

**Report of Independent Investigation**  
**Regarding Sexual Misconduct by School Personnel Toward Students**  
**At San Francisco University High School**

**Date: March 31, 2020**

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**Sidley Austin LLP**

## **I. Engagement and Scope of Assignment**

### **A. Engagement**

On May 2, 2019, the Independent Investigation Oversight Committee of the Board of Trustees of San Francisco University High School (“Oversight Committee”) retained Sidley Austin LLP to conduct an investigation into whether there had been sexual misconduct by any faculty, staff, administrator, volunteer or other personnel associated with San Francisco University High School (“SFUHS”) from the time of its creation in 1975 to the present.

The investigation arose in response to findings included in a report prepared in April of 2019 by lawyers investigating sexual misconduct at The Katherine Branson School (“Branson”). That report concluded, among other things, that a former Branson coach, Rothwell “Rusty” Taylor, had engaged in sexual misconduct while employed at Branson between 1972 and 1979. Because Taylor left Branson to become a soccer coach at SFUHS, the SFUHS Board of Trustees decided to investigate whether Taylor or any other adult working at SFUHS in any capacity had engaged in sexual misconduct toward students from 1975 to the present. The Board appointed the Oversight Committee to select and retain independent investigators to conduct the investigation. The Oversight Committee interviewed several law firms and selected Sidley Austin LLP’s team. Sidley’s team, led by Wendy Lazerson and Brian Stretch, has extensive experience investigating sexual misconduct. Ms. Lazerson, a partner at Sidley, has been an employment lawyer for over three decades. Mr. Stretch, a partner at Sidley, is the former United States Attorney for the Northern District of California and, prior to that time, served as a prosecutor in Marin County.

### **B. Scope**

The investigation covered the entire period of SFUHS’s existence up to the present and examined all alleged sexual misconduct by any adult working in any capacity at SFUHS toward

any current or former SFUHS student. In addition to considering whether sexual misconduct had occurred, we also considered who, if anyone, knew or should have known about such misconduct, and when they learned of it. We also examined whether the school administration's response to any misconduct was appropriate.

The overriding objective of the investigation was to identify any precipitating factors that may have led to sexual misconduct and, if so, whether those factors have since been corrected so that the environment at SFUHS is safe and secure for every student today and into the future.

While we heard the views of some members of the parent community regarding the skills and abilities of various administrators or other personnel, including coaches and faculty, our mandate was to investigate sexual misconduct and not to judge administration or faculty capabilities. Therefore, the skills or abilities of any personnel *unrelated to sexual misconduct* were beyond the scope of this investigation, and we express no opinions on that topic.

In conducting our investigation, we independently determined how to gather and analyze the facts. Neither the Oversight Committee, the Board nor the SFUHS administration placed any limits on our methodology, ability to pursue what we considered to be relevant evidence, analysis or conclusions. The only limitations we faced resulted from the varying willingness of witnesses to come forward, the existence of records and witnesses' memories.

## **II. Definitions**

For purposes of this report, we use the term "sexual misconduct" to mean conduct of a sexual nature that is committed without consent or by force, manipulation, intimidation or coercion. This definition includes, but is not limited to, sexual intercourse, sexual assault, touching, kissing, comments of a sexual nature without an educational purpose, sexual harassment, grooming for a sexual relationship either in the present or in the future, or an attempt to engage in any of these activities.

Because the legal age of consent in California is 18, we conclude that the fact that a student under that age may not have protested at the time of an event, or may at the time have been flattered by an adult's attention, or even may have considered themselves to be a "willing" participant at the time, does not constitute consent. Given the imbalance of power and the maturity level of students in high school, we appreciate that the import and resulting harm from sexual misconduct may not be fully realized at the time it occurs, but rather can arise as a student matures into adulthood and realizes the impact and import of conduct previously unappreciated.

Finally, we are mindful of the varying opinions regarding the correct manner to refer to individuals who allege that they have experienced sexual misconduct. Some prefer the word "survivor," while others prefer "reporter," "victim" or "thrivor." We refer here to individuals who allege that they experienced sexual abuse at SFUHS as "survivors."

We appreciate the courage and strength of individual survivors and their families who have come forward to speak with us, as well as the deep concern of witnesses who, while not themselves direct survivors of sexual misconduct, were committed to supporting a complete and thorough investigation for the benefit of the SFUHS community by providing information they possessed.

### **III. Independence**

The Oversight Committee selected our law firm to conduct the investigation with approval from the full Board. Prior to that selection, our law firm did not have an attorney client relationship with the school, the full Board, or the Oversight Committee. During the course of our investigation, we were sometimes asked by SFUHS community members if we were truly "independent" of influence by the SFUHS administration and the Board of Trustees. We state unequivocally that neither the administration, the Board of Trustees, nor the Oversight

Committee influenced the process or outcome of our investigation. Our mission was to determine the facts based on the evidence available to us.

#### **IV. Identifying Perpetrators and Survivors by Name**

The SFUHS community was and is relatively small and, as a result, providing details of certain events, such as the timing of incidents, graduating class years of survivors, and specific locations of events could compromise the privacy and anonymity requested by some (but not all) of the survivors and witnesses with whom we spoke. In determining the level of detail to include in this report, we balanced the individuals' interests in privacy, the community's interest in understanding the factual findings, and the ultimate goal of ensuring a safe and secure school environment.

