.

There were at least three or four students from the HPP who had completed this process earlier, Carrega said. He had had the opportunity to review each of their PLAR packages informally, so he had some basis for comparison when he saw Ishaan's two applications for Phys. Ed credits. Carrega received an email, he recalled, probably around January 2019, indicating that Ishaan had successfully obtained the credits in PAF and PPL, both with marks of one hundred percent. The PLAR packages arrived in hard copy by courier about a week after the email notification, Carrega recalled.

When he flipped through the packages to find the report cards, he made an informal comparison against the PLAR challenges which he had seen coming from the Mississauga teacher assessors, Boyer and Chee. Ishaan's applications lacked substance, Carrega immediately concluded. As a teacher with a background in history and English, he told us, he had a good sense of what constituted real work on the part of a student and what did not. Ishaan's narrative description of his athletic and training accomplishments did not match the HPP students' packages as to either quality or quantity of material. Those students had been granted good marks, in the 80's and low 90's. Had Ishaan been given a seventy percent mark in these Phys. Ed courses, Carrega

commented, he probably would have just entered the marks and said nothing. He rarely saw one hundred percent awarded in any course, and his anecdotal comparison of Ishaan's packages did not suggest that it was warranted here.

Carrega went to his principal, Ms. Giota Woods ("Woods") because, as he told us, he was uncomfortable entering these marks in Ishaan's register. The principal told him that if he were not prepared to do so, she would need to enter the marks. Carrega agreed to make the entries, but declared that he would not do it again in similar circumstances. The principal made no comment about the situation, Carrega recalled.

Later in the second semester of 2018-19, Carrega received another email from Melo indicating that a PLAR package from Ishaan would be forthcoming in a further course, Food and Nutrition HFN 200. This time, when the report card arrived, there were no supporting documents with it. Again, Ishaan had been given a grade of one hundred percent. Carrega replied to Melo by email dated June 3, 2019 asking if she could send him the entire package, since it needed to be filed in the OSR (**Tab "15"**). Melo initially responded that most of the material had been given back to the student's mother. Days later, according to Carrega, he did receive at least some of the PLAR application materials.

Again, Carrega did not consider that the application met a very high standard, although he could not recall the specific contents. He took the package to a trusted administrator, the vice principal, Grmanic, and explained his discomfort in entering a third one hundred percent mark for the student. The matter was essentially turned over to Grmanic, Carrega said. He believed that it was Grmanic who entered the Food and Nutrition credit and mark in Ishaan's OSR.

Apart from what he regarded as the deficiency in Ishaan's applications, there were two other aspects of this matter which bothered Carrega, he told us. Firstly, he questioned whether Grdisa was qualified to do PLAR assessments at all. Carrega had known Grdisa only in the context of the HPP program. When that program had been started two years earlier, according to Carrega, Grdisa had been one of the people within the Board working with Grewal to set up the on-line application process. Carrega had been unaware that Grdisa was a teacher assessor for PLAR purposes until he saw Grdisa's name on Ishaan's Phys. Ed reports. He made that observation to

Bonasia, the Student Success head at Mississauga who was co-coordinator of the HPP. She was equally unfamiliar with Grdisa's direct involvement in evaluating PLAR applications.

Carrega's second concern stemmed from his awareness of Grewal's intensive and sometimes controversial involvement in her son's high school progress. Hearsay complaints which he had received about Grewal's involvement in Ishaan's individual courses came from credible teachers, in Carrega's eyes. Those "grumblings" in the background had been fairly consistent since the student started grade nine. He was troubled, Carrega implied, by the idea that Ishaan's unusual PLAR success might have been influenced by similar intervention on the part of the Respondent.

(D) Evidence of Amy Melo

Melo began a five-year term as Instructional Coordinator, Guidance, Career Education and Pathways on September 1st, 2017 and had completed two years in that role at the time of this investigation. Melo came from a secondary school where she was head of Guidance. That area remained her curriculum responsibility as Instructional Coordinator. She reported to the Coordinating Principal, Suhay prior to Suhay's retirement on June 30th, 2019. The Respondent had become Associate Director either just before or after Melo's arrival in the position, she recalled. She was unacquainted with Grewal before that time.

Melo had little familiarity with the PLAR program before starting her current job, she acknowledged. She knew that the PLAR program had been "revamped and refreshed", as she put it, by the Ministry of Education. Every school board was required to assign someone responsibility for PLAR oversight and liaison with the Ministry. That responsibility had been given to Melo's immediately predecessor, with the result that Melo inherited the same responsibility as day to day manager of the program.

Melo's responsibilities included communicating to Guidance counsellors within the system the "ins and outs" of the PLAR program. She helped staff and administrators field questions at their schools and acted as liaison between teacher assessors and students and parents. Melo drafted or revised certain "guiding documents" to help all participants in the process, she explained, including the brochure which was circulated within the system and a PowerPoint presentation outlining the elements of the program and the PLAR procedure. She also supervised revisions to

the application package. All of those items were posted on the Board's public website and were shared with Guidance staff.

She was not the creator of the original PowerPoint presentation, Melo clarified, but instead was the "editor" of the pre-existing document who made sure that it matched with Ministry requirements. She assumed that the original document had been written by her predecessor, Ms. Kelly Devenish ("Devenish").

After the document had been edited and finalized, Melo volunteered, she realized in consultation with her colleague, Grdisa that one bullet point in the PowerPoint presentation still needed to be changed. That was the portion which appeared to forbid the granting of PLAR credits for both PAF and PPL courses. Both she and Grdisa felt that there was enough difference in the curriculum between the two courses to allow students to challenge for a PLAR credit in each.

As written at present, Melo conceded, the PowerPoint document stipulated that if a student earned a credit in PPL 300, a healthy living course, he or she could not make a PLAR challenge in the grade eleven personal fitness course, PAF 300. Grdisa and Melo had agreed that this was unfair and needed to be changed. It had been an error on her part not to have the wording changed in the version of the presentation. They had come to this conclusion prior to receiving Ishaan's PLAR applications, Melo emphasized, though she was imprecise as to when this consultation with Grdisa occurred.

When we pointed out that the presentation still appeared on the Board's website with such language, Melo declared that she had asked the webmaster to upload changes. The wording would definitely be altered, she insisted.

Melo's role in the actual handling of PLAR challenges was minimal, she told us. PLAR applications came to the Board in several ways, she explained. Some parents felt more comfortable hand-delivering packages to the Board's office, while other students seeking PLAR credits brought applications to their own high school guidance counsellors, who couriered them to the Board office. Either way, the applications came to Melo.

In 2017-18, it was Melo and her superior, Suhay who decided who would be assigned to assess individual PLAR applications. They looked at the particular subject discipline in which the

student was challenging for a credit, then identified a teacher assessor in that discipline through a network of teachers who had done such assessments in the past or had expressed interest in doing so. There was a matching of subject areas and qualifications, in other words. Melo did not actually have authority to hire assessors, so the recruitment process was formally overseen by Suhay.

For the 2018-19 academic year, Melo recalled, she and Suhay decided that it made more sense to have the Instructional Coordinator with subject responsibility tap into his or her roster of teachers in order to conduct PLAR assessments. Thus, a student who was challenging for a Family Studies credit would see his or her application directed to the Instructional Coordinator for Family Studies and thereafter to an assessor for review. For Phys. Ed applications, Melo confirmed, PLAR packages went to Grdisa, who was authorized to oversee or delegate the assessments.

Melo's only subsequent involvement was when the results came back to her, since she tracked which students were challenging for which courses and what final credits were awarded.

An exception to the foregoing procedure was the Mississauga HPP program, Melo added. Following the 2017-18 school year, staff at Mississauga asked if they could run their own PLAR program rather than follow the Board's timelines, since the athletes enrolled in the HPP at Mississauga did not have typical timetables. It was more practical for Mississauga teachers to deal with HPP students directly in relation to PLAR challenges, it was agreed. Accordingly, the Mississauga HPP essentially "broke away" from the standard PLAR process, according to Melo, and took that work in-house.

Melo was completely unaware of Ishaan until around November 2018, she told us, when she was approached by Suhay. "*Poleen's son wants to submit a PLAR application*", Suhay told her, "*and it would have to be in first semester*". This was outside the usual timeframe, Melo confirmed, since the standard procedure was that PLAR applications came in by February 1st each year and were processed after that. Suhay was suggesting that Ishaan be granted an exception to allow him to apply for a PLAR credit during the fall semester. She did not explain the reason why the assessment had to be done early, Melo said.

It was important to recognize that the same exception had already been granted in another case that year, Melo urged. A student who was looking for admission to American universities had asked that her PLAR challenge in a German course be evaluated during the fall semester. Suhay and Melo had already agreed to do so. There was even some thought being given to conducting a centralized PLAR intake in both fall and spring, according to Melo. At any rate, since the application was being processed for the other student in first semester, it was decided that Ishaan's early application would also be considered. That decision was between Suhay and Melo, the latter confirmed.

When Ishaan delivered his materials, there were actually two separate applications for PLAR credits. This was not unusual, Melo told us. When she received the applications, she reviewed them like every other PLAR challenge to ensure that all necessary paperwork had been completed. The applications were delivered in paper form. She turned them over to Grdisa for the actual assessments, probably in late fall, Melo estimated.

She received no direct communication from the Respondent before handing the applications off to Grdisa, Melo told us. She maintained that she gave Grdisa no directions as to how the applications should be handled, or by whom they should be assessed. Ishaan's mother's role with the Board had no bearing upon his applications, Melo insisted.

Melo must have subsequently become aware that a new teacher participant, MacNeil was involved in assessment of Ishaan's applications, she told us, because she would have required the teacher assessor's name and employee number for the purposes of paying for such services. Remuneration for teacher assessors came out of the budget which Melo oversaw, she explained. Apart from seeing his name on the paperwork, she did not know MacNeil. As to why he was brought in by Grdisa, Melo knew only that Grdisa was interested in expanding the pool of teachers for PLAR assessments. Another secondary teacher, Ambrose had reached out to Melo to express interest in the PLAR process, so Grdisa had brought Ambrose in as well.

Melo had no idea why the Mississauga teachers who had previously been involved in Phys. Ed assessments were not used for Ishaan's challenges. *"It was just a matter of making sure everybody had a chance to participate"*, Melo suggested. She was given no indication that the

Mississauga assessors, Spriel and Chee were being excluded because there was “history” between Ishaan and the Mississauga staff, or between his mother and Mississauga teachers.

Melo and Grdisa had already decided between them that there was no reasonable objection to allowing students to challenge for PLAR credits in both PAF and PPL courses; she reiterated. In fact, Melo told us, she recently asked at a provincial meeting of school board Guidance leaders whether other boards forbade students from challenging for both PAF and PPL credits. Her counterpart at the Toronto District School Board had responded unequivocally, Melo recalled; TDSB allowed students to challenge for both. In addition, Melo noted, regular day students in the Board system could take both such Phys. Ed credits and both would count on their transcripts. That in itself was justification for allowing students to make PLAR challenges in both courses, Melo thought.

Ishaan’s two PLAR results came back to Melo in due course, she explained. The one hundred percent marks did not cause her to raise an eyebrow, Melo claimed. The female student who was simultaneously challenging for a grade eleven and a grade twelve PLAR credit had received marks of one hundred percent and ninety-nine percent in her two German courses, respectively. Melo did not examine the evidence which Ishaan had supplied in support of his applications. She thought initially that MacNeil had signed Ishaan’s reports. She expressed surprise when it was pointed out the Grdisa had done so. Grdisa had been on teams with teacher assessors in 2017-18 and 2018-19, Melo said, but she did not believe that he ordinarily signed as assessor. On the other hand, a large proportion of the total PLAR assessments were in the Phys. Ed area, she noted, so it was possible that Grdisa and other teacher assessors like MacNeil were taking turns as lead role on such applications. Grdisa liked to have a team of assessors, Melo recalled. Technically, only one teacher assessors was required for a PLAR evaluation.

Application packages typically included a preliminary feedback report, Melo confirmed, in which the teacher assessor identified curriculum strands which did not seem adequately addressed in the application, and requested additional evidence or clarification. Such preliminary feedback must have been included with Ishaan’s reports, Melo believed, but she could not recall whether or not that was the case. She conducted no further review of the applications, formal or informal. Her only further step was to contact the Guidance head at

Mississauga to inform him that Ishaan had successfully completed two PLAR applications, and that the packages would follow. Guidance was to enter the credits on Ishaan's record and retain the applications. Melo did not keep copies of the packages, since schools ordinarily placed them in the OSR.

