

of governmental agencies and entities. In general, the TOMA demands openness at every stage of the government's deliberative process to ensure that citizens know what their elected officials decide and how each decision is reached. By this lawsuit, Plaintiffs bring this action to redress Defendants' violation of the TOMA to ensure openness at every stage of the government's deliberative process, and to safeguard that citizens know what their elected officials decide and how each decision is reached.

2. In this matter, Defendants improperly convened a closed meeting on an agenda item during the June 8, 2023 board meeting. Prior to the announcement that the agenda item would be discussed in a closed meeting, the Board delegated authority, absent express statutory authority to do so, and then performed a perfunctory public meeting, with a subsequent casting of a unanimous vote, without meeting the necessary legal criteria outlined in the TOMA. Plaintiffs are bringing this action in order to rectify this abuse and prevent future violations. To that end, Plaintiff requests that the Court: (1) declare that Defendants have violated the TOMA; (2) declare that any action taken in violation of the TOMA is void; and (3) enjoin Defendants from taking any further actions that violate the TOMA.

II. **DISCOVERY CONTROL PLAN**

3. Plaintiffs intend to conduct discovery under Level 3 of Rule 190.3 of the Texas Rules of Civil Procedure.

III. **REQUESTS FOR DISCLOSURES**

4. Plaintiffs request that Defendants make all disclosures required by Texas Rule of Civil Procedure 194 within 50 days of the service of this Original Petition and Request for Disclosures.

IV.
PARTIES

A. Plaintiffs

5. Mr. Jarvis is a citizen, taxpayer, voter, and veteran who has resided within the boundaries of AISD since 1986. The children of Mr. Jarvis all attended AISD public schools.

6. CDF is a nonpartisan grassroots organization committed to resolving breaches of freedom and liberty for the general public through local awareness, local light, and local action. A core mission of CDF is devoted to supporting the rule of law and transparency in government activity through education and the promotion of engagement in civil discourse. CDF is organized with volunteers within the boundaries of AISD, throughout Tarrant County, and is an interested party in ensuring TOMA compliance and accountability with government agencies and elected officials.

B. Defendants

7. AISD is an Independent School District created under Texas law and located in Tarrant County. AISD may be served with process through its Office of General Counsel, at 690 E. Lamar Blvd., 5th Floor, Arlington, TX 76011.

8. Sarah McMurrough is a Trustee elected to Place 1 of the Board, is the Secretary of the Board, and resides within AISD. She may be served with process at 690 E. Lamar Blvd., Arlington, TX 76011.

9. Melody Fowler is a Trustee elected to Place 2 of the Board, is the President of the Board, and resides within AISD. She may be served with process at 690 E. Lamar Blvd., Arlington, TX 76011.

10. Aaron Reich is a Trustee elected to Place 3 of the Board and resides within AISD. He may be served with process at 690 E. Lamar Blvd., Arlington, TX 76011.

11. David Wilbanks is a Trustee elected to Place 4 of the Board and resides within AISD. He

may be served with process at 690 E. Lamar Blvd., Arlington, TX 76011.

12. Justin Chapa is a Trustee elected to Place 5 of the Board, is the Vice President of the Board, and resides within AISD. He may be served with process at 690 E. Lamar Blvd., Arlington, TX 76011.

13. Brooklyn Richardson is a Trustee elected to Place 6 of the Board and resides within AISD. She may be served with process at 690 E. Lamar Blvd., Arlington, TX 76011.

14. Leanne Haynes is a Trustee elected to Place 7 of the Board and resides within AISD. She may be served with process at 690 E. Lamar Blvd., Arlington, TX 76011.

V.
JURISDICTION AND VENUE

15. As more specifically described below, the defendant Board Members have violated (and will likely continue to violate) the TOMA. Such violations have occurred (and will occur) in Tarrant County, Texas. This Court has jurisdiction over the AISD Board, a school district located within the geographic jurisdiction of this Court, and has subject-matter jurisdiction over violations of the Texas Open Meetings Act that have occurred and will occur in Tarrant County. *See* Tex. Gov't Code § 551.142. For the same reasons, this Court has jurisdiction over the individual Board members.

