

Legal  verwatch
For Parents' School Rights

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August 12, 2022

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Oklahoma State Department of Education
2500 North Lincoln Boulevard
Oklahoma City, OK 73105

Delivered via email: Brad.Clark@sde.ok.gov and Ryan.Pieper@sde.ok.gov

Re: Complaint against Shawnee Public Schools for Failure to Comply with Accreditation Standards

Dear Sirs:

Legal Overwatch for Parents' School Rights, on behalf of parents and other constituencies of Shawnee Public School District, hereby submits this complaint against Independent School District No. 93 of Pottawatomie County, Oklahoma, known as Shawnee Public Schools, for its failure to comply with the Oklahoma Accreditation Standards as specified in more detail below. The Shawnee School Board's and Administration's long-term and illegal practices in regard to its protection of a predatory teacher over protection of students, which included willful violation of state mandatory reporting law, has hurt the reputation of Shawnee Public Schools; injured the trust of the community; and put the Shawnee School District at risk of damages and an expensive civil lawsuit. Their actions and the school climate they created constitute accreditation violations for which the Shawnee Public School District should be downgraded and the public school employees involved at risk for termination of their certificates.

The Shawnee community continues to struggle to understand how the trauma to their school district that started years ago and has yet to find an end today could have happened. There still is no closure to allow the community to heal as the most recent victim filed a lawsuit in June 2022 against the coach employed by the Shawnee Public School District and against the District itself for its negligence and deliberate indifference, which prompts this complaint. A copy of the petition is attached as Exhibit A. The Shawnee Public School's administration on more than one occasion failed in its duty to report to legal authorities the predatory conduct by a school employee that ultimately resulted in a fractured community divided by years-long stand-off between parents, who feared for their children, and the School Board and Administration who chose to protect the teacher and winning coach.

Legal Overwatch was recently organized to defend parents' rights, as codified in the Oklahoma Parents' Bill of Rights, against the illicit role that some public schools are trying to assume in their children's lives. Student protection and parents' rights came last as experienced over the years by the Shawnee parent community when they attempted to work with the Shawnee

School Board and Administration in ensuring the protection of their children while in the care of the public school system. Your action on this complaint hopefully will demonstrate that the Oklahoma State Department of Education (OSDE) stands up for students' and parents' rights.

That said, the stand-off between parents and the Shawnee Public School leadership continued over the years notwithstanding the role of oversight by the OSDE, particularly in conducting annual review for accreditation of the Shawnee School District between at least 2018 (although the first reported incident occurred in 2007, which still emotionally affects the victim¹) and 2022 that should have reflected the breakdown in the relationship between the parent community and the School District. In the absence of such finding during the annual accreditation review, Legal Oversight found cause to file this complaint and to call for the OSDE to take immediate affirmative action in investigating the Shawnee Public School's violation of OSDE's Accreditation Standards, particularly those Standards associated with the harmful climate created throughout Shawnee's high school due to the employee's suspected predatory conduct and the School District's condonation of his behavior.

The on-going prevailing attitude and actions of the School Board and Administration through the years of the teacher's suspected abuse is an egregious violation of certain standards for accreditation, with which had they been complied with, could have more expeditiously identified the employee's misconduct, protected later victims of the employee's sexual abuse, and reassured parents regarding the safety of their public schools. While it appears that OSDE should be aware of much of the history associated with the employee's employment by the Shawnee Public School, including the fact that the OSDE suspended the employee's teaching certificate in August 2021, a repeat of some of the reported facts from the criminal investigation by Pottawatomie County Sheriff's Office Deputy Amber Soule² could be helpful:

- Between 2007 and 2008, the employee had three suspensions with some form of evidence indicating the following:
 - In 2007, the employee submitted rebuttal evidence attempting to justify a potential violation regarding a non-contact instruction by continuing to contact a student;
 - On Sept. 19, 2007, the alleged victim dropped out of basketball, explaining his reasons as employee's abuse and disclosed "what happens in the locker room, stays in the locker room" environment fostered by the employee; and
 - In 2008, the employee was written up again for continued contact with a student.
- Deputy Soule noted that between 2008 and 2015, there was no evidence of reprimands in the employee's file, which she found concerning. Another news article reported that a "15-year-old Shawnee police report shows a victim's narrative, accusing the coach of inappropriate activities. The record also Shawnee Schools said at the time that they had

¹<https://nondoc.com/2022/04/06/senator-requests-grand-jury-investigation-into-former-shawnee-coach-ron-arthur/#:~:text=On%20approximately%20May%202022%2C%202021,their%20meeting%20the%20same%20month> .: quoting: "Fifteen years ago, my family and I went through what we thought were the proper channels to report this. But nothing of substance was done," [Rob] Hair said. "Make no mistake, Ron Arthur is and should be the focus of this. He abused me. But there were people in the system that kept him in power to abuse others. Some of those people are still in positions of power within the school system today."

² *Id.* Unless referenced otherwise, the history repeated in the bullets here come from the nondoc article linked in fn 1.

handled the matter internally.”³ It appears that the Shawnee Public School Administration may have intervened to deter further criminal investigation of a favored coach at this time. The lack of any further write-ups in the employee’s file during these years could reflect the continuation of Shawnee Public School’s practice of internal investigations of students’ complaints, but, in any event, the lack of any written record begs for review of the Administration’s practice during that time.