Melo next heard of Ishaan during second semester in 2018-19. This time, Grewal contacted her directly by email to indicate that Ishaan would be submitting a third PLAR challenge. The Respondent asked for an extension of the February 1st deadline on her son's behalf just before it expired, Melo recalled. She could not remember the stated reason for requesting the extension, but it seemed "genuine enough". Melo did feel pressured to agree, she conceded, having regard to the fact that the request was coming from the Associate Director. Grewal did not communicate with her except by email in connection with the request. Melo accommodated the request, along with a second, subsequent extension sought by Grewal later in the semester, Melo recalled.

We requested and separately obtained through the Board copies of the email messages referred to above. The Respondent emailed both Melo and Grdisa (copying Suhay) on January 25th, 2019 to request an extension for Ishaan's third application until March 1st, 2019 by reason of his exams and February volleyball schedule. Grewal also included a suggestion about the composition of the interview team to be used in assessing Ishaan's Food and Nutrition application. That email is recited in full, below:

"Hi Amy and Joe,

First of all, thank you so much for processing my son's 2 PLAR credits so quickly. Ishaan is currently working on a third PLAR in Food and Nutrition. He had started a third HPE one but then Joe reminded us he could only do two in one subject area. I know the deadline for the PLAR is usually February 1st, but wondering if Ishaan can get an extension until March 1st. He currently has exams and his February training schedule for volleyball is quite intense. Please let me know if that is possible.

Finally, just as a heads up. Given the Food and Nutrition course is part of the Social Studies curriculum, you should know that Ishaan has approached the PLAR from the perspective of an athlete. His three pieces of evidence are connected to food and

nutrition from an athletes perspective. Therefore, it may be helpful to have an HPE person as part of his interview team.

I look forward to hearing about the extension that has been requested. Thanks so much. Cheers.”

(Tab “16”)

Melo replied briefly by email on January 28th, 2019:

“Hi Poleen,

We are happy to accommodate your request to grant Ishaan an extension for his third PLAR application until March 1. Once completed, the application can be sent over to me”.

When the third application package came in, Melo again checked it for completeness. She was not surprised or disturbed to see a third PLAR application from the same student during the same academic year, Melo maintained. Under the Ministry memorandum governing PLAR challenges, a student could earn up to four credits under the PLAR program. The Ministry did not specify that all such applications could not be in the same year.

A resource teacher named Ann Marie Pottinger (“Pottinger”) had been identified by Suhay as a PLAR assessor, Melo said. She sent Ishaan’s third application package to Pottinger. Because the student had required additional time to get his application in, Melo advised Pottinger, she would have relatively quick turn around time for the assessment and should not feel reluctant to impose a short timeline upon Ishaan if she needed him to submit any additional work in support of his application. Pottinger was a resource teacher with whom Melo worked on the Alternative Programs team at the Board office. They probably discussed this application face to face, Melo said. They likely also discussed the fact that Ishaan was the Respondent’s son, but Melo had no real recollection of the conversation.

The Food and Nutrition report similarly came back with a one hundred percent mark. Again, Melo denied that she saw anything unusual in that. Students who made PLAR challenges were high achievers who practised virtually every day in their respective sports or other outside activities, she said. She cited the example of the student who had attended German classes every week at a school which was not accredited to give a language credit. That student had been awarded one hundred percent in German through a PLAR challenge, Melo repeated.

Melo was contacted by one of the Mississauga teachers, Spriel in June 2019 with questions about the manner in which Ishaan's PLAR applications had been handled. Spriel's concern was mainly with respect to the November 2018 processing of the Phys. Ed credits. He wanted to know why Ishaan had been allowed to submit his applications in the fall, outside both the Board's February 1st timeline and the schedule used for processing internal Mississauga HPP applications.

Melo was cautious when asked if she indicated her agreement during that conversation with Spriel's contention that one student had obtained special treatment by having his application assessed early. She did not recall whether or not she openly concurred with Spriel, Melo said. On the other hand, she "pretty much told him" that if her principal, in this case Suhay, came to her and said "*We're doing this*", and was okay with it, Melo would not be in a position to challenge.

After that call from Spriel, Melo recalled, she spoke to Grdisa to see if he had "any insight" about the way in which Ishaan's applications had been handled. Grdisa affirmed his belief that they had been correct in allowing Ishaan to challenge for both PAF and PPL credits. Grdisa did not mention Grewal during the conversation. Melo remained unaware whether Grewal and Grdisa had had any direct conversation about Ishaan's PLAR challenges. Since Grewal had been superintendent, CISS before her arrival, Melo added, she recognized that some of her long-serving colleagues like Grdisa might have had a closer relationship with Grewal than did Melo.

(E) Evidence of Carol Suhay

Ms. Suhay retired effective June 30th, 2019 from her position as Coordinating Principal, Secondary Curriculum and Instruction Support Services. She had held that position for five years before retirement, after serving as a principal and vice principal for about ten years. Suhay spent a total of over thirty years with the Board, she told the writer.

Along with her counterpart on the elementary side, Ms. Cathy Roper ("Roper"), Suhay explained, her last position involved overseeing a total of sixteen Instructional Coordinators in a range of curriculum areas comprising the Curriculum and Instruction Support Services department. The Instructional Coordinators held expertise in specific subjects and were available for support for both teachers and administrators in those fields.

Suhay's own portfolio extended beyond supervision of the Instructional Coordinators. Suhay also acted as a resource person and advisor on such diverse matters at EQAO assessment, credit granting and the PLAR program. Both Suhay and Roper reported to Mr. Adrian Graham, Superintendent, Curriculum and Instruction Support Services.

The PLAR program had its origin in a Ministry of Education policy memorandum written in 2001 and designated as "PPM 129", according to Suhay (Tab "17"). There had been virtually no mention of the PLAR initiative until about a year and a half or two years after Suhay began her Coordinating Principal job in 2014. PLAR credits were granted for the first time in the 2016-17 academic year.

The Board formally adopted an Operating Procedure headed "Administrative Guidelines for PLAR" on October 12th, 2016, Suhay advised. That operating procedure continued to appear on the Board's website thereafter, she thought. It largely mirrored the guidelines contained in the Ministry's PPM 129 document. A Board writing team was assigned in 2016 to produce a pamphlet on the PLAR program along with a PowerPoint presentation that was downloadable and available to both students and parents along with the PLAR application package. Suhay provided both the pamphlet (Tab "18") and PowerPoint presentation (Tab "19") to us.

The pamphlet outlined the procedure for a PLAR challenge, including the application process, assessment and evaluation and reporting of the student's final grade. Completed applications were to be submitted by February 1st of the academic year for which credit was sought, according to the pamphlet.

Suhay was at pains to emphasize that the February 1st due date was the subject of frequent exceptions for students seeking PLAR credits. The February 1st due date had been chosen arbitrarily, she said, mostly so that the process could be completed in time for mid-term marks to be submitted to universities in April. That cut-off was only of significance for grade twelve students seeking university admission, however. There was no reason to enforce it rigorously against grade eleven students, Suhay noted.

Indeed, Suhay said, the February 1st deadline had been waived entirely in the case of PLAR challenges coming from HPP students at Mississauga in 2018-19. Suhay provided us with

copies of an email exchange between Melo and the Mississauga HPP coordinator, Bonasia in October 2018, confirming that the entire PLAR process for HPP students would be handled at Mississauga (Tab "20").

Individual students from other schools were similarly granted extensions, Suhay believed. She provided us with an email reflecting such a request from a grade eleven student at Humberview Secondary School who had sought and obtained a deadline extension until February 20th, 2018.

While the PLAR program was part of Suhay's portfolio for oversight purposes, it was actually managed on an ongoing basis by Melo, Suhay told the writer. Melo came to Suhay primarily with questions about such issues as requests for extension of application deadlines, challenges to marks assigned to PLAR students and potential revisions to the forms being utilized in the process. Those documents were still being reviewed and adjusted, Suhay added.

At inception of the program within the Board, it was decided to hire qualified teachers as PLAR assessors and pay them outside their normal jobs for that purpose. One school, however, Mississauga had a high number of elite athletes clustered there and forming a likely pool of PLAR applicants. The Board established the HPP at that school in September 2017, Suhay said, for the purpose of grouping such elite athletes and other high performers like music and drama students, so as to integrate their training schedules and school studies. In discussions at Board level, it was felt that using Mississauga teachers who were involved in those elite programs in the PLAR process was desirable as a way of supporting Mississauga students who wanted PLAR credits. That was the reason that HPP students' PLAR challenges were taken in-house for 2018-19.

Suhay appeared to be unaware that teacher assessors (Spriel and Chee) from Mississauga had also evaluated PLAR applications in Phys. Ed. from students at other schools.

Suhay's immediate superior was the superintendent, Graham. Suhay told us that she had little regular interaction with the Associate Director, Grewal. She acknowledged, however, that Grewal had been Graham's immediate predecessor as Curriculum superintendent. Suhay reported to Grewal until August 2017, when Grewal was promoted to the Associate Director role.

Grewal's son, Ishaan was in grade eight at that time and began in grade nine at Mississauga in September 2016, Suhay confirmed. She had at least occasional discussions with Grewal about Ishaan's progress in secondary school, Suhay acknowledged. When asked if she had become aware of Grewal's interaction with teachers and administration concerning Ishaan's studies there, Suhay was visibly guarded. Grewal came to see her during Ishaan's first or second year at Mississauga, Suhay said, "and identified specific practices that were not aligned with the Ministry's *Growing Success* strategy". Suhay could not recall the actual criticism which Grewal was expressing. She defended Grewal's intervention, nevertheless. Grewal was merely looking at the practices within the school for the purpose of supporting her son, "as a concerned parent", Suhay affirmed.

Suhay initially could not recall when she was first consulted by anyone in connection with Ishaan's PLAR applications. She eventually said that Melo likely came to her and asked if they could do a couple of PLAR assessments for Ishaan in the fall of 2018, rather than waiting until the normal cycle in March-April. Suhay had no definite recollection of that discussion, and could not say why Ishaan or his mother wanted the assessments to be done early. There was another student who was challenging for a credit in German language, Suhay recalled, and was also seeking early evaluation of her PLAR application. Suhay and Melo wanted to treat both students the same.

Here, Suhay veered into a broader justification. The range of exceptions that could be granted in the PLAR process in the interest of students was wide, she urged. The only issue in considering such requests for early processing of PLAR applications was: "*Can we manage it?*" Suhay said. Thus, she would have had no problem signing Ishaan's first two PLAR reports early, she added.

The usual practice was that Suhay received final reports from Melo for signature after PLAR assessments had been fully completed and grades were awarded. Suhay signed all reports before they went out to the individual schools in order that students' registers could be updated by school principals. She did not typically review the reports or the supporting application package, Suhay told the writer. She had complete confidence in the fairness and thoroughness of the teachers who assessed the applications. "I trusted their professional judgment and never questioned a single PLAR report", Suhay indicated. "I just signed, basically".

“Not only was the student allowed to be assessed outside of the expected timeframes he was also allowed to obtain two credits from the same curriculum. It was clearly communicated to us from the very beginning that students were not allowed to challenge for two credits that used the same curriculum such as PPL 30 and PAF 30.

I am not sure who is in charge and/or overseeing the PLAR challenges but it is an obvious oversight that this was allowed and it has set a bad precedent moving forward. If we were audited by the Ministry I feel that this is something that we should be concerned about”.

Melo responded quickly to say that she would be happy to discuss the matter with Sriel when he was next scheduled to be at the Board office. That personal discussion never took place, as it turned out. Sriel sent Melo an additional reminder, eventually prompting her further email response on June 3rd, 2019 (Tab “12”).

Melo made no direct reference to Ishaan’s applications in that response, but explained that the prohibition against students earning PLAR credits for both PPL and PAF had been reversed in June 2018 after consultation with her Coordinating Principal and the coordinators and resource teachers who assisted with PLAR challenges. Melo gave no explanation in the email why Ishaan’s application had been processed early. She invited Sriel to contact her by telephone to discuss the matter further.

The Complainant telephoned Melo several days later. He made no notes of the telephone call. He was uncertain whether Chee was present in the office at the time of the call, Sriel said, but he did not put Melo on a speaker phone in any case.

Sriel led off the conversation by asking why Ishaan’s PLAR assessment had been done outside the “mainstream process” for students across the system. He did not disclose to Melo the explanation which Grdisa had given him, Sriel said.