16. Venue is mandatory in this Court because the AISD Board is a “political subdivision” located entirely in Tarrant County. *See* Tex. Civ. Prac. & Rem. Code §15.0151. Venue is also proper in this Court because Tarrant County is the county in which all of the events or omissions, giving rise to both Counts of this Petition occurred. *See* Tex. Civ. Prac. & Rem. Code § 15.002(a)

VI.
FACTUAL BACKGROUND

A. Overview of the TOMA

17. The TOMA requires that every action taken by a governmental body be voted upon by a quorum in a properly noticed meeting before any action can be taken. *See* Tex. Gov't Code § 551.144. Further, the TOMA provides that “[e]very regular, special, or called meeting of a government body shall be open to the public, except as provided by this chapter.” *See* Tex. Govt. Code §551.1002. In addition, The Texas Supreme Court has held that “Our citizens are entitled to more than a result. They are entitled not only to know what government decides but to observe how and why every decision is reached. The explicit command of the statute is for openness at every stage of the deliberations.” *See Acker v. Texas Water Comm’n*, 790 S.W.2d 299, 300 (Tex. 1990) (citation omitted).

18. Under the TOMA, the public must be given written notice of the time, place, and subject matter of all meetings of the governmental agency or entity. Section 551.043 of the Texas Government Code requires that notice of a meeting be posted at least 72 hours in advance in a place readily accessible to the general public.

19. Under the TOMA, closed meetings are allowed only in limited circumstances that are construed narrowly to effectuate the overarching principle that governmental meetings are to be open to the people. Even if an exception applies, pursuant to section 551.101 of the Texas Government Code, a governmental body may not conduct a closed meeting unless it first convenes a properly noticed open meeting during which the presiding officer announces that a closed meeting will be held and identifies the section of the TOMA authorizing the closed meeting.

20. Further, section 551.102 of the Texas Government Code requires that any final action, decision, or vote on a matter deliberated in a closed meeting may only be made in a properly

noticed open meeting. In addition, a record must be made of the date, hour, place, and subject of each meeting held by the governmental body. Moreover, sections 551.021, 551.022, 551.103, and 551.104 of the Texas Government Code require that minutes or tape recordings be kept of meetings.

21. The purpose of the TOMA is to provide public access to and increase public knowledge of governmental decision-making. *See City of San Antonio v. Fourth Court of Appeals*, 820 S.W.2d 762, 765 (Tex. 1991).

22. Violations of the TOMA have significant consequences. Indeed, pursuant to section 551.141 of the Texas Government Code, actions taken in violation of the TOMA are voidable.

23. Further, section 551.142 of the Texas Government Code authorizes mandamus and injunctive relief.

24. In addition, pursuant to sections 551.143, 551.144, and 551.145 of the Texas Government Code, it is a crime (misdemeanor) to knowingly attempt to circumvent the TOMA, participate in an unauthorized closed meeting, or participate in a closed meeting knowing that a certified agenda or tape recording is not being made.

B. Violation of the TOMA

25. The Board has the executive power and duty to govern and oversee the management of AISD. The Board sets the direction for the school district. The Board's responsibilities include: (1) setting district policies and supporting administrators and teachers in the execution of those policies; (2) employing and evaluating the superintendent; (3) adopting the annual budget; (4) levying/collecting taxes and issuing bonds; and (5) performing specific duties imposed by the state. Although the Board decides matters of public concern—and, often, controversy—closed meetings are authorized only in limited circumstances that are construed narrowly to effectuate the

overarching principle that governmental meetings are to be open to the public to ensure that citizens know what their elected officials decide and how each decision is reached.

26. On June 8, 2023, the Board met to consider four consolidated grievance appeals filed by Mr. Jarvis for consideration by the Board. The basis of the consolidated grievance complaints was that the Board, which is vested with full legal authority to oversee the management of AISD, had not been adequately transparent or responsive on policy or guidance provided by district administrators or employees on controversial topics such as the intersection of parental rights, Title IX, and gender identity, among others.

27. The June 8, 2023, meeting listed the grievance hearing on the noticed agenda and did not indicate that specific portion of the meeting would be closed to the public, raising a question as to the adequacy of the noticed agenda to inform the public. *See* Exhibit A.

28. Additionally, according to the noticed agenda, on June 8, 2023, the AISD Board called to order at 5:00 p.m. in the “Board Chamber” and immediately moved into a closed meeting in the “Board Conference Room.” At 6:30 p.m., the board reconvened into open session. *See* Exhibit A. A review of the June 8, 2023 meeting posted at www.aisd.net does not indicate that, prior to the closed meeting, a public announcement was made in open session in accordance with the statutory procedures required for such a meeting. In fact, all the regularly scheduled board meetings conducted in 2022 and 2023 were conducted in this manner and will likely continue. Under the law, prior to conducting the closed meeting, AISD must first convene in an open meeting for which notice has been given and, during which, the presiding officer *publicly* announces that a closed meeting will be held and identifies the section(s) of the Act authorizing such a closed meeting. *See* Tex. Gov’t Code §551.101 (emphasis added). The departure from the statutory procedures required to conduct a closed meeting is not only a violation of law, but deceives the public and likely renders

the notice inadequate for closed session items.

