

## **School Board Statement in Response to Certain Inaccurate Statements**

The Board of School Trustees of the Rossville Consolidated School Corporation has received inquiries in relation to certain inaccurate statements that are being disseminated in the community about the School Corporation. In an effort to ensure true factual information is known by the community with respect to the Rossville Schools, the Board is providing this information to you as a community member.

In the Fall 2023, a student incident occurred in which the High School Principal, Terry Thompson, was investigated by the Indiana State Police and the Indiana Department of Child Services in connection with an allegation that Mr. Thompson had choked a student while the student was in handcuffs in police custody. The Board has been made aware that accusations have been asserted suggesting other staff members “laid hands” on the student during the incident. The Board is unaware of any other staff member engaging in inappropriate contact with the student during this incident. The Indiana State Police and Indiana Department of Child Services did an investigation of the incident and Mr. Thompson was the only staff member to the Board’s knowledge who was referred by the Indiana State Police to the Clinton County Prosecutor for consideration of criminal charges. On October 13, 2023, the Clinton County Prosecutor notified the School Corporation that no criminal charges would be filed against Mr. Thompson. The Prosecutor went on to say in his letter: “While Mr. Thompson’s conduct likely exceeded what was appropriate and necessary for the situation, conflicting accounts provided by witnesses and an unclear video do not support prosecution at this time.” This letter is maintained in the records of the School Corporation and will be made available to any public records request seeking a copy of the letter.

At the time the Prosecutor’s notification was received, the Indiana Department of Child Services’ investigation was still ongoing. On October 24, 2023, the Indiana Department of Child Services sent its investigative report and conclusions to the School Corporation. The reports of the Indiana Department of Child Services are confidential and prohibited from being disclosed under Indiana Code 31-33-18-1. Therefore, the School Corporation is prohibited by law from releasing information from this report.

The School Corporation concurs with the Clinton County Prosecutor’s statement that Mr. Thompson’s conduct likely exceeded what was appropriate and necessary for the situation. Even though his conduct was not determined to rise to the level of the Prosecutor pursuing criminal charges, the School Corporation will not tolerate from an employment perspective any employee conduct that involves inappropriate and unnecessary physical contact with a student. The Board has been asked how an employee can be disciplined when a Prosecutor has decided not to pursue criminal charges in a matter. The answer is simple: Because a school corporation is not obligated to prove beyond a reasonable doubt that a crime has occurred. The School Corporation may take disciplinary action when an employee engages in inappropriate conduct that is inconsistent with the job performance expectations of the School Corporation. An employee does not have to be criminally charged before a public school employer may discipline an employee for misconduct in the workplace.

Some patrons have asked why other staff members have been permitted to place “hands on a student” and have not been disciplined or suspended. A little common sense applies here. Simply touching a student is not automatically grounds for placing an employee on paid administrative leave pending an investigation into the touching. For example, a staff member shaking a student’s hand or patting a student on the back congratulating them on a job well done would not constitute grounds to place an employee on administrative leave pending investigation. There could also be occasion when circumstances would require a staff member to restrain a student. There are special training and techniques for physical restraint that may be used by staff members who are appropriately trained to implement such techniques. Many of our staff are trained in these appropriate restraint techniques and only apply them when necessary. But any time there is a situation where a staff member inappropriately places their hands on a student, then Indiana Code 31-33-5 requires the matter be reported immediately to the Indiana Department of Child Services or law enforcement. This legal reporting requirement is the reason the incident involving Mr. Thompson in the Fall 2023 was immediately reported to the Indiana State Police and the Indiana Department of Child Services and was investigated by these agencies.

The School Board has also received inquiries about the handling of public comments at Board meetings prior to November 2023. The School Board can understand how confusion has arisen over public comments at school board meetings with changes in Indiana law that have occurred in recent years. At this time, we are unaware of any patron who has wished to speak on any topic and has been denied that opportunity. The School Board has a guideline for public speaking which limits speakers to 3 minutes and a total of 30 minutes per meeting for public speaking. We have on occasion exceeded the 30-minute time limit when there has been good cause to do so. That decision is left up to the Board President at the time of the meeting. Patrons do not have to file a request to speak at a meeting. Patrons simply fill out a form provided before the meeting begins and hand the form to the Board President or his representative. Anyone wanting to make a presentation to the School Board would need to be added to the Board agenda. Formal presentations to the School Board beyond the scope of patron comments may occur at the Board’s discretion. To request to make a formal presentation to the Board that is beyond the parameters of patron comments, then the patron would need to submit a request 10 days prior to the Board meeting. Approved presentations would typically be limited to topics involving school services, equipment, materials or real estate the Board may be considering securing or purchasing.