- For 2018, the criminal investigation revealed that the Administration had issued eight admonishments and suspensions for “his vulgar and sexual comments to male students and vulgar comments about female students, allegations of having inappropriately touched a male's buttocks, sending inappropriate text messages to students and having contact with students alone when he had been instructed as a condition of reinstatements not to be alone with students.”⁴ There was one specific suspension from April 25 to May 4, 2018, but his suspension ended six days early.⁵ It appears that none of the incidents resulting in these admonishments and suspensions were reported to Department of Human Services (DHS) as required by law. According to the investigation, Superintendent April Grace recommended in 2018 that the employee be terminated, but the School Board refused. She might be commended for trying, but still, Superintendent Grace never reported the abuse in compliance with Oklahoma law.
- The employee’s file indicates that in 2020, the employee was reprimanded by an assistant superintendent for educational and professional conduct and warned that the conduct could lead to suspension or termination. According to Deputy Soule, the assistant superintendent “recognized that there was a repeated pattern of professional judgment concerns relating to student communication.” Deputy Soule also stated that “He was inappropriately texting students after being told not to. He was having, again, these meetings with students when he wasn’t supposed to.”⁶ In spite of her recognition of potential sexual abuse, the assistant superintendent did not report such abuse as required by state law.
- In June 2020, the employee resigned as head basketball coach but was still employed and continued his texting and meeting with students. “He was still meeting with students alone, texting them,” Soule said. “I can’t even begin to tell you the amount of students that he has groomed.” What does not appear to have been reported is whether his resignation was requested by the administration as part of its own self-investigation.

While the history related above comes from news article and not directly from the investigation conducted by Deputy Soule, its recitation here should be sufficient to justify an investigation by the OSDE who could directly obtain the records from the Deputy’s investigation. The recitation of the facts, as presented here and as verifiable in the investigation of this complaint, establishes a clear pattern of the School District circumventing the involvement of enforcement

³ <https://www.koco.com/article/oklahoma-shawnee-coach-teacher-abuse/39681461>.

⁴ <https://nondoc.com/2021/08/26/state-board-asks-robert-everman-resign/>,

⁵ <https://nondoc.com/2022/04/06/senator-requests-grand-jury-investigation-into-former-shawnee-coach-ron-arthur/>

⁶ <https://www.ocpathink.org/post/grand-jury-investigation-sought-for-shawnee-schools?print=true>

authorities, which included its repeated failures to report students' allegations in compliance with the Oklahoma mandatory reporting law and its failed internal management of its employee's predatory character with no success in stopping his sexual abuse of students.

The practices of the Shawnee School Board and its Administration regarding concealment of sexual abuse of students by an employee contravened, not just the law, but also Shawnee's own school policy, the process recommended by the Oklahoma State School Board Association (OSSBA) Guidance for Mandatory Reporting (Guidance), and OSDE regulations, including, but not limited to, the Standards for Accreditation of Oklahoma Schools. For these reasons, the Shawnee Public School's accreditation status should be downgraded to "accredited with warning", followed by OSDE filing applications for the revocation of certificates of those public school employees who conformed with the School Board's unlawful decisions, including the superintendents and other administrators employed during the term of the coach's employment. Should the people who should have reported but did not report now be employed by other schools in Oklahoma, their certificates should still be subject to revocation.

The failure of school employees, who had reason to believe students were being sexually abused, to report their belief to DHS, particularly Superintendent Grace and the assistant superintendent, who, according to reported accounts, demonstrated that they had affirmative knowledge of the incidents, raises questions about the climate of intimidation existing within Shawnee Public Schools. It is the organizational culture that condones the predatory behavior of the School District's winning coach for so long and that shut out parents fighting to have their concerns heard that should persuade OSDE to reassess the District's accreditation.

Legal Overwatch would specifically point the OSDE to Standard III for Accreditation of Schools addressing local board responsibilities and staff relationships that provide:

*Lack of harmony in the teaching staff, board, or community, when such conditions affect the quality and effectiveness of instruction and climate of the school, which shall be considered **sufficient cause for not accrediting a school.***

OAC 210:35-3-48(a)(8)(B). On this basis alone, the Shawnee School District should lose its accreditation, but at a minimum, a change in accreditation status that would allow the Shawnee Public School community to initiate changes in the school's administration and reforms in school policies, and training among school employees.

A change in accreditation status is further justified for the District's failure to meet other accreditation standards, including but not limited to, the following:

Standard I: Written statement of philosophy and goals requires that the District shall adopt a written statement of philosophy and goals that is to be developed with appropriate participation by the school staff, parents, students, and community representatives and shall reflect the individual character of the school. OAC 210:35-3-6. Accordingly, the District's Policy Section AE includes the following statements for the Shawnee Public Schools: "The teachers, administrators, board members, and all others concerned with education in the Shawnee Public Schools will strive to develop each child" and shall consider "the total life of the child," which requires "careful consideration of each child's total well-being." The Board Policy is included with this complaint as Exhibit B. This Standard starts with and should prioritize the physical and emotional safety of

students. However, the Shawnee School Board and Administration violated its own philosophy and mission as stated in its own Board Policy. They failed to consider the development, well-being and total life of, not just those individual students who were victimized as a result of the practices that condoned the employee's predatory behavior, but also the emotional well-being of other high school students attending Shawnee schools, especially those student athletes who chose not to participate because they were aware of the grooming and sexual threat posed by the coach.