From Sriel’s best recollection, Melo’s response was as follows:

“Like you Tim, I have a boss. My boss came to me and said we are going to do this assessment during this time period. Just like you do, I was following what I was told.”

On January 25th, Suhay reported, the Respondent wrote to Melo and Grdisa by email to thank them for processing Ishaan's two PLAR applications and to request an extension for his third application. Suhay was copied with that email, which is recited above. Upon reflection, she believed that Melo consulted her verbally after receiving it. Melo responded to Grewal on January 28th to indicate that they were happy to grant an extension of Ishaan's third PLAR application to March 1st rather than the February 1st deadline. Suhay again urged us strongly that there was nothing unusual about this.

In April 2019, Suhay believed, she received a further email from the Respondent requesting an additional extension for Ishaan's third PLAR credit. That too was granted. Although February 1st was the published deadline, Suhay reiterated, exceptions were always entertained. If one reviewed the records, she predicted, it would be seen that fewer people met the deadline than delivered applications after February 1st.

Upon our review of that April 3rd, 2019 email from Grewal, Suhay conceded that it did not set out the request for the further extension, but simply requested that Suhay contact the Respondent by telephone "*re. Ishaan's last PLAR Challenge*" (Tab "21"). Suhay confirmed following our interview with her that the further extension of the deadline for Ishaan's third PLAR challenge was arranged an ensuing telephone conversation with Grewal pursuant to her request.

When notified by letter from the Director that she would likely be interviewed in this investigation, according to Suhay, she initially had no idea what the matter was about. That correspondence referred to two Phys. Ed. PLAR credits. When she considered the matter further, she remembered that Ishaan had been granted two such credits. Accordingly, Suhay said, she went to Melo's office (which was not locked) and made photocopies of Ishaan's application packages. The evidence which accompanied the applications had not been attached to the reports when she signed them, Suhay pointed out. She had no idea why Ishaan's PLAR challenge for the Phys. Ed. credits was not evaluated by assessors at Mississauga, Suhay maintained. On the other hand, she had no knowledge that those teacher assessors evaluated a list of applicants for Phys. Ed. credits from Mississauga and other schools in 2018-19 or the preceding years.

Suhay wished to bring one matter to our attention. In reviewing the issue prior to our interview, she explained, she had noticed to her great surprise that the Board's PowerPoint presentation for students and parents, "*Prior Learning Assessment and Recognition (PLAR Challenge for a Credit)*" contained a specific prohibition against granting PLAR credits for the two Phys. Ed. courses in which Ishaan earned such credits. The presentation contained the following explanation of "Step One" in the process (page 7):

"Students cannot be granted credits through the challenge process for any of the following:

... a course where curriculum expectations significantly overlap with those from a course where a credit was previously granted (eg PPL and PAF)".

Inclusion of reference to those two courses in the PowerPoint document was "not a good example", Suhay contended. No such prohibition was imposed in the Ministry policy document or the Board's Operating Procedure for PLAR applications. Grade eleven students routinely took both those courses and obtained both credits, Suhay said. "*It should not have been in the PowerPoint*", she maintained.

Suhay strongly defended the proposition that a student's participation in an high-level volleyball program could earn him or her a total of three PLAR credits, including both PPL and PAF and a third credit in health studies. Each of those credits was for an Open level course, Suhay noted, involving practical, active learning skills like fitness and food and nutrition. The PLAR challenge was uniquely aimed at flexible accommodation of students whose extracurricular pursuits demonstrated acquisition of the same active learning skills that were taught in such courses.

Suhay was quite emotional at the conclusion of our interview. Ishaan's applications were treated like any other student's, Suhay reiterated. "There was no pressure on any of us", she declared.

(F) Evidence of Joe Grdisa

Grdisa was beginning his fourth year as an Instructional Coordinator in Health and Physical Education at the time of this investigation. He continued to hold a teacher's rank, having spent twenty-three years an elementary school teacher with the Board. Grdisa's current portfolio

extended from kindergarten to grade twelve, he indicated. He reported to the Coordinating Principal for the elementary system, Roper and, prior to her retirement, to Suhay on the secondary side. Both reported in turn to the Superintendent, Graham, who had succeeded the Respondent in that position one year after Grdisa's arrival.

The PLAR program was new to the Board, Grdisa confirmed, when he became involved in "putting a team together" in 2017. Planning for the structure of the process was conducted between Grewal and Melo, who was the Instructional Coordinator with Guidance responsibilities. Grdisa was brought in to work on the Phys. Ed side. Teachers from Mississauga were recruited as assessors on the assumption that the HPP program at that school might generate a larger number of PLAR applications than elsewhere. Grdisa did not extend the invitations to those teachers, he said, but believed that either Grewal or Melo did so. He was familiar with the three individuals who became involved: Martins, Spriel and Chee. One of the two male teachers was not involved initially, Grdisa recalled, but stepped in to replace Martins when she discontinued her participation.

Grdisa and the assessors first met to "wade through" the procedure together. Melo arranged an evening when they discussed the process, which consisted of a written application by the student seeking a PLAR credit, combined with an interview at which the assessors "fine-tuned" their review of the application.

There were only two PLAR challenges in Phys. Ed. during the first year, Grdisa believed, neither of which was from Mississauga. PLAR applications were submitted to Melo, who ensured that the packages were complete before passing them on to Grdisa to start the process. Copies of the applications were made for Grdisa's team, whereupon Grdisa, Martins and one of Spriel or Chee (he could not remember which) analyzed the written materials and decided upon an interview process. Grdisa sat in on the interviews, he said, but was not an active participant.

Grdisa was adamant (wrongly, as it emerged) that the first PLAR challenges were not processed until 2017-18. The same approach was taken in 2018-19, he told us, except that more people became involved. The original participants from Mississauga were joined by Ambrose, who had indicated the previous year that he would be interested in participating, and MacNeil, who was brought in when PLAR challenges were considered for the first time during semester one, rather

than second semester. Grdisa personally conducted only one PLAR challenge, Ishaan's, he told us. When reminded, he acknowledged that Ishaan made two such challenges concurrently. Grdisa evaluated both.

Grdisa had known the Respondent and her son for many years, he said. She was an administrator at one of the schools at which he had taught. He worked with her again in his current role before her promotion to Associate Director. He had also met Ishaan a number of times over the past ten years, Grdisa said, mainly at volleyball tournaments or school events. Ishaan had never been enrolled at a school where Grdisa was teaching, but rather had been introduced to Grdisa through Grewal.

Grdisa first heard of the prospect of Ishaan making a PLAR application from Grewal, who mentioned to him in passing at the Board office that her son was considering "*doing some PLAR's*". Grewal either said, or Grdisa assumed, that she was referring to Phys. Ed credits, since Ishaan was an elite athlete. As Grdisa recalled the conversation, he replied to Grewal that the PLAR program was there for elite athletes. "*Submit a package to Amy and we'll do one*", he told the Respondent.

That conversation took place at the Board office during the late summer or early fall 2018, Grdisa estimated. It was followed by a chance encounter with Ishaan at the Board office a short time after the discussion with Grewal. Ishaan was working on a computer in the cafeteria, Grdisa recalled, possibly waiting for his mother on a PD Day in the fall of 2018. Grdisa greeted him. In the course of the ensuing conversation, Ishaan mentioned that he was going to be applying for PLAR credits. They had a conversation about which credits would be best sought, Grdisa said. Ishaan was very excited about the prospect. He talked about doing a video presentation to analyze and explain the skills that he was applying in volleyball. Grdisa cautioned that he would need to be careful with the package, because video was hard for assessors to interpret on their own. Grdisa did not recommend the specific courses for which Ishaan should apply. Everything that Ishaan was describing about "worked for both" PAF and PPL courses, Grdisa told us. He informed Ishaan that if the student wished to emphasize the fitness angle, he should do a PAF challenge, whereas if he wished to "do general movement stuff" he should challenge the PPL credit.

Grdisa had only a vague recollection whether he had additional conversations with the Respondent prior to assessing Ishaan's applications. Grewal might have told him in passing that Ishaan was excited about the PLAR idea. After seeing Ishaan in the cafeteria, he may have told Grewal that he believed Ishaan was going to do a good job on the applications, Grdisa said tentatively. He had no clear memory of such discussions. There was also an email exchange about Ishaan's intended applications, but Grdisa could not remember exactly what was said. He did assure Grewal that Ishaan was on the right track, based upon their earlier discussion. Grdisa could not say whether the student had already submitted his applications to Melo when that exchange took place.

We obtained from the Board copies of email correspondence between Grewal and Grdisa in connection with Ishaan's PLAR challenges. Grewal provided the same materials.

On September 19th, 2018, Grdisa forwarded to the Respondent some sample letters from a previous PLAR applicant from Humberview Secondary School, along with a letter from a Guidance counsellor at that school in support of the student's PLAR challenge. In addition to verifying that the applicant was an elite athlete and put in hours in practice, training and competition, Grdisa counselled, Ishaan's coach could also verify that "*the athlete is learning a lot about Active Living, Healthy Living and Movement Competence*" (**Tab "22"**).

On October 6th, 2018, Grewal emailed to Grdisa a draft of Ishaan's PLAR application for a PPL 30 credit, with the following message:

"Ishaan has asked that I send this DRAFT package to you. He feels it is good to go. He will really shine in the face to face interview.

Once you take a look he will get everything signed off from the principal, the referees etc. He will also fix the page breaks and then send in the evidence with the package.

You can always out more work in – however really it just needs to be done now".

(Tab "23")

Grdisa and Grewal exchanged emails again on October 8th, after Grdisa had apparently reviewed Ishaan's draft package. The draft "*looks good to me*", Grdisa wrote "*... let me know if you need anything from me*". Grewal replied: "*Okay great. I will have him review*". (Tab "24")

Grdisa did not disclose to us during his interview that he had actually reviewed and approved Ishaan's application in draft form, we noted.

When Ishaan did submit his material, Grdisa received two packages from Melo and observed that the student had applied for credits in both PAF and PPL courses.

Grdisa was asked about the stated prohibition in the Board's PowerPoint presentation against earning PLAR credits in the two courses. Grdisa acknowledged that he had been aware that such a notation appeared in the information package. It was his belief throughout that Ishaan could apply for both courses provided that his applications satisfied different expectations in each course. There were as many as thirty separate expectations prescribed in the curriculum for each course, Grdisa explained, and each overall expectation had three to four different "strands". It was entirely legitimate for a student to challenge for the PAF course with an emphasis upon physical fitness activities, while showing that his outside athletic activities also addressed the motion and biomechanical expectations in the PPL course. The struggle which students faced in the PLAR process was to connect their activities to the curriculum, Grdisa explained. Ishaan was extremely successful at that, Grdisa contended, as described below.

Grdisa did not know exactly why Ishaan wanted his PLAR applications to be processed in the first semester, given that the student was not yet applying for universities. Grdisa made no inquiry in that regard. He saw no reason to object to the request. If someone wanted the PLAR process done early, as far as Grdisa was concerned, they could do it early.

Grdisa was asked directly whether anyone told him who should do Ishaan's assessment. He was careful in his response. It was his understanding from Melo that "the parent" had requested that Ishaan's PLAR evaluation not be done by the teachers at his home school, Grdisa said. That information was likely imparted during a face to face conversation, since Melo and Grdisa had offices very close to each other. While he could not recall exactly what Melo said, it was

“something along the following lines”, Grdisa told us: *“It’s not going to be done at the school. Can you find other teachers who will help you do the assessment?”*

Melo did not say why Grewal did not wish her son’s evaluation done by Mississauga staff. Grdisa was reluctant to say what he believed was the reason. If any parent made such a request, Grdisa told us, he would assume that there was a particular reason. He would not speculate whether, if this had been a parent other than the Associate Director, he would have queried the reasons and justification for the request.

He would never had done a PLAR assessment by himself, Grdisa confirmed, so he asked MacNeil to join him on this one. MacNeil had never done such an assessment at that point. There was no extensive training, Grdisa reiterated, but he emailed MacNeil in advance with copies of one or more previously completed PLAR packages so that MacNeil could review them and see what comments had been provided by the team on those applications. He also met with MacNeil in advance and talked about the PLAR process, Grdisa claimed. MacNeil had a different recollection, as noted below.

Ishaan’s packages were couriered to MacNeil in binders. Grdisa and MacNeil then met at the school where MacNeil taught, Stephen Lewis Secondary School (“Stephen Lewis”). MacNeil also taught a York University course from the same facility, Grdisa recalled. Their meeting took place at Stephen Lewis immediately before one of MacNeil’s university teaching sessions.