There has been a question about the timing of the hiring of certain attorneys by the School Corporation, particularly attorneys who were consulted in the personnel matter involving Mr. Thompson in the Fall 2023. Michelle Cooper is an education attorney who was retained following the commencement of the Indiana State Police and Department of Child Services investigation into Mr. Thompson’s actions in the Fall 2023. Ms. Cooper has expertise in education law and was therefore retained by the School Corporation to advise the Administration in this situation. The School Corporation names a Corporation attorney every year. However, the naming of a general counsel attorney does not prevent the Board, the Superintendent or the School Corporation from seeking legal advice from any other attorney who may have specialization in a particular area of law. For example, when the School Corporation recently issued bonds to fund our building project, we hired an attorney who specializes in bond issues. If the School Corporation were to purchase

any property, then it would be appropriate for the School Corporation to consult with a real estate attorney. It is common practice for public schools in Indiana to retain legal services from different attorneys and different law firms based upon the expertise needed in any particular matter. Thus, seeking legal advice from different attorneys and law firms throughout any given year is not unique or unusual.

There has also been a question raised about why the School Corporation consulted with three attorneys with respect to the personnel issue involving Mr. Thompson that prompted the State Police and Department of Child Services investigations in the Fall 2023. First, the School Corporation did not retain three attorneys in this personnel matter. Rather, the School Corporation consulted with two separate attorneys, and the reason for that was to preserve the due process rights of the employee in the event the involuntary termination process or unpaid suspension process would have been invoked by the School Corporation. In involuntary termination proceedings involving certificated staff, it is normal for the Administration and the School Board to be represented by two separate attorneys because of the particular roles the Administration and the Board serve in the statutory dismissal process. When considering the continued employment of any certificated administrator, the Board will always make sure to preserve due process if there is a chance involuntary termination could be an option. The process applicable to involuntary dismissals of certificated staff is set out in Indiana Code 20-28-7.5-2. In addition, there is a process to place a certificated administrator on unpaid suspension under Indiana Code IC 20-28-9-22. The School Corporation does not have extensive past experience with either of these due process procedures. Hence the reason why the School Administration sought counsel with an experienced education attorney for guidance on these types of personnel procedures, and the School Board sought counsel through a separate experienced education attorney on these types of personnel procedures.

There has also been a concern brought to the Board's attention that minutes of executive sessions do not include names of all attendees. Indiana Code § 5-14-1.5-4 requires the following memoranda be kept with respect to the Board's public meetings:

- date, time, and place of the meeting;
- the members of the governing body recorded as either present or absent;
- the general substance of all matters proposed, discussed, or decided; and
- a record of all votes taken, by individual members, if there is a roll call.

Indiana Code § 5-14-1.5-6.1(d) modifies these requirements for executive session meetings in that the memoranda and minutes for executive sessions must identify the subject matter that is permitted by statute to be discussed in executive session by specific reference to the enumerated instance or instances in the statute for which public notice was given. Of course, no votes are permitted to be taken in executive sessions, so there are no vote recordings made in the memoranda or minutes of executive sessions like you would see in minutes from public meetings. Despite the false statements being made, Indiana law only requires the members of the School Board to be

identified as either present or absent during Board meetings, including executive sessions. There is no requirement that individuals beyond Board members be identified in the memoranda or minutes of executive sessions. In many instances, executive sessions are held to discuss sensitive personnel and/or individual student issues. Therefore, naming attendees in the meeting memoranda/minutes of executive sessions would not be appropriate and could compromise the privacy of others.

The Board is also aware of information circulating in the community questioning why there have been occasions when records of executive sessions have been taken down from the School Corporation's website. There are times when executive sessions may be scheduled and then circumstances later change that results in an executive session being cancelled. For example, an executive session could be scheduled to discuss an employee discipline matter or to hold a student expulsion hearing. Sometimes these issues resolve prior to the scheduled executive session date and time, which results in the cancellation of the meeting and removal of the meeting notice from the School's website.

The Board is also aware of a concern expressed about the number of executive sessions that have been held in the past 12 months. While it is true that the Board has scheduled multiple executive sessions over the last 12 months, it has been to discuss topics that are permissible for discussion in executive session. The personnel situation involving Mr. Thompson was not a normal situation for the School Corporation. The Board does not take lightly law enforcement and Department of Child Services investigations into alleged misconduct against school employees. The Board takes these matters very seriously and always wants to make sure we are discussing all aspects of the situation before making any decisions. As a reminder, decisions cannot be made in executive sessions. All official Board actions and decisions can and are only made at public meetings.

There have also been concerns raised about web site errors occurring such as broken hyperlinks or missing information regarding Board meetings on the School's website. The School Board acknowledges that technology glitches happen. The School Corporation's staff tries very hard to make sure information is properly uploaded to our website accurately and in a timely fashion. If something is missing or incorrect information is discovered, then School staff work diligently to correct the error as soon as possible. The School Board has not been presented with any evidence that any School employee intentionally hid or removed information that is required to be posted to the School Corporation's web site. Also, it is important to understand that sometimes the School Corporation posts information on its web site that is not required by law to be posted on the web page. The School Corporation may voluntarily choose to post certain information on the web site for easy accessibility by the community. Many of the items alleged to have been "missing" or linked to a broken hyperlink are not required by law to be posted on the web site. If anyone in the community ever attempts to retrieve information from the School Corporation's web site that contains a faulty hyperlink, then please contact the Superintendent's Office and every effort will be made by School staff to promptly correct the error.