Standard II: School-Community requires the school "establishes relationships with its parents and community that result in a *feeling of mutual trust.*" OAC 210:35-3-21. The above outline of reported facts evidences the degradation of the relationship of the Shawnee School Board and Administration with the parents and community and break-down of public trust.

Standard III: Administration and organization

- Requires that a principal be hired for each school and that the principal shall have responsibility for initiating appropriate changes to meet the needs of the students and that the principal shall be involved in the selection, assessment, evaluation, retention, and promotion of all personnel assigned to the school. OAC 210:35-3-46. Yet, absent from the reported facts is any mention of evaluation of the coach by the high school principal, including when he was promoted to head basketball coach notwithstanding certain disciplinary actions for his misconduct. Further, the District's Policy Section FFG (attached hereto as Exhibit C) instructs school employees to report sexual misconduct immediately to the principal. None of the reported facts account for the role of the high school principal in handling of students' allegations of sexual misconduct by the coach. The review of the District's accreditation should include investigative questioning as to the principal's role and whether the School Board intervened in the principal carrying out his/her responsibilities as outline in Standard III and whether the culture created by the School Board and Administration served to further intimidate the principal from carrying out the responsibility to comply with the mandatory reporting law.
- Per the accreditation standards in OAC 210:35-3-48 that outline local board responsibilities and staff relationships, local school boards have the responsibility for the operation of the school, and for performance of their powers and duties as specified in statute and that the local board shall be responsible for developing and adopting effective policies for the operation of the school(s), which must include those policies required by statute.
 - School policies should therefor include the duty of school employees to report potential student abuse under 70 O.S. § 70-1210.163 (2020). District Policy Section FFG addresses the policy on reporting child abuse and investigation. The Policy clearly instructs school employees that they have a legal obligation under Oklahoma law to report child abuse to DHS "to ensure the student's safety and welfare while at school or participating in school activities." The Policy further states that its purpose is "to provide *directives and* guidelines to assist School District employees in fulfilling their legal responsibility for child abuse reporting." (Italics supplied in the Policy). Yet, the Board and Administration violated the District's own policy and appears to have interfered with its employees' obligation to report pursuant to state law and the District's policy.

District Policy FFG clearly intends that the school cooperate with DHS' investigation arising from a school employee having reported suspected abuse. It does not even suggest the School District does its own internal investigation and deal with the allegations itself. However, that is exactly what the School Board and Administration did. The Oklahoma State School Board Association's (OSSBA) Guidance for Mandatory Reporting (Guidance) states that it is not appropriate for administrators, teachers and counselor to launch their own investigation for the commonsense reason that:

Administrators, school counselors and teachers are not trained by law to investigate child abuse. If a school counselor or other school employee "investigates" possible child abuse, that counselor/employee could be allowing someone continued access to a child and/or interfere with the state agency's obligation to investigate child abuse. School board members are to review child abuse reporting policies as soon as possible to ensure that your employees will follow Oklahoma law. The school's first and primary duty is to students.

A copy of OSSBA Guidance is included herewith as Exhibit D. District Policy FFG should be amended according to the OSSBA Guidance, including internal investigations. It is clear that the employee was allowed continued access to potential victims as the result of the School Board and Administration's unsuccessful attempt to manage the abuse incidences internally. The violation of the District's own policy requiring compliance with the legal duty to report potential abuse left students unsafe and vulnerable, clearly violating Accreditation Standards.

Standard IV: Curriculum, Instruction, Assessment, Climate and Graduation Requirements requires:

- the school climate shall be conducive to learning;
- its climate shall be assessed by the school staff;
- the District shall have a plan for maintaining an atmosphere that is responsive to the needs of the student; and
- the District shall provide appropriate opportunities for involving students, parents, staff members, and community representatives in decision-making.

OAC 210:35-3-69. When an organizational culture that condones the predacious activities of a head coach and that appears to create a code of silence among students and staff is not a school climate conducive to learning. It would be omitted in any plan designed to be responsive to the needs of the students to feel safe and protected. Finally, in protecting the employee over the needs of the students, the School Board and Administration attempted to stymie parents in any decision-making regarding the employee who was a winning coach for the School District.

The above demonstrates likelihood that the constituencies of Shawnee Public High School will be liable for the damages suffered by the most recent sexual abuse victim, whose injuries were made possible by the negligence of the Shawnee School Board and Administration. The Shawnee parent community deserves the legal force of the OSDE to cause changes to the School Board and reforms to the District's policies and administration that can be effectuated as a result of a deserving downgrade to the District's accreditation. For all of the reasons stated hereinabove, Legal Overwatch is submitting this complaint for the prompt investigation by the OSDE and its

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consideration to downgrade the Shawnee Public School's accreditation status to "accredited with warning," followed by OSDE filing applications for the revocation of certificates of those public school employees who failed the students of Shawnee Public School by disobeying Oklahoma's mandatory reporting law during the term of the coach's employment.

Respectfully submitted,

/s/ Maria Mercedes Seidler
Chief Counsel

cc: April Grace, Superintendent

Board Members:

Larry Walker

Keith Sandlin

Kristen Wilson

April Stobbe

Clif Harden

Turner Bass

Bobby Canty

State Sen. Shane Jett

Ryan Walters, Sec. of Education

3. At all relevant times, Defendant Ronald Gene Arthur (“Arthur”) was an employee of the Shawnee School District.

4. At all relevant times, Defendant Arthur was acting within the course and scope of his employment, except as to those claims that are intentional torts.