Grdisa was outspokenly defensive during our interview about any suggestion that the one hundred percent marks which he subsequently awarded to Ishaan were undeserved. His own credibility was being questioned by the whistleblower(s), Grdisa complained angrily. He contended that Ishaan’s application packages were not “thin”, but rather provided as much detail as most such applications which Grdisa’s team had previously viewed. The application template itself was “not the greatest” and left little room for detail, Grdisa argued. There were no real gaps in Ishaan’s applications. The only feedback which the student needed following the preliminary review of his packages was that his videos would need more explanation. Ishaan answered that he looked forward to doing so during his interview with the assessors.

The interview took place, before Christmas 2018, Grdisa thought. Ishaan's mother dropped him off at Stephen Lewis and spoke briefly with Grdisa before the interview in order to determine what time she should return to pick up her son.

Ishaan excelled during the interview, according to Grdisa. The three of them spent two and a half hours talking about his applications, with the assessors "pulling more and more information out of the student", and Ishaan sharing it. The requirement of connecting his activities to strands in the curriculum was a particular strength for Ishaan, and his performance was better than a female athlete who had been awarded the same mark during the preceding year, according to Grdisa. Ishaan's answers to questions about his videos were "stellar". His interview was outstanding in every way.

Grdisa confirmed that course marks for PLAR credits were weighted seventy percent as to the written application process and the external activities described therein, and thirty percent to the interview. The video presentation formed part of the seventy percent-weighted written component, Grdisa confirmed.

Despite the prescribed weighting, Grdisa acknowledged, he and MacNeil did not try to score the two components separately. They made comments in hand-written notes for their two-way discussion afterward. They did put thought into the weighting when coming up with the final evaluation, Grdisa maintained, but the process was not as "mechanical" as assigning separate scores.

Grdisa vigorously denied that the grade assigned to Ishaan for either course was influenced by Grdisa's relationship with Grewal, or her position in the Board's senior administration. He suggested that the writer interview Ishaan and observe first-hand the student's maturity and intelligence.

The Mississauga teacher, Spriel subsequently raised the issue of Ishaan's PLAR applications with Grdisa directly, he confirmed, in a PLAR assessment session with Spriel, Chee, Ambrose and MacNeil during the "regular" processing of applications in the second semester of 2018-19. Spriel referred to the early processing of Ishaan's PLAR challenges, and asked "*why did this happen*" or "*how did this happen*". According to Grdisa, he replied: "*I don't know. That's not a*

conversation we need to have". He responded in that fashion because he did not know all the answers, Grdisa told us, and did not want to have such a conversation behind the backs of people like Melo and Suhay.

Grdisa was pressed as to whether he told Spriel that Grewal had been opposed to the Mississauga teachers conducting Ishaan's assessments. He might have made the comment attributed to him ("*Off the record, she didn't want you guys to be part of the assessment*"), Grdisa agreed. That was the inference which he had drawn from something Melo said to him, but he could not remember precisely what conveyed that message. His impression was solely based on what he heard from Melo, however, Grdisa insisted. As observed above, Melo's version was that she had no such information from any source, and said no such thing.

Grdisa was also asked whether Grewal had confided to him past complaints or objections about Mississauga staff. He was notably evasive. Grewal had never really described any problems, he insisted, but in "side conversations" she might have mentioned at different times that Ishaan had been encountering trouble with a teacher or teachers. When Grdisa had asked Grewal "*How's Ishaan doing*", she may have given him the notion that there were some issues around his studies in Mississauga, Grdisa ventured. He was unable or unwilling to be more specific.

Grdisa had one other interaction with the Respondent concerning her son's PLAR applications which he did not describe during our interview with him. We have recited above the contents of Grewal's email to Melo and Grdisa dated January 25th, 2019, giving them an "heads-up" about Ishaan's third application, as well as a suggestion that, since Ishaan would be seeking the Food and Nutrition credit "*from an athlete's perspective*", it might be helpful to have an "*HPE person*" as part of his interview team. Grdisa replied enthusiastically by email on January 26th, 2019. Neither Suhay nor Melo was copied on that reply, which was as follows:

"Received. I will see what they say and advocate for extension and HPE presence. Hope you are doing well. Can't wait to hear about your trip!"

(Tab "25")

(G) Evidence of Bradley MacNeil

MacNeil told us that he was head of the Phys. Ed. department at Stephen Lewis, where he had taught for almost fourteen years. MacNeil originally met Grdisa while MacNeil was teaching at John Fraser Secondary School. Grdisa was then teaching Health and Phys. Ed. at a feeder school, Thomas Street ("Thomas Street"). They encountered each other at athletic events and Family of Schools gatherings and generally maintained their acquaintance over the subsequent years.

Grdisa contacted MacNeil in late 2018 or early 2019, he recalled, to ask whether MacNeil were interested in assisting in a PLAR challenge. He replied that he was interested in participating, but preferred that the PLAR session(s) be held at his own school on a Tuesday evening, since he was required to stay late that night to teach a York University course at the school.

Grdisa and MacNeil subsequently "batted around dates" which worked for each of them and Ishaan, the student who was applying. Grdisa explained that Ishaan was the Associate Director's son. PLAR applications were normally processed by the home school, Mississauga, Grdisa explained, but in this case he wanted the assessment to be done externally. Grdisa did not explain why.

MacNeil had no particular concern when informed that Grewal's son was the applicant. He was familiar with Grewal, MacNeil explained, because her brother worked in his department. MacNeil prided himself on being unbiased in dealing with students, he told us, regardless of what connections they might enjoy.

Grdisa did not say anything about the applicable timeline for PLAR applications, MacNeil recalled, or suggest that Ishaan's case was being addressed earlier than normal. Similarly, MacNeil had no memory of being told that Ishaan was making two PLAR applications, or that both challenges were to be evaluated together.

MacNeil's involvement in Ishaan's PLAR challenges was confined to one evening. Grdisa came to MacNeil's school about half an hour before Ishaan arrived for an interview. MacNeil did not remember being sent an application in advance, and believed that Grdisa brought Ishaan's

application package in order that the two of them could go through it prior to the interview. MacNeil had no recollection that there were two separate PLAR packages.

He did no preparation for this process prior to the night of the assessment, MacNeil told us. Grdisa explained to him that, when Ishaan came in, they would make him feel welcome and then go through the application. Grdisa had some video links stored on a USB device, but they did not watch the video before Ishaan's arrival. This was basically "learning on the job", MacNeil conceded. Grdisa was going to be the assessor, but wanted MacNeil to be the interpreter of the current Phys. Ed. curriculum.

MacNeil had no real success criteria in mind for the Phys. Ed. credit(s) being sought by the student, he told us, but he expected to see evidence of the student engaged in a variety of activities intended to meet the curriculum requirements. Having never been through the challenge process, MacNeil had no fixed idea how it should be applied in the Phys. Ed. context.

The ensuing interview with Ishaan lasted about an hour, more or less, MacNeil estimated. Ishaan walked through his training process and went on his computer to show them the video links. He explained how the video was connected to the curriculum expectations. By the end of the session, MacNeil was satisfied that the student should be given the credit – though again, the teacher could not recall discussion of two credits. Ishaan was clear and succinct in showing how the video evidence matched the curriculum expectations. He was knowledgeable and articulate, and showed considerable ability for critical thinking. MacNeil questioned him about differing nutrition requirements during competition versus off-season training. Ishaan referred to protein and carbohydrate intakes and the special recovery demands of training and competition.

When the interview ended, MacNeil was running short on time. He spoke with Grdisa for only about five or ten minutes. Both felt that Ishaan had been excellent. Grdisa said that he would go through his notes of the interview and take care of the "paperwork". MacNeil had made no notes, and never saw any subsequent paperwork. They did not discuss the mark(s) to be awarded to Ishaan. Grdisa did not subsequently consult with MacNeil about the one hundred percent grades that were given. MacNeil was unaware of the seventy/thirty percent weighting criteria. As a professional, he told us, he perhaps should have probed more into such grading requirements, but at the time he saw his role as merely gaining experience and offering a

resource during the PLAR process with this student. Ishaan deserved the PLAR credit, MacNeil concluded, but he would not have awarded him one hundred percent. X

MacNeil went on to participate in further PLAR assessments during the spring of 2019 as part of a four-member team which included Chee, Sriel and Grdisa. In MacNeil's estimation, Ishaan's earlier application was stronger than any of the packages which the assessment team reviewed during the ensuing semester. Ishaan's written materials, video and interview were all more impressive, MacNeil thought. He had no recollection whether Ishaan's name was mentioned during the spring 2019 evaluations.

(H) Evidence of the Respondent

(i) Background – Establishment of the PLAR Program

The Respondent assumed her current position as Associate Director, Instruction and Equity Support effective August 1st, 2017 following two years as Superintendent, Curriculum and Instruction and three years as a Family of Schools superintendent. Grewal began her teaching career in the elementary system in North York and Toronto before coming to the Board. She was assigned as vice-principal at Thomas Street before promotion to principal rank. Grewal spent about five years as a principal, including two and a half years in a Coordinating Principal position at the Board office.

The PLAR program was implemented in 2016, Grewal confirmed, while she was serving as Curriculum superintendent.

Two developments occurred around that time. First, the Board began planning for establishment of the HPP to assist high-performing students in combining their athletic or artistic pursuits with secondary school education. Since Mississauga was one of the locations where that program was to be introduced, there was an expectation that a significant number of PLAR applications would come from that school. Secondly, there was an increasing number of requests from parents of students in the system for information about the availability of PLAR credits. A team was established to create the PLAR process, led by the then-principal of Peel Alternative School, Sharon Stevens-Lay. Other participants were the Coordinating Principal in Curriculum, Suhay and one or both Instructional Coordinators in Guidance. Literature describing the program was

probably created by some combination of those individuals, the Respondent believed, prior to arrival of the current Instructional Coordinator who administered the program, Melo.

PLAR credits were first granted in 2016-17, the Respondent confirmed. She was involved in recruiting the first assessors, including Spriel at Mississauga. The new HPP was going to be started at Mississauga in September 2017. Grewal felt that it was important to have Mississauga staff who were able to handle the anticipated volume of PLAR challenges from that school. Her March 2nd, 2017 email went out to Spriel to elicit his interest and that of other teachers in his department. Spriel was interested but unavailable at that time, so two other Mississauga teachers, Chee and Martins came on board as assessors in early 2017.

There were only three PLAR applicants in the entire system that year. The Mississauga assessors dealt with two of them, one from Humberview and another from Mayfield Secondary School, Grewal believed. She participated in at least the first stage, when the assessors gathered to discuss the process which they were implementing. That meeting took place in the Curriculum department, Grewal said. Present with her were Chee, Martins and the Instructional Coordinator for Phys. Ed., Grdisa.

She had known Grdisa since she became a vice-principal at Thomas Street, Grewal told us. Grdisa was an Health and Phys. Ed. teacher at the school. Their paths crossed again when Grewal became Curriculum superintendent. Along with the two Coordinating Principals, Suhay and Roper, Grewal hired Grdisa for his Instructional Coordinator job in 2016-17. She noted, however, that Grdisa had actually been her second choice for the position, after the candidate who was her first choice turned down the offer in favour of returning to a position in a school.

The group of four who met at the start of the PLAR process in 2016-17 had no manual or detailed operating procedure, Grewal said. She could not recall how much of the writing which generated the brochure and PowerPoint presentation had been completed by that time. The group discussed generally how to approach the PLAR applications which had been received. Following that discussion, the Respondent recalled, she left the room and the other three members of the assessment team proceeded to meet with student applicants on the same day. The Respondent had no further hands-on involvement in that or subsequent PLAR assessments.

(ii) *The Respondent's Early Interaction with Mississauga Staff and Administration*

Grewal's son, Ishaan started grade nine at Mississauga in September 2016. He joined the junior volleyball team immediately, coached by Chee and Wong. Ishaan's first year on the team went smoothly. He had no conflicts with coaches or staff in the Phys. Ed. department that year, the Respondent said, although there were concerns with other teachers and courses which required her interventions.

The Respondent gave a detailed account of her objections to evaluation practices in Ishaan's grade nine Science course. With his early aspirations to study kinesiology, the Respondent explained, Science was an important course for her son. He wound up doing quite well in the course, earning a final mark of about eighty-seven percent. Approximately a month into the school year, however, Ishaan got seventy-one percent on a test. Students in the class were shown the test results, but the test was then collected by the teacher, who told students that he wished to reuse it for other classes.