Witnesses identified multiple alleged perpetrators through the course of our investigation. In this report, we generally identify by name alleged perpetrators of sexual misconduct where there was a firsthand report that we found credible that was also corroborated by reliable, contemporaneous documentary or testimonial evidence that we also found credible. In these circumstances, we concluded based on the evidence that we were able to review that it was more likely than not that the alleged event occurred. Because of the potentially serious consequences of identifying individuals as even *alleged* perpetrators of sexual misconduct, we generally do not identify by name alleged perpetrators even where we found witness accounts to be credible where there was not corroborating evidence. In such cases, we include the accounts in this report, but we omit the identity of the perpetrator. This approach is not meant to diminish in any way the importance of the survivors' accounts in such circumstances.

## **V. The Process**

### **A. General Outreach to the SFUHS Community**

A fulsome investigation necessarily relied on the voluntary cooperation of the SFUHS community. We made multiple attempts to encourage individuals with knowledge of the relevant subject matter to come forward with information. Prior to our retention, on April 6, 2019, SFUHS sent an email to the SFUHS community to inform its members of the report released by Branson and to encourage anyone with information about Rusty Taylor to come forward. On May 22, 2019, SFUHS sent a follow-up letter to the community in which it announced it was launching an independent investigation of sexual misconduct at SFUHS, provided contact information for the Sidley Austin lawyers conducting the investigation, and outlined several steps it had taken in connection with the investigation. Both of these letters were posted on the SFUHS website.

One of the steps taken prior to our engagement was the establishment of an anonymous reporting hotline administered by a third party not otherwise affiliated with SFUHS. This hotline was established to receive reports of sexual misconduct by Taylor or any past or current SFUHS employee or volunteer. That hotline has remained active throughout our investigation, and we have followed up with all individuals who contacted the hotline and indicated a willingness to be contacted whether or not they wished to retain their anonymity.

On August 28, 2019, Sidley reached out separately to the SFUHS community by letter and email to encourage anyone with relevant information to come forward. In addition to responding to calls that came in through the hotline, we responded to every email or telephone call we received. Further, we made concerted efforts to locate individuals whom we thought would have relevant information, including hiring a private investigator to locate and contact witnesses.

## **B. Witnesses**

In the course of our investigation, we interviewed 117 witnesses, in some cases interviewing these witnesses more than once. The witnesses included individuals who stated that they had experienced, observed or had received a report of sexual misconduct, current and former SFUHS faculty, administrators and staff, alumni, and former and current school parents. We met with every witness willing to meet with us and in cases where witnesses were not able or willing to meet in person, we interviewed them by video or telephone.

Some former administrators, faculty or staff declined to speak with us, while others failed to respond to our multiple attempts to reach them. Some potential witnesses are deceased.

## **C. Survivors**

Following best practices not to intrude upon the privacy of a survivor, we did not proactively reach out to survivors unless they indicated a desire through others to be contacted by us.<sup>1</sup> We concluded that given the numerous communications to the SFUHS community asking individuals to contact us and explaining that we were attempting to investigate sexual misconduct at SFUHS, those survivors who did not respond to this outreach had made that decision deliberately and chose not to share their information with us.

We recognize that in some cases, this approach may have prevented us from obtaining adequate corroboration to identify alleged perpetrators by name or report some incidents of sexual misconduct. Nonetheless, we worked with the evidence before us and did not rely on rumors, hearsay or speculation. We spoke to every survivor who called the hotline or contacted us directly, sometimes on multiple occasions. Where possible, we met with survivors in person. Some survivors were available only by video conference, while others preferred speaking with us

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<sup>1</sup> However, we did reach out proactively to former school personnel.

by telephone. In one or two instances, survivors wished to remain anonymous and did not share their names with us.

#### **D. Alleged Perpetrators**

We endeavored to reach out to individuals alleged to have engaged in sexual misconduct. We attempted to provide alleged perpetrators an opportunity to speak with us either with or without an attorney. We spoke with three alleged perpetrators. Two alleged perpetrators declined to speak with us through their attorney. One alleged perpetrator died before we began our investigation. Several alleged perpetrators did not return our calls or respond to our letters or the outreach of a private investigator hired to locate individuals.

#### **E. Documents**

In conducting our investigation, we reviewed thousands of pages of documentary evidence, including emails, handwritten and typed notes, policies, correspondence, handbooks, personnel files, and other documentary evidence. We determined that sometime between June and August of 2015 and, in the absence of strict record-retention policies, a school staff member engaged in an effort to clean up old school records. In that process, the staff member shredded personnel records over 10 years old. The practice continued annually until the staff member left the school in 2018. SFUHS has since begun instituting new record-retention policies.

### **VI. Summary of Findings**

- There were no reports, and we did not find evidence, that any school personnel currently employed at SFUHS has engaged in sexual misconduct toward a student. This includes current administrators, faculty, coaches, contractors, staff and volunteers.

- There were reports, and we found evidence, of corroborated sexual misconduct by multiple perpetrators toward multiple students of SFUHS during the period 1976 to 1992.
- There were credible but uncorroborated reports of sexual misconduct that occurred in the 1980s into the 2000s.
- We make our findings based only on the evidence before us. Because we are limited by the evidence available to us through documents and the survivors and witnesses who spoke with us, we note that additional sexual misconduct may have occurred that was not brought to our attention.