5. The District Court of Pottawatomie County has subject matter and personal jurisdiction over the Defendants and venue is proper pursuant to 12 O.S. §§ 133, 134, and 143.

COMPLIANCE WITH O.G.T.C.A. NOTICE REQUIREMENT

6. Plaintiff has complied with the notice provisions of the Oklahoma Governmental Tort Claims Act by providing notice of this claim to the District.

FACTUAL BACKGROUND

7. Defendant Arthur was employed by the District from 2006 through 2021, holding various positions as teacher, coach and assistant athletic director.

8. Reports of sexual misconduct, sexual harassment and sexual assault committed by Defendant Arthur were brought to the District’s attention over fifteen (15) years ago by at least one former male student.

9. The District’s administration and board members all received notice of those reports.

10. The District ignored those reports of sexual misconduct, sexual harassment and sexual assaults committed by Defendant Arthur and negligently retained him as an employee of the District.

11. As a result of the District’s negligence and deliberate indifference, Plaintiff became another victim of Defendant Arthur’s sexual misconduct while a student attending Shawnee High School in 2021.

12. Defendant Arthur repeatedly preyed on Plaintiff, even after the District had been informed of the sexual predator's previous misconduct via the District's agents, servants and employees, as well as members of the public.

13. The District should provide a safe learning environment for its students and should provide an environment free of sexual predators.

14. The District failed to do so.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Negligence (Negligent Retention, Training, Supervision, and Premises Liability) Against Defendant District under the Oklahoma Governmental Tort Claims Act

COMES NOW the Plaintiff and hereby adopts the includes the foregoing statements and allegations as if they were fully stated herein, and for his First Cause of Action against the District, alleges and states:

15. The District is responsible for the negligence of their agents, servants, and employees while acting within the course and scope of their employment.

16. Defendant District breached its duty of reasonable care as custodian of Plaintiff by, *inter alia*:

- a. Negligently retaining Arthur as an employee of the District after reports of sexual misconduct, sexual harassment and sexual assault were made by at least one former male student;
- b. Negligently allowing Arthur access to students after previous reports of sexual misconduct, sexual harassment and sexual assault were made by other male students;

- c. Negligently supervising Arthur after previous reports of sexual misconduct, sexual harassment and sexual assaults were made by other male students;
- d. Negligently developing and/or implementing, or failing to develop and/or implement, policies and procedures designed to protect students from sexual harassment, sexual misconduct and sexual assault;
- e. Negligently training its employees and/or agents with regard to policies and procedures related to sexual harassment, sexual misconduct and sexual assault; and
- f. Failing to protect Plaintiff and other male students from harm while in the District's control or control of its agents and/or employees.

17. The District had a duty to police the misconduct of its personnel under its immediate control and to protect the students from violations of the students' constitutional rights to bodily integrity and to be free from intrusions while attending a publicly mandated course of education.

18. To the extent that the District had any procedures and policies for training, supervising and educating its employees in the detection, reporting and/or investigation of alleged or suspected incidents of offensive acts and acts of sexual misconduct in place, those procedures and policies were inadequate and likely to result in the violation of a student's constitutional rights.

19. The District failed to take sufficient remedial action to correct, eliminate and/or prevent the recurrence of the offensive and unconstitutional acts described above once its employees perceived, knew or had reason to believe that Defendant Arthur posed a risk of sexual harassment, sexual misconduct and sexual assault.

20. The conduct by school officials was done within the scope of their employment and course of their performance of their official responsibilities at the School District, under the color of laws, statutes, ordinances, regulations, practices, customs and usage of the State of Oklahoma and the District and utilized the respect and authority granted to them by state and local law.

21. The District was negligent in providing a safe and secure environment for its male students and was negligent in its dealings with school employees and, as a direct result of the negligence, Plaintiff was injured, both physically and mentally and has suffered damages.

WHEREFORE, Plaintiff prays for judgment against the Defendant District and Defendant Arthur for a sum in excess of the amount required for diversity jurisdiction under 28 United States Code §1332, plus interest, attorney fees and costs and whatever further relief this court deems just and equitable.

SECOND CAUSE OF ACTION
Negligence *Per Se* Against Defendant District

COMES NOW the Plaintiff and hereby adopts and includes the foregoing statements and allegations as if they were fully stated herein, and for his Second Cause of Action against the District, allege and state:

22. The District and its employees and/or agents had a duty to report allegations of Arthur's sexual misconduct to the Oklahoma Department of Human Services ("DHS"). *See* 10A O.S. § 1-2-101(B)(1).

23. That subsection requires "[e]very person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter promptly to the Department of Human Services."

24. The Oklahoma Legislature promulgated the reporting requirements to prevent the type of injuries inflicted upon Plaintiff.

25. The Oklahoma Legislature stated this legislative purpose in 10A § 1-1-102(A)(3): “Because the state has an interest in its present and future citizens as well as a duty to protect those who, because of age, are unable to protect themselves, it is the policy of this state to provide for the protection of children who have been abused or neglected and who may be further threatened by the conduct of persons responsible for the health, safety, and welfare of such children.”

26. Oklahoma’s child abuse reporting laws express the State’s strong public interest in protecting children from abuse by the policy of mandatory reporting of actual and suspected child abuse or neglect to appropriate authorities and agencies.