Grewal emailed the principal and vice-principal at Mississauga to complain that she wished to see the test and review with Ishaan the concepts which he had failed to understand. *"This is hugely problematic"*, Grewal wrote. *"If you don't go through the test how do you expect students to learn concepts they do not know. This is completely against Growing Success – the assessment practices are inequitable and definitely not transparent"*. (Tab "26").

The same issue arose following another test in the course in early November 2016. Although Ishaan scored a mark of eighty-seven percent on that test, he did less well on the multiple choice component of the assessment. This time, Grewal emailed the teacher directly, because the multiple choice section of the test had been removed when it was returned to the students. Ishaan needed to see the multiple choice questions which he had completed incorrectly in order that she could review his understanding with him, the Respondent indicated. *"This would be in alignment with equitable and transparent assessment and evaluation practices"*, she told the teacher (Tab "27").

The Respondent presented us with additional emails which were exchanged after the teacher declined to return the multiple choice assessment. The principal, Woods discussed the matter

with her Family of Schools superintendent, Jamie Robertson (“Robertson”), who reported to Grewal that the principal had advised staff that they were to adhere to the *Growing Success* principles going forward. The Science department was going to move away from multiple choice tests, the Respondent was told.

Grewal was only partly mollified. She complained to Robertson and Woods on November 14th that, although the last set of multiple choice questions had been reviewed in Ishaan’s class that day, “*they were done quickly with students being given a half sheet of blank paper that they were able to take notes on*”. Grewal welcomed the opportunity to share with the superintendent and principal her frustration around delivery of the curriculum, and how that exacerbated issues around assessment and evaluation, she told them. As a parent, Grewal wrote, “*it is important I advocate for my son, however as an educator I hope my advocacy positively impacts all students*”.

Grewal was always keenly aware of the possible perception that she was taking advantage of her position as a Board superintendent, she told us emphatically. As a result, she copied her own direct superior, the Associate Director, Instructional Support Services, Scott Moreash (“Moreash”) with the latter correspondence. In a November 11th, 2016 email to Robertson, Woods and Moreash, Grewal wrote as follows:

“Although I am a position of power/responsibility as the Superintendent of Curriculum and Instruction, I am still a parent of a student in our system. In fact, I am a single parent who does not have the other parent to advocate on my son’s behalf. Ishaan should not be advantaged nor disadvantaged because his mother happens to work for the system... Scott – I am copying you as my direct report to ensure I am not overstepping boundaries between employee and parent”.

(Tab “28”)

There were a “couple of minor issues” in Ishaan’s other grade nine courses, Grewal explained. Ishaan was a gifted learner, the Respondent told us, who had been encouraged in his prior schooling to advocate when he saw something unfair. Grewal supported him in his objection to the evaluation practice in his French class, in which the teacher announced at the start of the year that students who missed assessments without reasonable excuse would receive marks of zero.

That was not Board policy, Grewal told us, so she declined to sign an acknowledgement of course expectations containing that term.

There were more issues with Ishaan's courses in grades ten and eleven, the Respondent explained. In Ishaan's grade ten English class, the year was going well until the teacher administered a final examination which did not accurately reflect the material which had been taught. The exam included a sight passage, even though students had never been given the opportunity to write a sight passage test previously. Work which students had previously done on a popular novel had never been returned to them, despite Grewal's previous email to the teacher in that regard. She put all of these concerns in an email to the vice-principal Drmanic on February 16th, 2018 (Tab "29").

Ishaan had signed up to take grade eleven English during the second semester of 2017-18. Late in the first semester, Grewal told us, her son had a troubling encounter in which he was held at knifepoint by three students from the nearby Catholic high school. Ishaan missed a number of days during the succeeding weeks while meeting with Board administration, police investigators and generally dealing with the trauma caused by that experience. The English teacher "gave him grief", as the Respondent put it, for missing classes, so Grewal went directly to the vice-principal and complained that the teacher did not appear to understand the seriousness of what had happened.

Then Ishaan came home and reported to his mother that male students were coming into the English classroom to "hang out" with this particular teacher. Most or all of them were his volleyball teammates, Ishaan indicated. There were conversations among the students about attending parties with this particular teacher. This was classic "grooming-like behaviour" on the part of the teacher, Grewal thought, so she reported it to the principal, Woods. Ishaan was forbidden to spend time in that classroom beyond his required class attendance.

Ishaan had sixteen credits entering grade eleven, the Respondent said, which meant that he was "on track" after two years of secondary school. He initially signed up for a full slate of courses in the first semester of grade eleven, but wound up dropping two courses, Biology and English. In both courses, Grewal explained, assessment practices were again "problematic". In the case of the Biology course, Ishaan clearly had an "issue with the teacher", as the Respondent

described it. Grewal needed to have only one conversation with that particular teacher before concluding that “*this was not going to work*”, as she told us, so she pulled Ishaan from the course and enrolled him in an on-line Biology course through a private school. In the English course, Grewal initially met with the teacher to express concerns that the course evaluation did not match what was being taught. Those were the same concerns which she had expressed in relation to the grades ten and eleven English courses, the Respondent reminded Woods and Drmanic in an October 18th, 2018 email (**Tab “30”**).

Grewal registered her objections to the grade twelve English curriculum within days after the school year started in September 2018. By email to the Family of Schools superintendent, Robertson on September 6th, 2018, she complained that the demographics of the Mississauga school population were not represented in the text selection for the course, which failed to reflect diversity and inclusion. The works which had been selected for the course were written by white authors/playwrights and all featured white characters whose experiences were explored through their “*Eurocentric identity*”, Grewal suggested. This was “*absolutely unacceptable*”, “*negligent*” and “*irresponsible*”, she charged.

Grewal was again careful to state that she was not using her position of authority, having by this time been promoted to Associate Director. She concluded the email by telling Robertson as follows:

“Understanding I am in a privileged position in my role as an associate director, I wanted to give you a heads up because I would not want to be accused of using my positional power inappropriately. However, being a mother I also have the right to advocate for my son. I will be raising these issues with the teacher as is our process around parental concerns. If this issue is not resolved, I will absolutely be taking this up with the principal. I wanted to give you the heads up because of our collegial and professional relationship”.

(Tab “31”)

(iii) Conflict with the Phys. Ed. Department

The issue surrounding Ishaan’s participation on the junior volleyball team in grade ten began with his illness at the start of that school year, Grewal told us. Ishaan contracted a contagious

form of hand, foot and mouth disease and missed substantial school time. He suffered a bronchial infection shortly afterward. The Respondent emailed the volleyball co-coaches, Chee and Wong to alert them that he would miss tryouts, and in fact was missing tryouts for his club team. She was told not to worry about his absence and that Ishaan should return to the school team when he was recovered.

Ishaan came back to the team just after the Thanksgiving weekend in 2017, Grewal recalled. There was a junior volleyball game scheduled for that afternoon. The team practised in the morning. Ishaan was told that he was going to be benched that afternoon because of the standing rule that any player who missed practice for any reason was required to sit out the next game.

By virtue of his giftedness, Grewal explained, Ishaan was someone who perseverated over matters that he regarded as unfair and unjust. He thought that it was entirely wrong that he be benched for something beyond his control. As he later recounted to his mother, Ishaan had a heated confrontation with one or both coaches. She did not know how much her son “mouthed off” to them, Grewal volunteered, but he ended up quitting the team on the spot.

The Respondent emailed Chee and Wong on October 10th, 2017 with a request that they meet with her to discuss Ishaan and the volleyball team. This was simply Grewal requesting a meeting as a parent, she emphasized to us, but the coaches widened the scope of the meeting by insisting that the Phys. Ed. department head (and OSSTF Branch President), Spriel be in attendance, along with the athletic director, Woo. Grewal in turn asked that the vice-principal, Grmanic be present. The entire group met before classes at the school on Tuesday, October 9th, 2017.

Grewal did not make a written record during the meeting, but wrote hand-written notes in her car immediately afterward, she recalled. She provided us with those notes (**Tab “32”**) and used them to refresh her memory of the October 9th discussion.

Ishaan led off the meeting by explaining why he felt that it was wrong that he was to be benched. Chee did most of the talking from that point forward, according to Grewal. Chee explained that the same rule had been in place since establishment of the school, and applied to everyone no matter how talented the player or how difficult the opponent facing the team. The Respondent

pushed back on this, she recalled. Just because the rule had been in place for a long time did not mean that it was good practice, she argued. Ishaan's absence had been authorized and necessary because of his illness. He had not merely skipped practice without valid reason. It was a violation of any student's human rights, she went on, to impose such a penalty because of illness. Ishaan had been "pushed against the wall" by enforcement of this rule to the point that he said "I quit", Grewal argued.

At one point, the Respondent recalled, Spriel spoke up and asked Ishaan to tell them what he wanted to do. Ishaan replied that he had joined the team because he wanted to be part of it and wished to mentor the first-year players from grade nine. It would be up to the coaches to decide whether they wanted to take him back on the team, Spriel declared, but the rule around players sitting out for missing practices was not going to change.

As Grewal recalled her response, she said roughly as follows:

"That can be your position. But I'm going to reserve my right as a parent to take this further if I don't believe this is an appropriate decision".

By her words "take this further", Grewal told us, she was referring to the possibility of involving the superintendent in the dispute. Although she had referred to the potential infringement of Ishaan's human rights, she was not threatening legal proceedings at the Human Rights Tribunal or in any other forum. The discussion became confrontational, nevertheless. Spriel announced that he took offence to Grewal's comments because he felt threatened by them. She did not understand why he would feel threatened, Grewal responded, since she was like any other parent who could take the matter further. Chee felt threatened too, he announced. That was basically where the matter was left, the Respondent told us.

Grewal had a follow-up conversation with the superintendent, Robertson on October 12th, she recalled. She explained the situation to him, but Robertson's reaction was neutral. On October 13th, the vice-principal, Grmanic forwarded to Grewal the student athlete "contract" which athletes and their parents were required to sign before participation in extra-curricular sports, headed "*Code of Conduct for Student Athletes*" (Tab "33"). The contract did not actually establish a hard rule with respect to benching for missed practices, but did stipulate that a

student-athlete was expected to "... demonstrate commitment to the team by attending all team practices and games (or notifying the coach in advance if they cannot attend)".

Ishaan chose to return to the team, Grewal confirmed, and sat out at least part of the next game. This episode soured both Ishaan and the Respondent on the Phys. Ed. department, however. Instead of taking Phys. Ed. in second semester, Ishaan chose to take a Yearbook course. Grewal emailed the principal with her request for a timetable switch by email dated December 19th, 2017 (Tab "34"). Ishaan did play school volleyball on the senior team in grade eleven, but only because Chee was no longer the coach, Grewal explained. She expressed disappointment that the administration did nothing about the improper rule governing missed practices. When asked to sign the same student-athlete contract to give parental approval for Ishaan's participation on the senior team, she highlighted the offending section and wrote: "*I agree with everything but that section*". She was not challenged on it, Grewal reported.

(iv) *Ishaan's First PLAR Applications*

The idea to challenge for PLAR credits probably occurred to Ishaan and/or his mother around the end of his grade ten year, she told us, after the "whole volleyball debacle". Relations were tense between Ishaan and the Phys. Ed. teachers at that stage, as evidenced by his decision not to take that subject in second semester. Phys. Ed. was a very easy credit for an athlete, Grewal pointed out, but it would not have been a productive experience for him to stay in that program at Mississauga. Grewal and Ishaan jointly decided to look at obtaining two PLAR credits in grade eleven Phys. Ed.

Ishaan began working on the first two PLAR applications as early as the summer of 2018, according to the Respondent, though neither was submitted until December 2018. Ishaan had a parent who understood curriculum, as Grewal put it, so she "did some education with him" around understanding course expectations and matching his PLAR applications to those overall requirements. Ishaan gave thought to the pieces of evidence that he would use to demonstrate that he had done work outside school to satisfy course expectations. He assembled video analysis, training calendars and an outline of his dietary/nutritional program. PLAR applications required signature by the subject teacher or guidance counsellor. Ishaan was never going to approach the subject teacher because of his tension with the Phys. Ed. department, Grewal said,

so he went to the Guidance head, Carrega for signatures on the two applications. The head coach of Pakmen volleyball, Jessy Satti (“Satti”) signed off in support of the applications as community member. Ishaan’s personal trainer, Reid Hall (“Hall”) provided a letter in support of the application for the PPL 30 credit.