## **VII. Findings of Fact**

### **A. School Administrations and Culture**

From the time SFUHS opened its doors in 1975, there was an effort to break down barriers between faculty and students and a perception that some informality could serve educational purposes. There were no formal written rules or policies governing the interactions between adult school personnel and students. This lack of formality, while perhaps beneficial for some purposes, also helped to mask inappropriate relationships and sexual misconduct, leaving students vulnerable. A faculty member or administrator who observed a student and teacher driving alone together, saw a teacher hugging a student, or became aware of a teacher inviting a student to his or her apartment, may not have viewed this behavior as suspicious or potentially consistent with grooming a student for an inappropriate sexual encounter. Likewise, parents may not have been concerned by a teacher dropping by a student's home on an evening or during a weekend, as such an occurrence may have been perceived as consistent with the informal culture of the school. One former faculty member noted that students were treated more like adults than

children. While it appears to us that the school has evolved away from this lack of clear boundaries, the culture of informality persisted for many years.

In addition, for most of the period from 1975 through 1993, there were no formal complaint procedures or designated paths for students to pursue to raise or complain about troubling interactions, including sexual misconduct. Instead, students relied on each other as sounding boards and, in some cases, for protection. It was not until about 1993 that SFUHS, like many other institutions, began to discuss implementing a policy on sexual harassment.

Between 1993 and 1996, the school administration and faculty discussed and adopted, and thereafter amended and refined, a written policy regarding sexual harassment and a process for reporting complaints. At the outset, there was some debate among the administration and faculty about whether a sexual harassment policy infringed on free speech. Also, the evidence suggests the focus initially was on intra-adult sexual harassment as opposed to sexual misconduct directed toward students. This changed as the proposed policy was adopted and then evolved. In the mid to late 90's, the administration retained an expert to assist with the review and finalizing of a sexual harassment policy. At least one session of faculty training took place at that time.

Under the leadership of the current Head of School, Julia Eells, we find that the administrators, faculty, coaches, and staff have received sexual harassment training and that the policy against sexual harassment has been updated and expanded in compliance with best practices and California law. We find that SFUHS now has a state of the art policy on sexual harassment and a delineated process for reporting complaints, including those of sexual harassment. Also, the current employee manual identifies and delineates conduct which would

not be considered appropriate between students and staff in the Employee-Student Interactions Policy. This policy clarifies the relevant boundaries appropriately.

**B. Reports of Alleged Sexual Misconduct That Were Corroborated by Other Evidence**

**1. Ron Vierling**

In the fall of 1976, Dennis Collins, then the Head of School, received two separate reports that an English teacher and soccer coach named Ron Vierling had engaged in inappropriate sexual contacts with students, including sexual intercourse in one case and kissing in another case.<sup>2</sup> While we were not able to learn all of the details reported, based on the evidence, we find that Collins promptly took action upon receiving the reports. Collins called Vierling to his office on the same evening he received the two reports. Vierling denied any wrongdoing. Collins nonetheless found the reports credible and terminated Vierling's employment effective immediately. During our investigation, survivors involved in these alleged incidents came forward and described what occurred in detail. In our opinion, after reviewing all relevant materials and speaking with survivors, their accounts are credible.

We spoke with Vierling by telephone, as he lives out of state. He denied ever having engaged in sexual misconduct toward students at SFUHS. He stated that he was terminated for reasons unrelated to allegations of sexual misconduct, i.e., that he had been terminated for "playing favorites." We note that a former Board Chair corroborates Collins' basis for terminating Vierling and ultimately find Collins' explanation of the reason for Vierling's termination credible.

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<sup>2</sup> Two of the survivors reported to us that they learned through their conversation around the time one reported the conduct to the administration, that both had been the target of Vierling's attention.

While Collins told us that he placed a note about the termination in Vierling's personnel file (we could not verify this as the file has been destroyed), he also noted that he never received any request for references for Vierling after his termination. Vierling went on to teach at other institutions out of state and became a published author. He maintained an active blog until recently when it appears to have become inactive after an SFUHS alumna posted a negative comment there.

## **2. Rusty Taylor**

Rusty Taylor was twice employed at SFUHS. From 1979 to 2004 Taylor was a coach and also served as an assistant Athletic Director. In the fall of 2015, he returned for approximately two months to coach the girls' soccer team.

With reference to Taylor's initial tenure with the school, many witnesses questioned us as to why SFUHS would hire a coach rumored to have been fired from Branson for engaging in inappropriate relationships with students. These questions were based on the understanding of many witnesses that SFUHS hired Taylor knowing that he had allegedly been fired from Branson. The evidence we reviewed suggests that in reality, SFUHS recruited Taylor away from Branson to head up its soccer program, and did so as part of an effort to build a strong athletic program to attract students to SFUHS.

Collins reported reaching out to the then-Head of School at Branson to warn him that he intended to recruit Taylor; he was told that Taylor "would never leave Branson."<sup>3</sup> The evidence we reviewed reflects that Collins was not aware of Taylor's much later-reported alleged sexual misconduct at Branson. Collins knew Taylor to be an all-American college soccer player and a winning coach. The evidence we reviewed indicates that the only negative feedback Branson

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<sup>3</sup> The then-Head of School at Branson passed away prior to this investigation.

provided to Collins about Taylor was that Taylor lacked administrative skills and was unsuited for an administrative position such as Director of Athletics. In the view of SFUHS administrators, the latter assessment proved to be true.

When SFUHS hired Taylor in 1979, he reported to John Werle, the first SFUHS Athletic Director, and first SFUHS faculty hire. While we were unable to learn whether background and reference checks were performed, we reviewed no evidence that suggested that either a background or reference check would have revealed anything negative about Taylor in 1979.

Many witnesses, including former administrators, faculty and students at SFUHS described Taylor, then in his mid-30s, as attractive, charming, charismatic, and popular with parents, students and faculty. Some school administrators and faculty considered him to be a personal friend, and they welcomed him into their homes and socialized with him outside of school.