27. The District failed to report to the DHS, even though Defendant had information regarding Arthur’s misconduct that required reporting.

28. The failure to report by the District was the direct and proximate cause of the abuse of Plaintiff, thereby causing Plaintiff mental anguish and physical injury.

29. The District’s failures to abide by its statutory duties is negligence *per se*.

WHEREFORE, premises considered, Defendant District and its officials’ failings as described above resulted in Plaintiff suffering severe emotional distress and/or psychological damage and/or significant pain and suffering and/or personal humiliation. Plaintiff prays for judgment against the Defendant District, for a sum in excess of the amount required for diversity jurisdiction under 28 United States Code §1332, plus interest, attorney fees and costs and whatever further relief this court deems just and equitable.

THIRD CAUSE OF ACTION
42 U.S.C. § 1983 Violations

COME NOW the Plaintiff and hereby adopts and includes the foregoing statements and allegations as if they were fully stated herein, and for his Third Cause of Action against the District, allege and state that under the Fourth Amendment and the Fourteenth Amendment, Plaintiff has the right to Due Process and Equal Protection of the Law.

30. At all times relevant hereto, it was clearly established that Plaintiff had fundamental rights to physical safety and to be free from the infliction of unnecessary pain.

31. The District was a state actor acting under the color of state law.

32. The District denied Plaintiff his rights to Due Process and Equal Protection of the Law by:

- a. Failing to enact and implement adequate policies concerning sexual harassment, sexual misconduct and sexual assault;
- b. Failing to investigate Defendant Arthur properly, before and after these referenced allegations;
- c. Failing to remove Defendant Arthur;
- d. Failing to retain, train, supervise, and Defendant Arthur properly;
- e. Failing to adequately train and supervise its employees; and
- f. Exhibiting deliberate indifference to the sexual misconduct directed at students.

33. The District has an unconstitutional custom or policy of:

- a. Failing to investigate and report criminal misconduct;
- b. Discounting the credibility of student allegations; and
- c. Failing to adequately train and supervise employees with regard to the investigation and reporting of sexual misconduct of students.

34. The policy is attributable to a policymaker.

35. The resulting inadequate policies and resulting failure to train allowed Defendant Arthur, as the District's employee, to violate Plaintiff's 4th Amendment rights and Plaintiff's 14th Amendment rights to Equal Protection and Due Process.

36. An environment where an adolescent is feloniously touched, molested, and/or receives lewd or lascivious communications from an adult is a dangerous environment.

37. The District created a dangerous environment for its adolescents, including Plaintiff.

38. The District, as a state actor, affirmatively acted to create, or increased the Plaintiff's vulnerability to, or danger from, the misconduct of Defendant Arthur.

39. Plaintiff was member of a limited and specifically definable group—namely, male and student.

40. The District created the danger or increased the Plaintiff's vulnerability to the danger by at least effectively ignoring other allegations and not immediately removing Defendant Arthur from its District after receiving notice of his misconduct years prior.

41. The District's conduct put Plaintiff and other students at substantial risk of serious, immediate and proximate harm. Indeed, Defendant Arthur abused Plaintiff after the District had actual notice of Arthur's previous misconduct.

42. The risk of danger was obvious or known to the District.

43. The District's actions and inactions created an opportunity for Defendant Arthur to engage in sexual misconduct.

44. The District acted recklessly in conscious disregard of that risk and, when viewed in total, shocks the conscience.

WHEREFORE, premises considered, Defendant District and the failings of its officials and employees as described above resulted in Plaintiff suffering severe emotional distress and/or psychological damage and/or significant pain and suffering and/or personal humiliation. Plaintiff prays for judgment against the Defendant District for a sum in excess of the amount required for diversity jurisdiction under 28 United States Code §1332 plus interest, attorney fees and costs and whatever further relief this court deems just and equitable.

FOURTH CAUSE OF ACTION
Violation of Title IX

COME NOW the Plaintiff and hereby adopts and includes the foregoing statements and allegations as if they were fully stated herein, and for his Fourth Cause of Action, allege and state:

45. The District receives federal financial assistance.

46. The District's previous disregard of the sexual misconduct of Arthur was so severe and objectively offensive that it deprived Plaintiff of educational opportunities and benefits provided by their public schooling.

47. The District created and/or subjected Plaintiff to a hostile educational environment in violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681(a) ("Title IX"), because:

- a. Plaintiff was member of a protected class;
- b. Plaintiff was subjected to harassment based on his sex; and
- c. Plaintiff was subjected to sexual harassment in the form of sexual pursuit and sexual misconduct by Arthur, an employee of the School District.

48. Plaintiff was subjected to a hostile educational environment created by the School District's lack of policies and procedures and failure to properly investigate and/or report sexual misconduct.

49. Defendant Arthur's sexual misconduct was a substantial danger and risk to the District's students.

50. The District had evidence of at least one prior report of sexual misconduct of a male student by Defendant Arthur.

51. The District acted with deliberate indifference by failing to properly investigate prior allegations and to inform law enforcement or other governmental officials. The District's inactions were clearly unreasonable in light of the known circumstances.

52. The District's actions and inactions caused students, including Plaintiff, to undergo further sexual misconduct by Arthur and made them vulnerable to that misconduct.