Grewal provided us with what she said were complete copies of the PLAR application packages for PAF 30 (Tab “35”) and PPL 30 (Tab “36”), as well as the third PLAR application which Ishaan submitted during the second semester of 2018-19 for the Food and Nutrition credit (Tab “37”). Carrega and Hall again signed in support of the latter application.

They selected the two Phys. Ed. courses, Grewal explained, because one course was sports-focused and the second one was fitness-focused. Accordingly, Ishaan’s evidence in one application centred around the tactical knowledge and skills used in volleyball, whereas the evidence for the other application addressed his fitness and nutrition program. The Respondent conceded that Ishaan submitted his training schedule in support of both applications, but pointed out that the calendar covered different times. One calendar ran from September 2017 to June 2018, which corresponded with volleyball training during the school year. The other calendar was from June 2018 to August 2018, showing Ishaan’s off-season fitness training.

(v) *Grewal’s Communications with the Board Regarding the PLAR Challenges*

The Respondent acknowledged that she had a series of interactions with Board officials regarding the processing of her son’s PLAR applications.

Firstly, the Respondent said, she still had questions about the PLAR procedure despite her role as Curriculum superintendent at the time when the process was implemented. She had been queried by one of the community members, either Satti or Reid, as to what should be included in his written submission. Carrega also appeared to be uncertain what information he needed to supply, Grewal said. Accordingly, she approached Grdisa to ask him what those individuals needed to include in their supporting letters. That was probably in a phone conversation in August or September 2018, the Respondent believed. It produced Grewal’s email response of September 19th, 2018 in which he provided samples of letters in support of previous PLAR applications, with the names of the individuals redacted.

She also sent a draft of Ishaan's first application to Grdisa for his review, Grewal acknowledged. With her October 6th, 2018 email she forwarded Ishaan's entire package for the PPL 30 course, including his narrative explanation and the supporting recommendations of Carrega and Satti. She did not send the pieces of evidence that were eventually submitted in the form of a USB stick (containing video evidence) and training calendar. This was merely a mother's way of asking the Board: "*Are we on the right track here?*" Grewal told us. She vigorously denied that obtaining Grdisa's pre-approval of the application amounted to any form of special treatment for Ishaan. Any parent in similar circumstances would have gone to the student's school Phys. Ed. department, the Respondent contended. Ishaan, however, had a "fractured relationship" with all three members of that department whose support could have been sought: Chee, Wong and Spriel.

Furthermore, the Respondent suggested, people frequently approached the Instructional Coordinator at the Board office to ask questions about the PLAR procedure. Indeed, she noted, the names of individuals like Grdisa and Melo were published and given out as the relevant contact persons for PLAR inquiries.

She did not know that it was going to be Grdisa who conducted the evaluation, the Respondent maintained. "*I figured he might be involved*", she conceded, but she did not know who was going to be the assessor at Ishaan's final interview.

Grdisa was already familiar with her son, the Respondent confirmed. Ishaan had been very young when Grewal was vice-principal at Thomas Street. The relatively small staff there formed a close-knit group with a number of young children between them. Grdisa had essentially known Ishaan since his early childhood. Ishaan later volunteered at volleyball events at the same school and became a referee in volleyball tournaments. Grdisa was a former volleyball player, so the two had a natural affinity for the sport and probably engaged in conversations about it when they encountered each other at various volleyball events, she believed.

She did not suggest or request that it be Grdisa who evaluated Ishaan's PLAR applications, the Respondent insisted. On the other hand, she readily acknowledged that she had grave concerns about who was going to conduct such evaluation, and raised that issue with either Grdisa or Suhay. As far as she was aware in 2018, Grewal said, PLAR assessments were being done only

by Mississauga staff. She did not want Ishaan to be assessed by Phys. Ed. teachers at Mississauga because “we had some issues there”, as she put it.

Upon reflection, the Respondent said, it was probably Grdisa to whom she mentioned this during a hallway conversation at the Board office, or perhaps during a phone call. Grewal went on medical leave starting on November 7th, 2018, she noted, so the discussion was almost certainly before that date. Because Grdisa held teacher status, she would not have shared much information with him about the disagreement which had occurred with the Mississauga teachers. She would likely have explained only that there was a fractured relationship there, Grewal said. With Suhay, on the other hand, she may have been able to share more information about what had transpired with Chee, Spriel *et al.*

While she had no specific recollection, Grewal said, this request that the assessment should not be done by Mississauga staff was probably mentioned “in passing” the first time. She raised the matter a second time later in the semester, after going off work due to illness. That occurred after an incident at Mississauga which Ishaan reported to her. By that time, Grewal reiterated, Ishaan was taking only two first semester courses, having dropped his two other courses. While in his Yearbook class, as Grewal related it, Ishaan joined some male students who were playing “spike ball” in the hallway outside their Science class. This was a case of a group of boys “goofing around”, as the Respondent described it. When the Science teacher saw them, however, she singled out Ishaan, asking him “*should you be here?*”. Ishaan duly returned to his Yearbook class. Later, he heard from students in the Science class that the teacher had made what Grewal considered to be inappropriate comments about Ishaan, to the effect of:

“I don’t know why he’s even here. He doesn’t count as a student at Mississauga because he takes his courses online”.

Ishaan took great exception to that report, Grewal told us. The teacher in question was the Science department head and also the spouse of Spriel. Ishaan had never been in one of her classes. Grewal called the principal right away, she recalled, inquiring why anybody would be talking about her son to other students in such a fashion.

After this incident, the Respondent said, she was even more adamant that staff from Mississauga should not be doing Ishaan’s PLAR assessment. Again, she could not recall whether she

contacted Grdisa or Suhay in that regard, but believed that she did so by telephone. She told one of them that Ishaan's PLAR applications were going to be submitted, and she was requesting again that the assessment not be done by Mississauga staff. She was on medical leave at the time of that request, Grewal reiterated. Her only recollection of the response was that she was essentially told: "*We'll see what we can do*".

The Respondent characterized this to us as a parent's request for an accommodation. It was not a direction, she said firmly. She had never directed Board staff to do anything personally for her. She understood her privileged position in the Board, Grewal reiterated. She did not consider that she was putting Grdisa or Suhay in the uncomfortable position of rejecting or acceding to a request from the Associate Director. She was advocating only as the sole custodial parent of a child whose father resided in Australia, Grewal told us. If she had not advocated on Ishaan's behalf in this manner, no one else would have done so.

She also asked for a second form of accommodation for Ishaan, the Respondent agreed. Because he had dropped two courses, Ishaan was nervous about being short two credits during semester one of grade eleven. Because of that anxiety, Grewal approached Suhay before Ishaan turned in his first two PLAR applications and asked if they could be assessed before the end of the first semester in order that he could gain his four credits for that term. That request would have been made via a phone call, Grewal believed, though she had no notes or specific recollection of the conversation. She could only say that it occurred "sometime in the fall". She received no formal response, except Suhay's assurance that the request would be considered. It was not until December 2018, while Grewal was on leave, that she was notified that Ishaan had been granted a PLAR interview early in the final month of the first semester, January 2019.

The PLAR interview took place on January 8th, 2019. Grewal delivered Ishaan to Stephen Lewis to meet with Grdisa and another assessor, MacNeil, who was a department head there. She was only vaguely acquainted with MacNeil, Grewal said. She went into the school with Ishaan to ask Grdisa when she should return to pick up her son following the interview. She returned later in the evening in accordance with Grdisa's instructions, the Respondent recalled.

MacNeil had to leave almost immediately after the interview, but Grewal had a brief discussion with Grdisa. They talked about the prospect of Ishaan doing a third PLAR application, Grewal

said, which she was already considering for him. Grdisa commented that he would not be permitted to obtain a third PLAR credit in the same subject area. It was that casual discussion which steered Ishaan toward making his third application for the Food and Nutrition, the Respondent told us.

Ishaan must have had a discussion with MacNeil during the interview concerning the topic of nutrition in athletic training, Grewal told us. On the following day, January 9th she received an unsolicited email from MacNeil which attached some articles on nutrition. MacNeil wrote as follows:

“Good day Poleen. It was great meeting and interacting with your son yesterday. He is terrific and mature young man.

I have attached a few nutrition files that my daughters have received during some seminars. He is abreast to most of the information, but he may find some of it interesting. I do like the graphic on timing of consumption found in the nutrition and swimming PDF.”

Grewal replied the same date:

“Thanks so much. He really enjoyed the experience. I found out that he can only do two PLARs in one subject area. So his last PLAR will be in HFN 200 – Food and Nutrition. He will focus on athletic training so these resources will be helpful”.

(Tab “38”)

No one had ever suggested to her that there was any obstacle to gaining PLAR credits in both PAF 30 and PPL 30, the Respondent told us. She was unaware of the notation to that effect in the Board’s PowerPoint explanation of the PLAR program. She did not have that presentation at any time during the application process, Grewal said, and was unaware of any such prohibition until it was mentioned in the particulars supplied to her with respect to this complaint.

The Respondent was aware of the seventy percent and thirty percent weighting of PLAR scores between written application/evidence and final interview. She was unsurprised when Ishaan received one hundred percent in each course, the Respondent told us. Her son was articulate and was probably very impressive during the interview with Grdisa and MacNeil. At any rate, Grewal told us, the marks that were assigned with these PLAR credits really meant nothing.

These were Open-level courses. Ishaan simply needed the credits, so the marks were unimportant.

(vi) *The Third PLAR Application*

When Ishaan reached the second semester of grade eleven, he was scheduled to take a Chemistry course along with a two-credit Co-op program in the afternoon. The Co-op placement was at an athletic physiotherapy clinic. As the Respondent told us, her son “sucked at chemistry”. He did not need the course and was not good at it, so they decided to drop Chemistry entirely. This meant that Ishaan did not need to be physically present in the school at all. The Respondent signed him up for “a couple maths or something” via on-line courses.

It had always been the plan for Ishaan to seek the third PLAR credit, Grewal explained. Her email to Suhay and Melo on January 25th, 2019 was for the purpose of requesting an extension for submitting that application until March 1st. Although the email referred to Ishaan’s impending exams, Grewal conceded, he did not actually have any formal exams that semester. She included in that email her suggestion about the composition of the interview team, the Respondent agreed. That suggestion was framed in careful language, she asserted (“*It may be helpful...*”), as opposed to telling Suhay and Melo what to do. Her suggestion that a Phys. Ed. person should be included on Ishaan’s interview team was obviously not taken as a firm direction to them, the Respondent contended, since no such person eventually participated in the interview for the Food and Nutrition credit.

She included Grdisa on the January 25th, 2019 email because she was thanking the group for processing the earlier applications for the Phys. Ed. credits, the Respondent explained. She was not intending that Grdisa advocate for the requests being made in that same email, despite his subsequent assurance in that regard.

Although Melo confirmed extension of the PLAR deadline to March 1st, 2019, Ishaan did not submit his third application by that date. According to the Respondent, Ishaan counted his credits wrong. He came to her before March 1st and told her that he had enough credits and did not need to do the PLAR application in Food and Nutrition. The Respondent relied upon that information and left the matter, she told us. It was not until April, when she actually sat down and reviewed his Mississauga credits, along with the courses which he was taking through the

private school, that Grewal realized that Ishaan was still short of the credit position in which he wanted to put himself. This was not a question of falling behind, Grewal explained. Rather, Ishaan wanted to have a semester off in grade twelve, so he was working extra hard to get additional credits completed in grade eleven. He was behind in his intended pathway, in other words, which was an accelerated program.

The Respondent emailed Suhay when it was discovered in this manner that Ishaan needed the Food and Nutrition credit after all. She requested a phone call with Suhay. When Suhay contacted her, Grewal gave the same explanation outlined above, to the effect that Ishaan had mistakenly believed that he did not need the third PLAR credit. "*Can we hand it in?*" the Respondent asked Suhay, who agreed to accept the application package.

The third PLAR application contained at least some of the same evidence as the earlier applications, notably the outline of Ishaan's dietary regime. The same supportive community member, Hall provided both fitness and nutrition advice to Ishaan, Grewal explained.

Even the Respondent acknowledged that the assessment process for the Food and Nutrition credit was not particularly rigorous. In preparation for the interview, Ishaan was asked to do a kind of meal assignment in which he cooked a meal, took a picture of it and wrote about the meal. During his oral assessment, he was required to explain what he had cooked and how it satisfied various food group requirements. He handed in a written reflection on the assignment. The oral interview, however, was only twenty or twenty-five minutes in length and was conducted via Facetime with the assessor, Pottinger and another female who was an observer. Although Ishaan did not identify the second woman, Grewal surmised that it was probably Melo.