According to numerous alumni witnesses, from the time of his arrival in 1979, Taylor was noticeably flirtatious with female students and “paid special attention” to certain girls on the soccer team. Former students report that Taylor would hug female players, give them shoulder massages, put his arms around their shoulders, wrap their ankles on the field, and frequently make off-color jokes and comments. Some former faculty recall the off-color jokes but do not recall seeing any conduct that seemed to cross boundaries. Student witnesses also reported that Taylor regularly offered rides home to certain female students, some of whom played soccer, and some of whom did not. Former faculty noted that it was not uncommon for teachers to give students rides home, in part because of the policy that prohibited students from driving to SFUHS.

Former female students reported that Taylor commented on their physical appearance in a way that made them uncomfortable. Some witnesses also reported that he showered attention on “his favorite” soccer players in a manner which made those not the target of his attention feel uncomfortable or not attractive enough to make it into the “in crowd.”

Multiple former students reported observing Taylor driving away from campus alone with various individual female students, and spotting Taylor walking hand-in-hand with a student near the campus. We also learned that he attended a student’s after-graduation party, arriving with a female student. The evidence we reviewed supports the conclusion that this misbehavior continued until at least 1991.<sup>4</sup>

While alumni reported the above behavior, most of the former faculty and administrators we interviewed told us that they were not aware of any problematic behavior by Taylor, though some commented that Taylor occasionally told misogynistic jokes that were troubling.

Beyond the above-described misconduct, some evidence that we reviewed supports the conclusion that between the years 1979 and 1991, Taylor engaged in serious sexual misconduct. In particular, different survivors reported a variety of instances of significant sexual misconduct, including having intercourse with Taylor at his home, being forced to touch Taylor’s penis while in his vehicle, being forced to kiss him in his vehicle, being groped and having her breasts touched in the school hallway, receiving repeated unwanted invitations to dinner at Taylor’s home and elsewhere, being offered a ride home only to have Taylor take her to a remote location and attempt to forcibly kiss her, female students being followed as they walked home from school or attended after-school activities, and being invited to drink alcohol with Taylor at a bar. Based on evidence we reviewed, it is our opinion that a number of these acts occurred between

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<sup>4</sup> The evidence shows that at some point, Taylor felt comfortable enough with several families to ask them for personal loans.

Taylor and multiple female students, at multiple locations, over multiple years. Yet, we find no evidence that anyone contemporaneously reported any incidents to any faculty member, staff or administrator before 1991.

In 1991, a survivor who, among other things, said that she was stalked and groped by Taylor on the school campus, described Taylor's behavior to a friend who was a classmate. The classmate convinced the survivor to speak with an administrator or faculty member. The survivor reports that she twice attempted to meet with the then-Dean of Students, Martha Shepardson, but that the Dean's administrative assistant, who was not told the reason for the visit, reportedly said the Dean did not have time. The survivor then told her parent, who contacted the Head of School, Peter Esty.

According to contemporaneous notes of the phone call between the parent and Esty, the parent not only reported Taylor's conduct, but also told Esty that her daughter and others believed that this was not the first time that Taylor had engaged in inappropriate behavior toward female students and that "something drastic must be done." Contemporaneous notes reflect Esty's serious concern with "channeling" what he perceived to be the parent's anger and his suggestion to the parent that her daughter may not want to pursue this. The evidence reflects that the administration was focused on trying to calm down the parent.

Esty recalls he felt very conflicted because he personally liked Taylor and considered him a friend, and also because Taylor was so popular with parents. Nonetheless, Esty sought advice from outside counsel and initiated an investigation.

The evidence reflects that an investigation was conducted, during which witnesses, the survivor, her classmates and Taylor were interviewed. Despite Taylor's claim that his actions

had been “misunderstood,” the evidence shows that Esty concluded the survivor was telling the truth.

Due to the destruction of records and the poor recollection of the witnesses we interviewed on this topic, it is not clear whether Taylor was disciplined at that time. The evidence available to us reflects that neither the survivor nor her mother ever heard back from SFUHS. Since Taylor remained employed at the school, and they heard nothing about the results of the investigation, they both report assuming that Taylor had not been disciplined.

In 1992, Esty received a written report from another survivor, this time a former student who wanted to discuss her experiences with Taylor when she was a student in the 1980s. She met with Esty and reported that Taylor attempted to forcibly kiss her multiple times, pressured her to drink alcohol and physically shoved her. She described that when she later confronted Taylor while still a student, he was combative and unrepentant. After receiving this report, Esty confronted Taylor. Contemporaneous notes reflect that in 1992, Taylor did not deny the reported allegations.

Esty thanked the survivor for coming forward and, according to documentary evidence, contacted her parent, and communicated that Taylor would remain in his position provided a professional counselor “cleared him.”

Esty recalls that he delivered a written warning to Taylor, a copy of which was placed in Taylor’s personnel file. That warning advised Taylor that if he engaged in any further misconduct, his employment would be terminated.<sup>5</sup>

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<sup>5</sup> Despite the destruction of Taylor’s personnel file, there is evidence corroborating the existence of this written warning because Michael Diamonti, acting Head of School in 2001, and Head of School from 2002 through 2013, recalled seeing it in Taylor’s personnel file in the early 2000s before it was destroyed in 2015.

We did not receive reports or other evidence of sexual misconduct by Taylor at SFUHS after the 1991 incidents.