53. The District persisted in its actions and inactions even after it had actual knowledge of the harm suffered by at least one former male student.

54. The District acted with deliberate indifference toward previous reports of Arthur's sexual misconduct towards a male student and failed to take immediate, effective remedial or preventative steps to resolve, investigate, or prevent further sexual misconduct of its students.

55. The District's failure to promptly and appropriately respond to the alleged sexual harassment and sexual misconduct resulted in Plaintiff, on the basis of his sex, being subjected to discrimination in the District's education program in violation of Title IX.

56. The District's response was clearly unreasonable in light of the circumstances known to them.

57. The District's actions, including, but not limited to its failure to effectively and immediately investigate Arthur's misconduct, was not a reasonable response to the substantial risk of sexual misconduct.

58. The District dismissed and marginalized allegations of Arthur's sexual misconduct that was reported by at least one former male student.

59. The District engaged in a pattern and practice of behavior that failed to fully investigate, alert, and protect students from sexual misconduct within the District.

60. Plaintiff has suffered physical pain, emotional distress, and psychological damage.

61. WHEREFORE, premises considered Defendant District's actions were the direct and proximate cause of Plaintiff being deprived of a safe and harassment-free educational environment. As a result of Defendant District's actions and inactions, Plaintiff has suffered and continue to suffer severe emotional distress and/or psychological damage and/or significant pain and suffering and/or personal humiliation.

FIFTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress Against Defendant Ronald Arthur, only

COMES NOW the Plaintiff and hereby adopts and includes the foregoing statements and allegations as if they were fully stated herein, and for his Fifth Cause of Action, alleges and states;

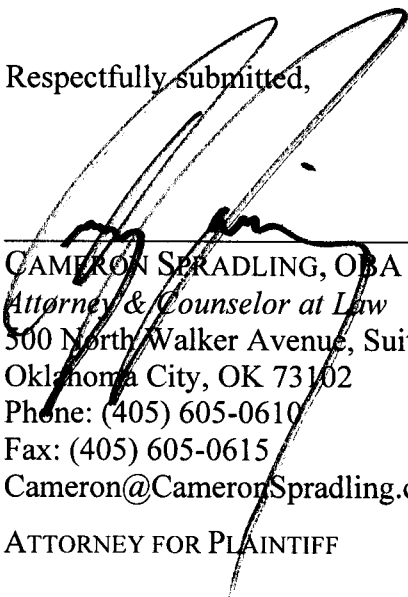
1. Defendant Arthur intentionally and/or recklessly caused Plaintiff's emotional distress.

2. The physical and mental abuse that Defendant Arthur gave to Plaintiff was done maliciously.

3. Plaintiff is entitled to recover actual and punitive damages against Defendant Arthur to deter him, and others similarly situated, from this behavior in the future and to punish him for his socially unacceptable behavior.

WHEREFORE Plaintiff prays for judgment against the Defendant, Ronald Arthur, individually, for a sum in excess of the amount required for diversity jurisdiction under 28 United States Code §1332, plus interest, attorney fees and costs and whatever further relief this court deems just and equitable. Additionally, if permitted under the facts of this case and by Oklahoma law, Plaintiff further prays for an award of punitive damages in an amount in excess of the amount required for diversity jurisdiction pursuant to 28 United States Code §1332.

Respectfully submitted,



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ATTORNEY FOR PLAINTIFF

SHAWNEE BOARD OF EDUCATION

AE**PHILOSOPHY OF EDUCATION**

The teachers, administrators, board members, and all others concerned with education in the Shawnee Public Schools will strive to develop each child.

Students will not be denied an education because of nationality, race, disability, or creed provided they meet residence and attendance requirements. In addition, no child will be denied involvement in academic activities due to an inability to meet any monetary requirements associated with said activity.

The Shawnee School District considers the total life of the child. This requires careful consideration of each child's total well-being. The Board encourages the mastery of learning skills and subject matter, and the development of favorable attitudes, proper conduct, and ideals. The development of each student's goals and capacities to help the student achieve a stable identity of self-respect is an important phase of education and is a part of the school's responsibility.

Adopted: May 7, 1990
Revised: December 6, 1994
Revised: March 7, 1995

SHAWNEE BOARD OF EDUCATION

FFG

**CHILD ABUSE, NEGLECT, EXPLOITATION AND TRAFFICKING:
REPORTING AND INVESTIGATION****Introduction**

School District employees have a legal obligation under Oklahoma law to report child abuse to the Oklahoma Department of Human Services (OKDHS or DHS). District employees are also obligated under Oklahoma law to report suspected child trafficking to the Oklahoma Bureau of Narcotics and Dangerous Drug Control (OBNDCC). In addition, district employees have an obligation to report suspected abuse, neglect, exploitation or trafficking affecting students to principals or other school officials to ensure the student's safety and welfare while at school or participating in school activities. Although there are no reporting requirements regarding students who are 18 or older, any employee who suspects that an adult student is being mistreated should notify the principal. The purpose of this policy is to provide *directives and guidelines* to assist School District employees in fulfilling their legal responsibility for child abuse reporting.

Definitions

Special words or phrases used in this policy have the following definitions:

"Physical abuse and neglect" means harm or threatened harm to a child's health, safety, or welfare, including non-accidental physical or mental injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment, including but not limited to the failure or omission to provide adequate food, clothing, shelter or medical care or protection from harm or threatened harm, by a person responsible for the child's health or welfare.