The Board is aware of an allegation that the Superintendent "hand-picked" the current Board members. This is false. The Superintendent has no role in selecting the members of the School Board other than his individual legal right to vote in School Board elections, which is the same

legal right every Rossville citizen maintains under Indiana law. Some members of the current School Board were initially appointed to fulfill the remainder of their predecessor's term in office when their predecessor vacated office prior to the expiration of their term in office. The legal process to fill vacancies on an Indiana school board when a member resigns from the board prior to the expiration of their term does not involve the Superintendent. The process to fill vacancies of the School Board under these circumstances is governed by Indiana law. Specifically, Indiana Code 20-23-4-30(c) provides "if there is a vacancy on the governing body, whether the vacating member was elected or appointed, the remaining members of the governing body, whether or not a majority of the governing body, shall by a majority vote fill the vacancy by appointing a person from within the boundaries of the community school corporation to serve for the term or balance of the term." The Board also has approved Board Policy 1106 that implements this requirement in Indiana law with respect to filling Board seat vacancies when a Board member leaves their position prior to the expiration of their term. Otherwise, when a Board member's term expires at its usual time (including the remainder of any term fulfilled by a board member appointed under Indiana Code 20-23-4-30(c)), then it is the Rossville Community through local elections that chooses who will serve on the School Board.

There has been criticism asserted about the Superintendent's role at School Board meetings. The Superintendent is hired by the School Board and reports directly to the School Board. The Superintendent gathers information and requests from administrators, teachers, and others in the school system and then presents that information and requests to the Board at our monthly meetings. Also, Indiana law – such as Indiana Code 20-26-5-4.5 – imposes certain responsibilities on Indiana school superintendents with respect to selecting and discharging staff. The Superintendent does not "run" the Board meetings. The meetings are run by the Board President or other designated Board member in the Board President's absence. The meeting is called to order and adjourned by the Board President. The School Board does expect its Superintendent to provide it with information that is necessary for the Board to make informed decisions in its public meetings. All motions for action items are received by the Board President, and only the Board members vote on such motions. The Superintendent has no voting rights at the Board's meetings. The Superintendent simply presents information for the Board to review and act upon, which is what he is required to do pursuant to his duties as the Superintendent of the School Corporation. This is how public schools across the State of Indiana operate and is not something unique to Rossville Schools.

Finally, the Board is aware of broad allegations that due process in personnel and student expulsion matters are not being followed. In regard to certificated personnel, due process is required in matters involving their involuntary dismissal or unpaid suspension. Involuntary dismissal procedures for certificated staff under Indiana law are set forth in Indiana Code 20-28-7.5-2. The unpaid suspension procedure for certificated personnel is contained in Indiana Code IC 20-28-9-22. The School Corporation has fortunately not had reason to have to utilize these personnel statutes during the time the current School Board members have been in office. The School Board is aware that there is a misconception circulating among the community that High School Principal, Mr. Thompson, had his employment contract involuntarily cancelled. This assertion is

false. Mr. Thompson entered into a voluntary separation agreement by which he tendered his retirement notice in writing effective at the end of the 2023-2024 school year.

In regard to the general allegation that the Superintendent does not provide due process for students being recommended for expulsion, such allegation is also false. Due process procedures related to student expulsions are contained in Indiana Code 20-33-8. The process begins with a building administrator, typically the Principal, recommending a student for expulsion. Parents and the student have a right under Indiana to appeal the expulsion recommendation. If an appeal is filed, then Indiana Code 20-33-8-19 allows the Superintendent or his designee to conduct an expulsion appeal meeting. In Rossville, when the Superintendent receives a request from a parent and/or student for an expulsion appeal meeting, then the Superintendent appoints another member of the administrative staff to serve as the expulsion examiner, which is permissible under Indiana Code 20-33-8-19(a). After the appointed expulsion examiner makes a decision following the expulsion meeting, then the parent and/or student has the right to file an appeal with the School Board pursuant to Board policy. The School Board is unaware of any instance in which a student or student's parent has requested an expulsion meeting or Board appeal and such request has been denied. There have been occasions when an expulsion appeal process has started but has resolved by agreement with the parents/student before an expulsion appeal is scheduled to occur. In cases these situations when parents and their child choose to resolve an expulsion matter through alternative agreeable means, then the School Corporation honors those parental decisions.

We hope this correspondence responds to the inaccurate statements that have been circulating throughout the community. As representatives of the School community, we welcome you to bring to the School Corporation's attention any concerns or questions you may have regarding the Rossville Consolidated School District.