Although the written warning appears to have been placed in Taylor's personnel file, witnesses report that Esty kept the separate file related to the 1991 and 1992 events in his desk drawer, segregated from other personnel files. Witnesses report that when Esty departed from SFUHS, he asked the then-Chief Financial Officer, Jim Chestnut, to hold onto the segregated file. Chestnut confirms that the segregated file remained in Chestnut's desk drawer until 2015, when, as discussed below, the current Head of School asked Chestnut to search for any files relating to Taylor. Chestnut reports that he did not open or review the segregated files until 2015.

In 2001 or 2002, shortly after he became the new Head of School, Mike Diamonti received a call from an alumna who asked to meet to discuss Taylor. This survivor reported to Diamonti that she and other students had experienced inappropriate relationships with Taylor in the 1980s, and that while she respected Taylor as a coach, she felt the school should "keep an eye on" Taylor.

Diamonti recalls that after that meeting, he pulled and reviewed Taylor's personnel file. He recalls reading a warning letter that had been written and placed there by his predecessor approximately 10 years earlier. Since he was unaware of any issues arising in the years since the written warning in 1992, he concluded that Taylor must have heeded the warning. He decided that it was not necessary for him to take any action other than "to keep an eye on" Taylor. While he did not terminate Taylor's employment immediately, he felt that Taylor did not have enough work to do to justify keeping him employed. Although the timing is unclear, he encouraged

Taylor to leave SFUHS, telling him he would not get the position of Athletic Director being vacated by Werle in 2003.

Jim Ketcham was hired to replace Werle in 2003. Taylor continued as a soccer coach at SFUHS, submitting his resignation in April of 2004. He left SFUHS to take a position as Athletic Director at another Bay Area high school. Ketcham stated that during the one year that he overlapped with Taylor at SFUHS, he never received reports of, nor did he observe, any inappropriate behavior by Taylor.

Many faculty, staff and administrators with whom we spoke deny knowledge of any sexual misconduct by Taylor. Some faculty, staff and school administrators thought of Taylor as a personal friend. One former colleague reported feeling vaguely uncomfortable with Taylor's behavior (he denies knowledge of sexual misconduct), and he reports that he got a job at another school, partially because he did not want to remain associated with Taylor. A school counselor indicates that toward the end of his tenure in the mid-90s, he became aware of rumors about Taylor allegedly having a female student over to his apartment. In 1991, the counselor had been made aware by the administration of the 1991 incident, but believed it was his duty to remain neutral and to neither investigate rumors nor to become involved with discipline so that he could do his job as a counselor

After he left SFUHS in 2004, Taylor returned to SFUHS from time to time to attend school celebrations and alumni events. Some alumnae reported being uncomfortable encountering him at the school based on their observations of his behavior or their own personal experiences with him when they were attending SFUHS.

Through his attorney, Taylor declined to be interviewed or otherwise participate in this investigation.

### **3. Jonathan Schrode**

SFUHS employed Jonathan (“Jono”) Schrode (“Schrode”) as a math teacher from 1989 to 1992. Multiple witnesses, including a survivor, reported that during his tenure at the School, Schrode engaged in inappropriate sexual touching with the survivor while she was a minor and student at the School. After she turned 18 years old, they had sexual intercourse. While several members of the student community reported being aware of the relationship and of the special attention Schrode paid to this survivor, the faculty with whom we spoke denied knowing that the relationship was anything other than a teacher-student relationship, though three faculty members recalled seeing the two together off campus. One classmate and friend of the survivor told us that she recalls a faculty member impressing upon her the importance of keeping the relationship a secret so that Schrode would not “get in trouble.” The former teacher, however, denies that he made such a comment. He also denies ever believing the relationship was anything other than a friendship, though he did observe the student at the apartment he shared with Schrode.

Sometime after Schrode resigned, an Academic Dean recommended Schrode to tutor math to an SFUHS student. We found no evidence that the administration or the Academic Dean was aware of Schrode’s alleged sexual misconduct, and the evidence reflects that Esty reported on Schrode’s departure with regret.

We interviewed Mr. Schrode. He denied having an inappropriate physical relationship with any student while he was an employee of the School. He insisted that he never crossed any boundaries with any student while he was employed at SFUHS. After leaving SFUHS, according to Schrode, he worked as a cabinetmaker and tutor, and later taught at another Bay Area high school.

#### **4. Additional Reports of Misconduct**

During our investigation, we received a number of reports from survivors and witnesses regarding other alleged instances of alleged sexual misconduct that they say they either observed or experienced. None of the alleged perpetrators is currently employed at the School.

a) A witness reports that in the 1980s, she observed a student in the Athletic Department office sitting on a coach's desk. She was facing him with her legs around his, and according to the witness, they were staring intently into each other's eyes. At around the same time, another witness reported seeing the same coach in his office with a student on his lap. This student and coach were also seen walking together outside of school, once with their arms around one another. The coach denied ever engaging in this conduct.

b) A survivor reports that in the 1980s, a teacher took her to the movies more than once. She reports that on a different occasion, the teacher took her to the movies on a "double date" with another teacher and his wife. She also reports that on one occasion in the school courtyard, the teacher expressed a desire to kiss her. The teacher declined our request for an interview. The other teacher who reportedly attended the double date denies it was a double date, does not recall the student sitting with the teachers, but does recall that the student obtained the group tickets to the movies. This teacher did not recall observing or being aware of seeing any improper behavior.

c) A witness reports that in the 1980s, a parent complained to Collins that her daughter was showing too much interest in one of her teachers. Collins spoke to the teacher, who denied the existence of any relationship. According to the parent, the relationship cooled off. The teacher resigned at the end of the school year. It was reported to us that after the student graduated, she and the teacher were seen together.