A "person responsible for a child's health, safety, or welfare" includes a parent, a legal guardian, a custodian, a foster parent, a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child, an agent or employee of a public or private residential home, institution or facility, or an owner, operator or employee of a child care facility as defined by Title 10, Section 402 of the Oklahoma Statutes.

"Sexual abuse" includes but is not limited to rape, incest and lewd or indecent acts or proposals, as defined by law. "Sexual exploitation" includes but is not limited to allowing, permitting or encouraging a child to engage in prostitution, as defined by law, or allowing, permitting, encouraging or engaging in the lewd, obscene or pornographic photographing, filming or depicting of a child in those acts as defined by state law.

"Exploitation" means an unjust or improper use of the resources of a child for the profit or advantage, pecuniary or otherwise, of a person other than the child, through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretenses.

"Trafficking" is defined by the Oklahoma Statutes of OKLA. STAT. tit 21 § 866.

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“Parent” refers to parents, guardians or others who have legal responsibilities for specific children.

Reporting Suspected Child Abuse, Neglect, Exploitation and Trafficking

Any School District employee having reason to believe that a student under the age of eighteen (18) years is suffering from abuse, neglect or exploitation shall immediately report this matter to DHS through the hotline designated for this purpose (1-800-522-3511). Employees must report suspected child trafficking to OBNDDC at 1-800-522-8031. The employee should then provide notice to the school principal or other school official that a report was made, the name of the child, circumstances surrounding the report and the confirmation number provided by the hotline representative.

Neither the Board of Education nor any School District employee will discharge or in any manner discriminate or retaliate against the person who in good faith provides such child abuse reports or information, testifies, or is about to testify in any proceeding involving child abuse, neglect, exploitation, or trafficking provided that the person did not perpetrate or inflict the abuse, neglect, exploitation, or trafficking.

After a report is made to DHS or OBNDDC via the hotline, the reporting party will prepare a written report which contains the confirmation number of the report, the date and time of the telephone contact, the name of the person to whom the district employee made the oral report, the names and addresses of the child, the parents, and any other responsible persons, the child’s age, the nature and extent of injuries, any previous incidents, and any other helpful information. A copy of this report will be furnished to the principal or, if the reporter believes the principal is not an appropriate individual, to the superintendent.

Information Concerning Child Abuse, Neglect, Exploitation, and Trafficking

If DHS provides the school principal or Superintendent a summary of any confirmed report of sexual abuse or severe physical abuse concerning the child, the school principal will forward to a subsequent school in which the child enrolls all such confirmed reports. The principal or Superintendent will notify DHS of the child’s new school and address, if known.

All information or documents generated or received by the School District in regard to the matter are confidential and shall not be disclosed except to investigators of DHS, the School District's attorneys, the district attorney's office, a subsequent school district in which the child enrolls, a person designated to assist in the treatment of or with services provided to the child or other state or federal officials in connection with the performance of their official duties. The information or documents shall be maintained and transmitted by the School District in the same

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manner as special education records. Such records shall be destroyed when the child reaches the age of 18.

Investigating Child Abuse Allegations

At the request of appropriately identified investigators of DHS or OBNDDC or the district attorney's office, the school Principal, Superintendent, or other school official shall permit the investigators access to a student about whom the agency has received a child abuse or neglect report. The school Principal will arrange the interview in a manner that minimizes embarrassment to the child. The school Principal will not contact the parent, guardian or other person responsible for the child's health or welfare prior to the interview or following the interview, unless permission for parent contact is provided by law enforcement authorities. No School District employee will be present during the interview. However, a School District employee may be present prior to the interview if the employee believes that his or her temporary presence will make the child more comfortable or if the representatives request the presence of a district employee during the interview.

Reports to Principal or Other School Officials

Suspected instances of child abuse, neglect, exploitation, or trafficking whether the result of circumstances at home, school or other locations, affect the child while he or she is in the care and custody of the school. Consequently, employees are required to report any suspicion of child abuse, neglect, exploitation, or trafficking by any individual, whether the identity is known or unknown, to the principal or other school official. This reporting obligation exists in all instances, including circumstances suggestive of this conduct at school or connected with school activities. Accordingly, this policy includes an obligation to notify the Principal (or another school official if an employee has a reasonable belief that the Principal should not be notified) of any instance involving suspected abuse, ~~or~~ neglect, exploitation, or trafficking of a student.

Immunity for Good Faith Reports

Oklahoma law provides that any school employee who in good faith and exercising due care makes a report to DHS or another appropriate law enforcement office allows access to a child by persons authorized to investigate a report concerning the child or participates in any judicial proceeding resulting from a report, shall have immunity from any liability, civil or criminal that might otherwise be incurred or imposed.

Adopted: May 7, 1990 Revised: November 7, 1995 Revised: November 1, 2011
Revised: December 6, 1994 Revised: December 2, 1997 Revised: June 2, 2015

Exhibit D
to Shawnee Public School District Complaint



OSSBA GUIDANCE FOR MANDATORY REPORTING

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THE LEGAL OBLIGATION TO REPORT POSSIBLE ABUSE TO AUTHORITIES IS ABSOLUTE.

In Oklahoma, “every person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter promptly to the Department of Human Services.” 10A O.S. § 1-6-102. Reports shall be made to the state toll free hotline at 1-800-522-3511. This is a personal obligation, and no school official can in any way prevent any person from making this report.