29. During the June 8, 2023 grievance hearing, AISD legal counsel was appointed delegated authority by the Board to conduct and make rulings on “the efficient presentation” of the consolidated complaints, and cited sections 551.071 and 551.074 of the Texas Government Code as the statutory authority for entering a closed session. *See* Exhibit B.

30. The TOMA allows a Board to consult with legal counsel in closed sessions under limited circumstances concerning contemplated or pending litigation, but this exception is very narrowly drawn. *See* Tex. Gov. Code §551.071. The purpose of the exception for consultations with an attorney is, in part, to allow a governmental body to receive legal advice from its attorney without revealing attorney client confidences to third parties. Under this justification, Plaintiff Jarvis was not part of the governmental body of the Board. Moreover, the use of this statutory exception to the TOMA to conduct a closed session with Mr. Jarvis in attendance defeats the purpose of the exception to maintain confidentiality and privilege of Attorney-Board communications. In fact, under the attorney consultation exception, an opposing party may not be present. *See* Tex. Att’y Gen. Op. Nos. JC-506 (2002), JC-375 (2001), JM-238 (1984).

31. The primary statutory basis asserted through delegated Board authority for entering into a closed session was under Tex. Gov. Code §551.074(a)(1) & (2). That provision is applicable for deliberation regarding “the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee” or entertaining “a complaint or charge against an officer or employee.”

32. The grievance hearing did not deal with “Personnel Matters” as intended by § 551.074. On the contrary, the grievance concerned the oversight and understanding of specific written or unwritten policies to which the Board is vested by law to conduct, and the public has a right to

observe and understand.

33. On the record, Plaintiff Jarvis agreed to discuss only the policy of the board which made up the basis of the grievance, without naming any officials or trustees by name or position that would formulate a basis for a TOMA exception as a “a complaint or charge against an officer or employee.” Despite this, objections made by Mr. Jarvis to conduct the noticed agenda item in closed session were overruled, interested citizen observers were ordered to leave the public meeting, and the grievances were conducted in a closed session. *See* Exhibit B.

34. Because this portion of the Board meeting was closed, the general public was unable to observe or debate government decisions such as how government policy is formulated and promulgated despite the item being listed on the noticed agenda.

35. The actions to close the meeting to the public were in violation of section 551.007 (e) of the Texas Government Code. Under that recently enacted statutory provision, a government body may not prohibit public criticism of the government body, including criticism of any act, omission, policy, procedure, program, or service. By closing the noticed agenda item, the Board was in effect prohibiting public criticism of the Board and the oversight they exercise, or lack thereof, on controversial topics or issues of great importance to the general public. The use of open meeting exceptions to silence public criticism of transparency in government policy was, by design, a flagrant violation of the TOMA.

VII. **Causes of Action**

A. Declaratory and Injunctive Relief: Violations of the TOMA

36. Plaintiffs reallege and incorporate by reference the preceding paragraphs.

37. Defendants, as described above, have persistently, systematically, and intentionally violated the TOMA by failing to first convene in an open meeting for which notice has been given

with the presiding officer publicly announcing that a closed meeting will be held and identifies the section(s) of the TOMA authorizing such a closed meeting.

38. Defendants, as described above, violated the TOMA by unlawfully closing the June 8, 2023, meeting to the public on a noticed agenda item to conduct the grievance hearing.

39. Plaintiffs request that the Court declare that Defendants have violated the TOMA and that all actions taken in violation of the TOMA are void.

40. Plaintiff also requests that Defendants be required to produce to Plaintiff all minutes and/or recordings of the Board.

41. Moreover, Plaintiffs request that Defendants be enjoined from taking any further actions in violation of the TOMA.

42. In addition, Plaintiff requests that Defendants be ordered to comply with the strict requirements of the TOMA for the benefit of the general public.

43. As a result of Defendants' wrongful conduct, Plaintiff was forced to retain the undersigned counsel to pursue this action. Plaintiff is, therefore, entitled to recover attorneys' fees and costs pursuant to Texas Civil Practice and Remedies Code Section 37.001, et seq.