d) A survivor reported that in the 1980s, she witnessed coaches making inappropriate sexual comments. She reported that she was on the bus on her way to practice when several varsity players mistakenly boarded the bus. After the varsity players departed, one of her coaches turned to his fellow coach and remarked on their appearance saying “I sure would like some more of that on our team.” This made the witness feel “worthless, undesirable and invisible.”

e) A survivor reports that in the 1990s, a teacher would frequently comment on what she was wearing and her physical appearance. He would massage her neck while she was taking exams so that “she would relax.” She also reported that the teacher followed her to a school activity and engaged in stalking behavior. The student told us that after she stopped going to class and her grades dropped, the Dean of Students inquired what might be causing this problem. She confided in the Dean and the Class Advisor about what was occurring in the class. The survivor reports that the solution the school adopted was to allow her to drop the course without penalty and to order the teacher to stay away from the survivor. Two years later, another survivor reported to a faculty member that this same teacher rubbed a balloon on a female student’s chest during a lesson on static electricity and commented to her in front of the class that he hoped she enjoyed this as much as he did. The faculty member reported this incident to the Head of School Esty. Esty was already unhappy with the teacher because he had displayed what Esty considered to be poor judgment on several occasions. According to the evidence, the teacher had assigned male students to masturbate at home and bring in samples for a science experiment, and had disregarded rules in place at the location of an Outdoor Ed outing and, as a result, was injured and unable to take care of the students he was chaperoning. Esty terminated

this teacher as a result of this accumulation of events. This individual went on to teach at a university.

f) Several witnesses reported that in the 1990s, they observed a teacher being flirtatious with students, to the point that her behavior made them uncomfortable. It was reported that it was an “open secret” among students that this teacher would dance with students at dances, do drugs with them after school and also engage in sex with them. Despite what one faculty member referred to as “secret concerns” about her behavior, no one spoke to the teacher or reported these concerns to the administration because, according to these witnesses, they never saw or heard anything that they believed “crossed the line.”

g) A witness reported that in the 1990s, her very close friend and classmate told her she was in a sexual relationship with an SFUHS coach the summer immediately following graduation. Her friend told this witness that she went to the coach’s house where she smoked a large quantity of marijuana and then “hooked up” with the coach. The witness reported that the coach continued working at SFUHS after this occurred, but does not teach there currently.

h) A witness reported to then-Head of School Diamonti and the Dean of Students in the 2000s that a teacher was making her very uncomfortable in class because he was commenting on “hot actresses” and discussing with male students during class the physical attractiveness of certain female students. The student told us that Diamonti and the Dean discouraged her from having the school pursue this because she was graduating so “nothing good could come of this.” Diamonti and the Dean do not recall making this comment. Diamonti told us that at about the same time, he also received a complaint from a different teacher about this same teacher’s excessive socializing with male students, and another complaint from a parent about the teacher’s involvement in email and text communications with male students about female

students. Diamonti confronted the teacher with these reports. The teacher resigned and later taught at the university level.

i) A student athlete reported that in the 2000s, she was repeatedly touched by her coach on the buttocks during the course of instruction during an athletic class. She reports she was so bothered by this behavior that she told her mother and quit the class. She believes she also told the then-Dean of Students. We spoke with that Dean, who does not recall the incident. The coach is no longer at SFUHS.

j) A student reported that in the 2000s, a teacher referred to her in front of the class by the term “baby” and also played “footsie” with her on occasion. She told her parent, but neither the parent nor she reported this to the school at the time. The teacher left the school the following year.

k) A student reported that in the 2000s, during the course of instruction at team practices, her coach inappropriately touched her chest, hugged her and rubbed her back and shoulders. The survivor’s parents made a complaint to the Head of School and other authorities about this coach’s behavior. The coach denied this conduct. A School administrator directed the coach to refrain from touching the student during practice drills. The coach is no longer at SFUHS.

l) A student and her parents reported to the Head of School that in the 2000s, a teacher invaded her personal space, touched her inappropriately and engaged in other inappropriate behavior. The teacher denied the conduct. The school investigated. The teacher left the school for reasons unrelated to the complaint reported.

While we found aspects of many of these reports credible, in these instances where either the survivor decided not to come forward to corroborate the incident or there was no other

corroborating evidence, we have declined to name the alleged perpetrator. None of these alleged perpetrators remain at SFUHS today.<sup>6</sup>

### **C. Taylor's Return to SFUHS in 2015**

When Deejae Johnson took over as coach of the girls' and boys' soccer teams in 2004 upon the departure of Rusty Taylor, the girls' and boys' soccer teams played in different seasons. In 2015, there was discussion about moving both the girls' and boys' soccer teams to the same playing season. In anticipation of such a move, Johnson thought it would be best for him to focus on the boys' team and to hire an assistant coach to coach the girls' team. Ketcham, who knew of Taylor's reputation as a winning coach and who was unaware of Taylor's past sexual misconduct, thought Taylor would be a good choice to coach the girls' team. His plan was to hire Taylor initially as an assistant coach, with the idea that he would eventually take over the girls' soccer program.

In the fall of 2015, Ketcham raised the potential Taylor hire with Eells. Eells had met Taylor shortly after she became Head of School and was not impressed with him. She expressed some reservations about hiring Taylor to Ketcham. Ketcham suggested she speak with Chestnut, who had been at the school since 1995. Chestnut was also a long-time friend of Taylor's. Chestnut told Eells that Taylor was a popular coach whose only performance issue was that he did not carry the same full load as others when he was previously employed at SFUHS. In the absence of any other derogatory information, Eells left the hiring decision up to Ketcham.