Ishaan was given a mark of one hundred percent on the Food and Nutrition credit. That was again a decision for the assessors, not a parent, Grewal insisted. It would not have mattered to her whether Ishaan earned one hundred percent or fifty percent, she claimed; he just needed the credit. There was nothing startling in a student obtaining three grade eleven credits for essentially the same extracurricular activities, as she saw it. The PLAR process was specifically designed for students like Ishaan who were involved in activities like high-level athletics. If the student submitted similar evidence for multiple credits, it was up to the assessors to make any judgment call which was required in order to grant the credits.

(vii) Concluding Comments

As an educator who worked in the equity area, the Respondent told us, she was “*uber sensitive of positional power*”. She had consistently been conscious of and compliant with the Board’s *Conflict of Interest Policy*. She provided us with a listing of occasions on which she had declared conflicts of interest during her years as an administrator. There were instances involving the Respondent’s brother, a teacher who had encountered employment issues with the Board leading to litigation. Other conflicts had been declared in connection with applications by Grewal’s personal friends for hiring or promotion. Conflict of interest was something that was always “front and centre” in her mind, the Respondent assured us.

The Respondent made a vigorous challenge to the unnamed whistleblower’s good faith in bringing forward this complaint. Given the history that Grewal and Ishaan had experienced at Mississauga, she contended, there was good reason to believe that this complaint targeted her maliciously and in bad faith. The Mississauga teachers may have disagreed with the outcome of Ishaan’s three PLAR application, including the marks which he was given, but it was false and vexatious to suggest that she had circumvented the process in some fashion by virtue of her senior administrator’s role. The difficulty which Ishaan had encountered with the Science teacher (following the hallway incident) reinforced her belief that she and her son were being mistreated, the Respondent said, in light of the connection between the Science teacher, (Spriel’s wife) and the Phys. Ed. department whose staff were clearly hostile toward Grewal.

The flaws in instruction and evaluation at Mississauga which she had brought to the attention of the Board resulted in significant changes of practice both within the school and across the system, Grewal explained. Resentment on the part of some Mississauga staff over Ishaan’s first three years at the school ultimately created a poisoned atmosphere for him. Beyond making it untenable for Mississauga staff to evaluate his PLAR applications, the Respondent told us, that environment meant that she was obliged to remove Ishaan from Mississauga by grade twelve and enroll him in private school courses to complete his secondary education.

The Respondent also criticized the Mississauga teachers for what she termed an obvious breach of privacy. It was evident that none of them should ever have seen what PLAR credits Ishaan had earned, much less reviewed the contents of his application packages or the assessor’s reports.

The PLAR credits and marks should simply have been entered at the school, but Guidance staff (she named Carrega) had obviously breached Ishaan's privacy and confidentiality by sharing such materials with Phys. Ed. staff. This amounted to targeting Ishaan for differential treatment because he was her son, the Respondent charged. It reflected the same deep-rooted animus toward her which pervaded her interactions with the school. This complaint was an effort to get back at her, Grewal contended.

Lastly, the Respondent returned to the theme that she had the right and obligation as sole custodial parent to advocate for Ishaan, and had done so. While she held a privileged position in the Board, her advocacy was always as a parent. Other parents could freely ask for accommodations for their children like extensions of the time for filing applications. To deny Ishaan the benefit of that right would constitute "discrimination and harassment because of family status", as Grewal put it. She left no doubt that she would regard any adverse result in this investigation as an infringement of the right to be free from such discrimination.

V. DISCUSSION AND FINDINGS

(A) The Applicable Principles

As observed above, the principles governing conflict of interest embodied in the *Code of Conduct* have been the subject of comment in a range of inquiries and arbitrations involving municipal sector employees.

In the Report of the Toronto Computer Leasing Inquiry, Commissioner Bellamy urged the following broad application of conflict of interest rules:

The driving consideration behind conflict of interest rules is the public good. In this context, a conflict of interest is essentially a conflict between public and private interests...The core concern in a conflict is the presumption that bias and a lack of impartial judgment will lead a decision-maker in public service to prefer his or her own personal interests over the public good.

...

Conflict of interest should be considered in its broadest possible sense. It is about much more than money. Obviously, a conflict of interest exists when a decision-maker in public service has a personal financial interest in a decision. But conflicts of interest extend to any interest, loyalty, concern, emotion or other feature of a situation tending to make the individual's judgment less reliable than it would normally be.

A potential conflict of interest exists when a public servant has a private interest that could influence the exercise of his or her public duties or responsibilities. The potential conflict exists even when the public servant has taken no action to reap a tangible private benefit...

An apparent conflict of interest exists when someone could reasonably conclude that a conflict of interest exists. In other words, it is a matter of public perception.

In the Report of the Mississauga Judicial Inquiry, Commissioner Cunningham articulated the difference between “real” and “apparent” conflicts of interest:

A conflict of interest may be real or apparent.

A real conflict of interest has three prerequisites: (1) the existence of a private interest (2) that is known to the public office holder; and (3) that has a nexus with his or her public duties and responsibilities that is sufficient to influence the exercise of those duties and responsibilities.

An apparent conflict of interest arises when a reasonably well-informed person could reasonably conclude, as a result of the surrounding circumstances, that the public official must have known about the connection of his or her involvement with a matter of private interest.

In *Regional Municipality of Hamilton-Wentworth v. C.U.P.E. Local 167 (1978)*, 18 L.A.C. (2d) 46, arbitrator Kennedy articulated the factors to be considered in applying conflict of interest

rules to a municipal employee whose outside employment was alleged to have affected the performance of his municipal duties:

- *whether or not the employee in question is responsible for a part of a process whereby members of the public are granted or denied licenses, benefits, etc.;*
- *the extent to which the employee exercises discretion in any part of such process;*
- *the extent to which he deals with the public, and is seen by them to be instrumental in the process; and*
- *the extent to which clear guidelines on the nature of conflict of interest have been promulgated, and, if they have not, whether the nature of the employee's position is such that he can be expected to reach his own reasonable conclusions or seek advice on the issue of conflict of interest.*

In *City of Windsor v. C.U.P.E. Local 543 (2012) 221 L.A.C. (4th) 208*, arbitrator Hayes noted that it is frequently an easier task to state conflict of interest principles than it is to apply them, particularly in perceived or “appearance” situations. The test for conflict of interest should not be set so low that virtually *any* hypothetical projection of apparent conflict will support a broad prohibition of outside activity. That said, it falls ultimately to be determined in each case whether or not a reasonable person apprised of the facts would perceive a conflict on the part of the municipal employee whose informal judgment and performance is sought to be preserved.

This was not a case in which the Respondent was alleged to have allowed outside interests or a desire for personal gain to affect performance of her regular duties and responsibilities or the independent exercise of her own decision-making authority. Rather, the core question in this investigation was whether the Respondent obtained gain for her family member by using her

position and influence with the Board to affect the decision-making of subordinates charged with responsibility for administering the PLAR program.

The principle that an individual is in a conflict of interest when he or she obtains such personal gain for another person is embodied in the language of the *Conflict of Interest Policy*. To reiterate, the policy provides that:

“An individual is in a conflict of interest when they get, or hope to get, personal gain by using their position, influence, Peel Board time, resources, facilities and/or student or staff information.

Personal gain does not just mean something that an individual gains for themselves. Personal gain from a conflict of interest could include something gained for a friend, family member or a business associate”.

In *CUPE Local 966 v. The Regional Municipality of Peel*, 2016 CanLII 85899, arbitrator Trotman considered the discharge of a grievor who had accessed her daughter’s Ontario Works file at the grievor’s place of employment in an effort to determine the status of payments sought by the daughter. While there was no evidence that the grievor’s actions caused any payment to be made, the arbitrator concluded that the accessing of information constituted serious misconduct:

“The grievor did abuse her position by providing an advantage to her daughter that others do not have. Even though the grievor did not assist her daughter by causing a payment to be released she did help her by providing information she would otherwise have had to wait to get from her caseworker. The grievor provided the advantage of queue jumping for that information. It was information her daughter was entitled to have but she should not have the advantage of an insider providing it if other people have to wait for their caseworkers to call them back”.

We concluded on the balance of probabilities that the Respondent utilized her position to obtain a gain for her son which involved more than mere “queue-jumping”, to apply the analogy in *RE: Regional Municipality of Peel, supra*. The specific findings which produced that conclusion are outlined below.

(B) Specific Findings

- (i) The Respondent obtained special treatment of Ishaan's PLAR applications even during the pre-submission stage through her direct communications with the eventual assessor, Grdisa.**

What could be described as the normal or standard procedure for processing non-HPP PLAR applications was described to us in virtually identical terms by the assessors who conducted that process. The Mississauga teachers invariably received completed PLAR application packages from Melo or Grdisa, reviewed them for gaps or deficiencies and issued preliminary directions for additional information to be supplied, before conducting interviews with the applicants. Ishaan's initial applications for the Phys. Ed. credits took a somewhat different course.

Firstly, the Respondent requested and obtained advice from the relevant Instructional Coordinator, Grdisa as to the language or information which should appear in supporting letters from Ishaan's coach and fitness trainer. It was open to any PLAR applicant or his parents to make requests for information to the Board, the Respondent correctly noted. Such requests might well have been routed to Grdisa in the case of challenges for Phys. Ed. credits. It was doubtful, however, that an "ordinary" parent would have received in response to such an inquiry sample letters from the file of a previous, successful PLAR applicant, with redactions to remove the name of the previous student and her referees. It was even less likely that another parent would have been permitted to send Grdisa a draft of the student's PLAR application for review and approval prior to sign-off by the referees and Guidance head. The Respondent did precisely that in her October 6th, 2018 email to Grdisa, attaching a copy of Ishaan's first application in draft form. Grewal took the opportunity to predict to Grdisa at the same time that her son would "*really shine*" during the face to face interview.

It is worth reiterating that Grdisa did not disclose to us any mention of this exchange with the Respondent concerning the draft application. Grdisa responded promptly and affirmatively to Grewal's inquiry by giving her the green light to finalize the application, nevertheless.

By October 6th, 2018, according to the Respondent's evidence, she had already mentioned in passing (most likely to Grdisa, she believed) that she wanted someone other than the Mississauga teachers to conduct Ishaan's PLAR assessment. Grewal stopped short of saying that she knew that Grdisa would be the eventual assessor, although she conceded that she was aware that he

might be “involved”. We concluded that the Respondent knew that she was vetting the contents of Ishaan’s first application with the person who would likely be the ultimate decision-maker, or would at least oversee the evaluation process in Ishaan’s case. Grdisa raised no objection to this course and, perhaps unsurprisingly, was enthusiastically compliant with Grewal’s requests throughout.

(ii) Suhay and Melo agreed to Grewal’s request to process Ishaan’s applications in advance of the usual second semester process, without requiring any compelling reason for such indulgence.

She wanted Ishaan’s PLAR challenges for the Phys. Ed. credits to be assessed during first semester, the Respondent explained to us, because of her son’s worry about dropping two of his other courses at Mississauga that semester. Despite that reported anxiety, Ishaan did not submit the two applications until mid-December 2018. It was the Respondent who communicated to the Board the request that the applications be processed on an accelerated basis. She could not recall whether she did so by contacting the Instructional Coordinator who was administering the program, Melo or the Coordinating Principal who had formerly worked under Grewal’s direct supervision, Suhay.

Melo and Suhay each told us that the initial suggestion that Ishaan’s application should be processed early was made by the other. Suhay was vague and uncertain in her account of how the request was received. Melo was more precise in recounting that Suhay gave her the direction that Ishaan’s application was to be addressed during the first semester. Neither Melo nor Suhay professed to know why Ishaan’s assessment needed to be accelerated. We had little doubt, however, that the Respondent’s request in that regard came through her former colleague, Suhay.

Melo and Suhay were (perhaps understandably) defensive about various aspects of the way in which Ishaan’s applications were treated. Both went to considerable length to emphasize that granting extensions of deadlines – or, in this instance, accelerating the PLAR process from the usual second semester timetable – was a routine and unobjectionable process. We accepted their evidence that such concessions had been made in multiple other instances. One other first semester PLAR application was already being processed at the same time, we heard, because of a pressing deadline for university applications. Nevertheless, it was impossible to accept that, but for Grewal’s relationship with these Board personnel, processing of Ishaan’s two

applications would have been brought forward and completed within a compressed timeframe, without any formal request or stated explanation from the applicant. That other students had been granted exceptions to the usual timetable did not alter the fact that Ishaan was granted this indulgence without even offering a reason.