SCHOOL BOARD POLICY SHOULD REFLECT THE LAW.

The policy should require immediate reporting of suspected abuse or neglect to DHS. The policy can't require an employee to first report possible abuse or neglect to a principal or counselor or require that only an administrator or counselor can make the report.

IT IS NOT APPROPRIATE FOR ADMINISTRATORS, TEACHERS AND COUNSELORS TO LAUNCH A NEGLECT/ABUSE INVESTIGATION.

Administrators, school counselors and teachers are not trained by law to investigate child abuse. If a school counselor or other school employee “investigates” possible child abuse, that counselor/employee could be allowing someone continued access to a child and/or interfere with the state agency's obligation to investigate child abuse. School board members are to review child abuse reporting policies as soon as possible to ensure that your employees will follow Oklahoma law. The school's first and primary duty is to students.

AREN'T SURE IF WHAT YOU SAW OR HEARD IS ABUSE OR NEGLECT? MAKE THE CALL.

In addition to contacting DHS, it would also behoove the school district to ensure that any potentially criminal activity is reported to local law enforcement. Failure to notify law enforcement could result in charges being filed if someone were aware of criminal activity and did not report that activity. This could be construed as obstruction of justice and/or an accessory after the fact to the crime. Whether or not charges would be filed would be at the discretion of the local district attorney.

CONTACT YOUR SCHOOL ATTORNEY.

There's a difference between an investigation of potential child abuse or neglect and an employment investigation. The priority is the DHS and/or criminal investigation, and school officials must not interfere. Administrators who become aware of allegations should contact your school district attorney for advice on documentation that might be needed for potential employment action at a future date. The attorney will recommend what steps need to be taken with regard to employment of an accused.

NOTIFICATION TO STATE DEPARTMENT OF EDUCATION.

The Oklahoma State Department of Education should also be notified regarding any allegations involving potential criminal behavior by employees. Further, if the Superintendent recommends that an employee be dismissed or not reemployed, and the grounds include actions that could form criminal charges, a copy of the recommendation shall be given to the state Board of Education. 70 O.S. 6-101.25

ENCOURAGE A CULTURE OF SAFETY.

Employees can't be disciplined for reporting possible abuse or neglect. 10A O.S. 1-2-101 Encourage employees to put student safety first by emphasizing their obligation to report possible abuse or neglect to the proper authorities outside of the school district. The district may not have any knowledge that an employee has contacted DHS on the statewide toll free hotline to report abuse. The district can include in policy that the employee should notify the school district AFTER DHS has been notified. If an employee does notify the district, that should be documented as well. Employees are encouraged to let an appropriate administrator know if they have contacted DHS about a suspected child abuse/neglect allegation, even if the employee chooses not to divulge details about the call.

POORLY CONCEIVED RESIGNATION AGREEMENTS PUT CHILDREN AT RISK.

It's inappropriate and potentially harmful to agree to give a "good reference" to someone who is resigning in lieu of termination or in lieu of an investigation into allegations involving harm to children. This is commonly referred to as "passing the trash" to another school district. It would be well worth the district's time and resources to properly fire someone for misconduct and allow the allegations to be known via due process proceedings, rather than to allow someone to quietly move to the next school where they may possibly engage in that same inappropriate behavior with a child.



**REPORTING SUSPECTED CHILD ABUSE
AND/OR NEGLECT**

In accordance with Oklahoma law, ~~teachers are~~ any person is required to report suspected cases of physical abuse or neglect involving students to the statewide toll free hotline of the Department of Human Services. The statewide DHS hotline number is 1-800-522-3511. The board of education fully supports that requirement and has established this policy to facilitate such reporting.

Every teacher, support person, or other employee of this school district shall report any suspected physical, mental, or sexual abuse or neglect of any school student to the Department of Human Services by telephone. The employee shall also inform the building principal who will advise the superintendent that the report was made using Form FFG-E.

The reporting obligations under this section are individual, and no employer, supervisor or administrator of a person required to provide information pursuant to this section shall discharge, or in any manner discriminate or retaliate against, any such person who in good faith provides such child abuse reports or information, testifies, or is about to testify in any proceeding involving child abuse or neglect; provided, that such person did not perpetrate or inflict such abuse or neglect. Any such employer, supervisor, or administrator who discharges, discriminates, or retaliates against such person shall be liable for damages, costs, and attorney fees. Any person who knowingly and willfully fails to promptly report any incident of child abuse may be reported ~~by the Department of Human Services~~ to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor. Any person who knowingly and willfully makes a false report, or makes a report that the person knows lacks factual foundation may be reported by the Department of Human Services to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

Any person participating in good faith and exercising due care in the making of a report or any person who, in good faith and exercising due care, allows access to a child by persons authorized to investigate a report concerning the child shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity from any liability with respect to participation in any judicial proceeding resulting from such report.

The school district shall post, in a clearly visible location in a public area of the school that is readily accessible to all students, a sign in English and Spanish that contains the toll-free number operated by the Department of Human Services.

REFERENCE: ~~10 O.S. §7101, et seq.~~
~~21 O.S. 1981, §846, 847~~
10A O.S. § 1-2-101
10A O.S. § 1-2-104
63 O.S. §1-120 (G)
70 O.S. §1210.162
Atty. Gen. Op. No. 78-202 (Dec. 28, 1978)