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<sup>6</sup> We were not asked to reinvestigate any fact-finding or conclusions reached by any independent investigators regarding alleged sexual misconduct prior to the commencement of this investigation. We are aware of one such matter, which was investigated by a qualified outside independent investigator in 2017. In connection with that matter, while we did not reinvestigate or reevaluate evidence or fact-finding, we did consider as part of this investigation whether based on the available evidence, the school administration acted properly in response to a complaint of alleged sexual misconduct, and whether the outside investigator performed a reasonable investigation. We concluded that the administration responded promptly to the complaint and the outside investigator followed proper protocols in conducting his investigation.

Ketcham decided to hire Taylor as an assistant coach. Preseason practices for the girls' soccer team began on November 9, 2015.<sup>7</sup>

At the December 15, 2015 Board of Trustees meeting, a board member, who also was an alumna, notified Eells that she was surprised to learn that Taylor had been rehired in view of his past inappropriate relationships with students. Eells, unaware of Taylor's past, promptly launched an investigation. On December 16, she told Taylor the school was conducting an investigation and that Taylor was not to speak to anyone about it, she asked Chestnut to look for files that might provide information about Taylor's past, she contacted outside counsel, and she alerted the former Board of Trustees Chair to the issue.

For the first time, Chestnut recalled that years before, Esty had given him files to keep in his desk drawer. One of those files related to Rusty Taylor. The Taylor file contained information about the allegations that occurred in 1991 involving groping and pressure to spend time with him outside of school and the report from a survivor in 1992 that in the 1980s, Taylor had attempted to forcibly kiss her multiple times, pressured her to drink alcohol and physically shoved her. The Taylor file did not contain information relating to any of the other sexual misconduct detailed in this report and reported for the first time during this investigation.

Chestnut recounted that he located the files, read the files for the first time, recognized their importance, and provided them to Eells. Over the next three days, Eells, with the advice of outside counsel, endeavored to gather information from individuals who may have had knowledge of Taylor's conduct that was reported in 1991 and 1992.

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<sup>7</sup> The Athletics Department has maintained its own personnel files separate and apart from those of the other faculty records. It is unclear whether the Athletic Directors ever had access to or reviewed the centrally kept files of faculty and staff members. In any event, Taylor's file appears to have been shredded in the 2015 destruction of personnel files older than 10 years.

Having confirmed the events contained in the file Chestnut had provided, Eells tried to reach Taylor, who was traveling. Eells reached and confronted Taylor on December 18 regarding the previously reported misconduct. Taylor did not argue with Eells. The next day, Eells told Taylor that he could no longer work at SFUHS. Taylor agreed to resign.

Eells shared the information she learned about Taylor's prior misconduct with Ketcham. After consulting with outside counsel, Eells authorized Ketcham to send an email to the team and parents indicating that Taylor was resigning for personal and family reasons. Ketcham sent that email on January 5, 2016. Subsequent to his departure, Taylor was paid the \$4,000 balance owed on his contract.

At that time, Taylor was also coaching at another local high school. Eells promptly called the Head of School there to advise him of what she learned about Taylor's prior misconduct.

We did not receive reports and are unaware of any evidence that Taylor engaged in sexual misconduct following his return to the school in 2015. We learned that he offered to drive one student home after practice, but that she had declined the invitation.

In May of 2016, Taylor was inducted into the San Francisco Prep Hall of Fame. The event was attended by 15 to 20 Taylor supporters, including Ketcham, other school faculty, coaches and alumni. The process for Taylor's induction had begun the previous summer when Ketcham undertook the effort to nominate Taylor to the Hall of Fame. The nomination process occurred in September 2015 prior to Ketcham's learning of Taylor's prior misconduct.

Following the revelation of Taylor's prior misconduct, Eells and Ketcham discussed whether to withdraw support for Taylor's induction into the San Francisco Prep Hall of Fame. Eells and Ketcham ultimately agreed to take no action regarding the sponsorship prior to the

induction ceremony. In 2020, the San Francisco Prep Hall of Fame removed Taylor from its list of inductees.

#### **D. Knowledge of Sexual Misconduct**

Throughout our investigation, we frequently heard from former students that sexual relationships between certain faculty or staff and students were “common knowledge,” and therefore, all faculty and the school administration “must have known” of these relationships. More than one former faculty member, particularly from the period up through 1992, told us they had observed questionable behaviors which made them uncomfortable or they thought were “risky” for the faculty member because the conduct could be “misinterpreted,” but they did not report that conduct to the administration, as they concluded it did not “cross the line.” There were at least two faculty members who, we concluded based on the evidence we reviewed, knew of inappropriate relationships, but who did not report them to the administration for various reasons.<sup>8</sup> We do not find sufficient support based on the evidence available to us to conclude that there was “common knowledge” of sexual misconduct among school personnel, although there does appear to have been discussion among some members of the student body about the behavior of some alleged perpetrators.

### **VIII. Conclusions**

In sum, we reach the following conclusions:

1. The innovative and progressive culture of the school in the early years promoted close bonds between faculty and students. While that ethos often enhanced the experience of the students, in the absence of appropriate sexual harassment training and education, this

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<sup>8</sup> For example, as we mentioned, in one instance, the faculty member did not follow up on rumors because he felt that remaining neutral was essential to his ability to effectively perform his job.

atmosphere contributed to the blurring of boundaries between healthy and unhealthy relationships among some faculty and coaches and students.