- (iii) **The Respondent's suggestion that Ishaan's two PLAR applications not be evaluated by the usual Mississauga assessors could only have been perceived as a direction to her subordinates, not a request by the Associate Director.**

This was the clearest example of the Respondent using her position of authority in a manner which went beyond advocating for the interests of her child, we considered.

We found as a fact that it was Grdisa whom Grewal approached on two separate occasions to ensure that Ishaan's evaluations were done by someone other than the Phys. Ed. teachers at Mississauga. The Respondent conceded that she raised the subject "in passing" in September 2018 and again later in the semester, after Ishaan's unpleasant incident with the Science teacher who spoke badly of him to students in her class. Grewal could not remember whether she communicated her request on the second occasion to Suhay or Grdisa.

It was likely, we concluded, that the Respondent was at least as angry and indignant about the incident at that time as she was during our interview. We were not convinced that her call to Suhay or Grdisa amounted merely to an innocuous request by a parent for accommodation, or that either of those possible recipients could have seen it in such light. The Respondent's deep antipathy toward the Mississauga teachers – especially the Phys. Ed. staff – was already well-established. The Respondent felt that she and Ishaan in turn had been targeted for unfair treatment by the teachers. She insisted to us that the ruptured relationships which she and her son had with those teachers precluded any scenario in which they could be trusted to evaluate Ishaan's PLAR challenges fairly or impartially. That was a view which the Respondent likely expressed to Suhay or Grdisa just as vehemently, we inferred.

Grdisa was vague, evasive and defensive about how he became Ishaan's assessor. He claimed that the request to exclude the Mississauga assessors was communicated to him through Melo, who requested that he find other teachers who would help him do the assessment. He was to be personally involved in Ishaan's application, Grdisa clearly understood. He did not even ask

Melo why the parent in question did not want the assessment done by Mississauga staff, Grdisa said.

For her part, Melo denied having any knowledge that the Mississauga staff members were to be avoided in Ishaan's PLAR challenges, or making any such suggestion to Grdisa. Melo was forthright and coherent in her explanation of events. We preferred her evidence over that of Grdisa. We found on the balance of probabilities that the Respondent's request/direction about the non-use of the Mississauga assessors was transmitted directly to Grdisa, not via Melo.

Chee related to us that Grdisa later acknowledged during a pre-assessment meeting in early 2019 that he had been asked by Grewal to conduct Ishaan's evaluation. That was undoubtedly the implicit expectation which Grdisa acquired from the Respondent, we concluded, if not her explicit direction. Grdisa's subsequent conduct of the assessment was instructive. This was the one and only assessment which Grdisa had done without the Mississauga assessors. For support, he enlisted the assistance of MacNeil, a new recruit who had no training and no prior experience whatsoever with PLAR assessments. We accepted MacNeil's evidence that he essentially followed Grdisa's lead during the interview with Ishaan in early January 2019. They did not meet in advance to review and consider Ishaan's application packages. MacNeil was not even consulted by Grdisa about the marks that were awarded. This was token participation by MacNeil in a process that was conducted almost entirely by Grdisa, we found.

Grdisa had a number of grounds on which he could quietly have disqualified himself from evaluating Ishaan's applications – Grdisa had known both the Respondent and her son since the latter's early childhood, counselled Ishaan about his PLAR applications as early as the summer of 2018 and approved at least one of Ishaan's applications in draft form prior to submission. He chose not to do so.

Faced with a similar request from a PLAR candidate or his/her parents, we inferred, Grdisa would surely have required justification for excluding the experienced assessors who had worked on every prior application. Again, he chose not to do so. We could not avoid the conclusion that Grdisa's relationship with the Respondent and the position which she occupied was the dominant factor affecting his decisions.

(iv) Through her colleague and former direct report, Suhay, the Respondent sought and obtained successive extensions of the deadline for submitting Ishaan's third PLAR application.

We were prepared to accept, as Melo and Suhay both contended, that extension of the February deadline to a date in March at Grewal's request was an easy and routine decision which they commonly made in favour of PLAR applicants. That request was contained in the Respondent's January 25th, 2019 email, in which she gave Suhay and Melo a "heads-up" about Ishaan's third application and asked that he be permitted until March 1st to submit it. The request was readily granted. The stated grounds for that request – that Ishaan faced a difficult volleyball schedule with exams looming – turned out to be somewhat contrived. The Respondent admitted that Ishaan actually had no formal exams at the end of the first semester of 2018-19. That issue aside, we were satisfied that there was nothing extraordinary about the March 1st extension.

We did not view what transpired next in the same light. Grewal told us that Ishaan miscalculated his credit status, coming to her before March 1 with the suggestion that he did not need the third PLAR credit after all. She did not discover that error until well after the extended deadline had gone by, Grewal told us. We did not entirely believe her evidence in that regard. By her own acknowledgement, this was a parent who scrutinized Ishaan's individual evaluations, managed his course schedule and generally supervised every aspect of her son's secondary school education. It strained credulity to believe that both of them lost sight of the number of credits which Ishaan had earned toward his intended fast-track course through high school. That lack of attentiveness would have been entirely uncharacteristic of the Respondent.

At any rate, Ishaan did not comply with the extended March 1st deadline. When it was decided that he wanted the HFN credit after all, Grewal's reaction was to go straight to Suhay. She did not do so by means of a formal letter from Ishaan, or even a contrite explanation about why a second extension were necessary, but merely sent by a short message that Suhay should call her. Melo was bypassed in that procedure entirely. The further extension was arranged through no more than a telephone conversation between the Respondent and her former colleague. A reasonable perception of these circumstances, we concluded, was that Grewal drew upon her relationship with Suhay to by-pass whatever mechanisms, formal or informal, were in place to

regulate PLAR challenges within the Board. Ishaan was permitted another opportunity to submit his application after deliberately allowing the first extended deadline to go by.

- (v) **The Respondent saw fit to suggest to Suhay and Melo the personnel who should make up the team for Ishaan's third PLAR interview – although, as it turned out, evaluation of the HFN application was a fairly perfunctory exercise.**

The suggestion in her January 25th, 2019 email that it would be “helpful” to have an HPE teacher involved in Ishaan's interview for the HFN credit was just that, a simple suggestion, the Respondent maintained. The PLAR administrators did not even follow it by appointing someone with a Phys. Ed. background for that purpose. We rejected that explanation. The email prompted Grdisa to pledge to “advocate” both for extension of the deadline for Ishaan's application and for an “HPE presence” at the interview. The Respondent must have known and intended that this request would be met. This was not parental advocacy, in our view; rather, it was a “suggestion” by a senior Board administrator who clearly had insider knowledge of the people and procedure involved in the processing of PLAR applications. Other students did not have the advantage of making submissions to the relevant Board officials as to the composition of their interview teams. A reasonable person apprised of these facts would perceive a conflict of interest on the part of an Associate Director who attempted to procure such a result, in our view.

All of the Respondent's requests for indulgences on Ishaan's behalf were readily granted and fully-executed. Grewal was treated solicitously by the actual PLAR decision-makers who were least able to object. This included even MacNeil, who emailed Grewal the day after Ishaan's interview to laud her son's performance and forward some literature which might assist him in his training. It could not have escaped the Respondent's attention that employees like Grdisa and MacNeil were patently anxious to carry out the wishes which she expressed on her son's behalf.

- (vi) **The Respondent made no effort to disclose to the Board that she was “advocating” with subordinates in relation to her son's PLAR applications, contrary to her stated practice of making such declarations.**

On a number of previous occasions, the Respondent demonstrated to us, she had carefully guarded against any allegation of conflict of interest by disclosing to her superior (formerly

Moreash) the circumstances which gave rise to a potential conflict. Here, she made no effort to go to the Director to disclose that she was intervening in relation to Ishaan's PLAR challenges, or to declare that she was doing so solely as parent and not using her "positional advantage" to procure any concession or benefit for her son. That kind of disclosure had been made when the Respondent expressed criticism of curriculum and evaluation practices by Mississauga teachers, we noted. The Respondent elected not to do so in these circumstances even while instructing her subordinates that the usual paid PLAR assessors from Mississauga should be excluded in favour of someone whom she trusted.

We were not persuaded by the Respondent's oft-repeated contention that her communications with the PLAR administrators were merely an extension of the necessary advocacy which fell to her as Ishaan sole custodial parent. With respect to the PLAR applications, in our view, Grewal was not precluded from advocating if required, as she had done at Mississauga in each of Ishaan's first three years of high school. On the other hand, Grewal must have been aware that employees like Suhay, Melo and Grdisa would be completely unable to regard her as wearing her "parent's hat", as Grewal put it, rather than wielding the position and authority of Associate Director. The *Conflict of Interest Policy* required that Board employees report any actual, possible or perceived conflict of interest to their immediate supervisor upon becoming aware of it. No such disclosure was required here, Grewal clearly thought. We disagreed, for the reasons outlined above.

- (vii) **There was insufficient basis to find that Ishaan should not have been granted any or all of the PLAR credits, or that his one hundred percent marks were excessive or inflated.**

There were certainly irregularities in the manner in which Ishaan's applications were dealt with. Other students and parents who viewed the Board's published information about PLAR challenges, for example, would have learned unequivocally that they were precluded from seeking both PAF 30 and PPL 30 credits through the PLAR process. Both Melo and Suhay were quick to explain that the prohibition against granting those two credits in the PowerPoint presentation was erroneous and ought to have been removed. Ishaan's applications were processed accordingly.

There were other curious features of Ishaan's PLAR challenges. Grdisa was a former elementary school teacher who had never acted as the primary assessor on a PLAR challenge for a high school credit. Ishaan did not appear to receive a preliminary feedback report or request for additional information on any of his three PLAR challenges, though the witnesses unanimously reported that it was typical to do so as part of the evaluation procedure. Ishaan's interview for the HFN credit was reportedly a brief exercise conducted via Facetime, not an in-person meeting.

More intuitively, it seemed unusual that the program of practice sessions, training, and nutrition associated with Ishaan's volleyball activity – even at an elite level – could simultaneously satisfy the requirements for three separate grade eleven courses, generating a one hundred percent mark in each.

We were neither mandated nor qualified to second-guess the PLAR assessors in that regard, however. Even if we had been inclined to do so, we noted that none of the witnesses could say specifically how Ishaan's PLAR packages were deficient, though all felt that they were lacking in detail. Grdisa and MacNeil held the opposite view. Despite the above concerns, we were not prepared to find that the actual granting of the credits, or the marks awarded, were the result of pressure from the Respondent, real or perceived.

(viii) We drew no inference for or against the Respondent from the pattern of conflict which she described with Mississauga staff and administration over Ishaan's experience at the school.

But for the Respondent's own evidence, we would have had little regard to hearsay reports of the objections and criticism which she lodged with Mississauga teachers following Ishaan's arrival at the school. The Respondent provided a great deal of background about such conflict, however, because she considered it vital in demonstrating why she wanted Ishaan's PLAR challenges removed entirely from the "poisoned" Mississauga environment.

The Respondent was clearly an active and engaged parent who did not hesitate to make representations to the school (and Board superintendents) when she perceived unfairness or inadequacies in Ishaan's classes and program. We had no shred of doubt about the Respondent's positive commitment to her son's best interests and well-being. It did not follow, however, that the backdrop of hostility which the Respondent professed to have experienced during Ishaan's

studies at Mississauga served to justify the use of her position and influence to overcome such treatment.

We frankly did not discern in any of the witnesses signs of the overt hostility which Grewal believed they harboured toward her and her son. The tone of their evidence was one of indignation about the organizational advantage enjoyed by a senior Board administrator in these circumstances, not personal resentment.

Even if Grewal were correct in her underlying premise that this whistleblower complaint was motivated by malice and hostility, however, we were left with a set of facts which were largely uncontradicted as to the elements which gave rise to Grewal's conflict of interest.

Whether or not Grewal's complaints about the whistleblower's tainted motivation were supportable, in our view, a reasonable person in the position of the whistleblower would have concluded that the Respondent was conflicted in requesting subordinates to grant the arrangements which she sought and obtained for her son's PLAR applications.

VI. CONCLUSION

In the result, we concluded that the whistleblower's complaint of wrongdoing was substantiated, inasmuch as the Respondent engaged in conduct that contravened the Board's *Conflict of Interest Policy* and the parallel provisions of the *Code of Conduct* prohibiting the use of a Board position to procure personal gain for her family member, without disclosure of such conflict.

Yours very truly,

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