2. Based on the evidence we reviewed, we conclude that the culture of the school has evolved and that under the current administration, proper boundaries between students and adult personnel have been clearly delineated.
3. Based on the available evidence, we conclude that throughout the school's history, upon learning of alleged sexual misconduct, administrators on occasion took immediate disciplinary action. On other occasions they did not.
4. Based on the evidence we reviewed, we conclude that when incidents of sexual misconduct were reported to administrators, the administrators sometimes handled those incidents in a manner that did not promote optimal student safety. In addition, actions taken by some administrators left survivors with a perception that the school would not protect them and either did not believe them or was more concerned with the possible impact of the report on the alleged perpetrator.
5. Based on the evidence we reviewed, we conclude that the failure to keep centralized records and the keeping of Taylor's segregated file in a desk drawer enabled the rehiring of Taylor in 2015. Had the administration in 2015 been aware of Taylor's past sexual misconduct, Taylor would not have been rehired and would not have been allowed to be present at SFUHS events.
6. Based on the evidence we reviewed, it appears that the lack of adequate controls over personnel files enabled an unknowing school staff member to destroy records without keeping a log of what was destroyed, without an assessment of the possible need for such

files, and without adequate supervision or control by the administration over what was destroyed.

7. Based on the evidence available to us, we believe that, with the exception of the current administration, school administrations in the past did not take steps to warn subsequent employers of the allegations of misconduct by alleged perpetrators, thereby potentially exposing students at other institutions to potential risk of harm. The current administration has acted appropriately in this regard.
8. Based on the evidence available to us, we conclude that accused perpetrators were permitted to leave the school “for personal reasons.” The consistent lack of public rebuke throughout the years fostered an impression that the administrations placed the interests of the future employability of alleged perpetrators, or perhaps the desire to avoid litigation, over the interests of survivors. For some constituencies of the community, this has eroded trust in those who were charged with ensuring a safe and secure environment at the school.
9. Based on the evidence available to us, we conclude that the Head of School, Julia Eells, and Athletic Director, Jim Ketcham, had no knowledge of Taylor’s prior sexual misconduct when rehiring Taylor in 2015. We further conclude that Eells acted promptly and assertively in terminating Taylor’s employment once she learned of his prior misconduct.
10. Based on the evidence available to us, the current administration has taken appropriate steps, in consultation with experts, to bolster the policies against sexual harassment and to train administrators, faculty, coaches, and staff.

## **IX. Recommendations**

We have made the following recommendations to the Board based on our investigation, some of which had started prior to our investigation. Some of these recommendations have been implemented and others are in the process of being implemented:

1. Discipline of current personnel. Based upon our investigation, we found no basis upon which to recommend discipline or changes to existing School personnel.
2. Recordkeeping. We recommend that the Board consider auditing the school's recordkeeping practices and adopting policies and practices that will ensure the maintenance and preservation of all employment records in accordance with applicable laws. This would include appropriate recordkeeping in the area of hiring, termination and discipline of all administrators, teachers, coaches, staff and volunteers. We further recommend fully integrating all personnel records, including those of the Athletic Department, into a single centralized system for the entire school.
3. Sexual Harassment/Misconduct Policy on Severance and Discipline. We recommend the Board consider adopting a policy governing discipline and severance for those found to have engaged in sexual misconduct in order to eliminate the appearance of tolerance for the behavior and/or a lack of deterrence. In addition, the Board should consider adopting guidelines as to how departures related to sexual misconduct are communicated to the school community.
4. Hiring and Human Resources Functions. We recommend that the Board review the Human Resource operations and centralize the hiring function for the entire school to insure uniformity, thoroughness and compliance with best practices across all hiring functions. We recommend that the administration exercise greater supervision over the

hiring, firing and general operations of the Athletic Department consistent with its supervision of other school departments.

5. Hiring Packets for Temporary Employees. We recommend that employees with short-term contracts be provided with hiring packets containing copies of the most important policies, such as the Employee-Student Interactions Policy and the Sexual Harassment Policy, and that the employees sign an acknowledgment of an agreement to abide by the policies. In addition, all such employees who will work with students should receive sexual harassment training.
6. Faculty and Student Training Regarding Sexual Harassment. We recommend that the Board consider either assigning an existing committee or appointing a new committee to review the sexual harassment complaint reporting procedures annually and to consider an annual or biannual training program for all adults who work with students and for students. This curriculum would be designed to review (1) expectations of all adults (and students) in the community, (2) appropriate faculty-student boundaries, (3) development of healthy behaviors, (4) strategies for recognizing and stopping inappropriate conduct, (5) avenues for reporting complaints, and best practices for responding to complaints, (6) the concept of retaliation, including communication of a zero tolerance policy for retaliation, and (7) for adults, how to handle abuse and neglect and mandatory reporting obligations.
7. Investigations. The Board should consider either assigning an existing committee or establishing a subcommittee of the Board to develop investigation guidelines and best practices. The subcommittee should consider having the Head of School designate a qualified chief investigator. We recommend that the chief investigator within the

administration receive specific training on best practices for investigations, be empowered to independently determine the facts regarding complaints of sexual harassment or sexual misconduct, and that he or she make recommendations to the Head of School for the appropriate response to such findings. We recommend that the chief investigator report periodically to the subcommittee regarding the number of complaints received, the nature of the complaints, how they were handled, the outcomes, and the nature of the communications with the affected families and relevant constituencies with the School community.

8. Survivor Fund. We recommend the Board consider either assigning an existing committee or establishing a committee of the Board to oversee the implementation of the Survivor Fund.
9. Further Complaints/Hotline. We recommend the Board consider whether to maintain the anonymous hotline and for how long. After this report is published, there may be additional survivors who come forward with complaints. The Board (or other committee, if formed) should determine how the complaints will be handled for investigation.