VIII.
DEMAND FOR JURY TRIAL

44. Plaintiffs demand a jury trial on all issues.

IX.
REQUEST FOR RELIEF

WHEREFORE Plaintiffs respectfully request that the Court enter judgment for Plaintiffs and against Defendants awarding Plaintiffs the following relief:

- a. a declaration that Defendants have violated the Texas Open Meetings Act;
- b. a declaration that the Board's actions in violation of the Texas Open Meetings Act are void *ab initio*;
- c. an injunction requiring Defendants to produce to Plaintiffs all minutes and/or recordings

- of meetings of the Board;
- d. an injunction preventing Defendant from taking any further actions in violation of the Texas Open Meetings Act;
 - e. reimbursement of the attorneys' fees and costs Plaintiff has incurred in connection with this suit; and
 - f. all such other and further relief, at law or in equity, to which Plaintiffs may be entitled.

DATED: January 18, 2024.

Respectfully submitted,

/s/ Jonathan K. Hullihan
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- and -



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**ATTORNEY FOR PLAINTIFFS
CITIZENS DEFENDING FREEDOM
DAVID JARVIS**

EXHIBIT A

**ARLINGTON INDEPENDENT SCHOOL DISTRICT
REGULAR MEETING OF THE BOARD OF TRUSTEES
Thursday, June 8, 2023
5:00 p.m.**

NOTICE of Regular Meeting of the Board of Trustees at the Administration Building, Board Room, 690 East Lamar Boulevard, Arlington, Texas

Meetings may be viewed online at www.aisd.net. One or more members of the Board of Trustees may participate in this meeting via videoconference call. A quorum of the Board of Trustees will be physically present at the Administration Building.

*Members of the public who desire to address the board regarding an item on this agenda must comply with the following registration procedures: Members of the public seeking to provide comments concerning an agenda item or non-agenda item shall be required to register at <https://www.aisd.net/boardmeetingspeakerrequest> **NO LATER THAN 3:00 p.m. the day of the board meeting** indicating (1) person's name; (2) subject the member of the public wishes to discuss, and; (3) telephone number at which the member of the public may be reached.*

CALL TO ORDER: 5:00 p.m., Board Chamber

CLOSED MEETING: Board Conference Room

Adjournment to closed meeting pursuant to Sections 551.071 (consultation with attorney to seek and receive legal advice); 551.072 (discuss the purchase, exchange, lease or value of real property); Section 551.073 – (negotiating contracts for prospective gifts or donations); Section 551.074 - (consider the appointment, employment, evaluation, reassignment, duties, discipline, non-renewal or dismissal of a public officer or employee, or to hear complaints or charges against a public officer or employee); Section 551.076 (consider the deployment, or specific occasions for implementation, of security personnel and devices); Section 551.082 – (discussing or deliberating the discipline of a public school child or children, or a complaint or charge is brought against an employee of the school district by another employee); Section 551.0821 – (deliberating in a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation); Section 551.083 (considering the standards, guidelines, terms or conditions the Board will follow, or instruct its representatives to follow, in consultation with representatives of employee groups in connection with consultation agreements).

1. Administrative Appointments/Personnel Ratification
2. Superintendent Search

RECONVENE INTO OPEN SESSION: 6:30 p.m., Board Room

OPENING CEREMONY:

EXHIBIT A

EXHIBIT A

PROGRAM AND/OR PRESENTATION:

This time has been designated for the purpose of allowing programs and/or presentations relating to matters such as curricular, extracurricular, co- curricular and PTA type activities.

- A. Recognition of J. Woodrow Counts Scholarship Recipients
- B. Recognition of Outgoing Student Leadership Advisory Board

PUBLIC HEARING:

- A. Optional Flexible School Day Program 2022-2023
- B. Optional Flexible School Day Program 2023-2024

OPEN FORUM FOR AGENDA ITEMS:

Must Pre-Register. Registration as stated above must be completed in its entirety and submitted no later than **3:00 p.m.** This first Open Forum is limited to agenda items other than personnel. Any personnel concern should be brought directly to the Superintendent or Board President prior to the meeting, who will guide you to the proper procedure pursuant to Board Policy. Speakers will be limited to two (2) minutes. When more than one individual wishes to address the same agenda item, the President may ask the group to appoint one spokesperson.

APPOINTMENTS:

- A. Consider Ratification of Administrative Appointments:
Principal for Lamar High, Principal for Barnett Junior High, Principal for Amos Elementary, Principal for Moore Elementary, Principal for Starrett Elementary, Assistant Principal for Arlington High, Assistant Principal for Beckham Elementary, Assistant Principal for Fitzgerald Elementary, Assistant Principal for Peach Elementary, Assistant Principal for Sherrod Elementary

ACTION:

- A. Consider and Act on a Resolution Directing Finance Staff to Proceed with Arrangements for a 2023 Bond Issuance Using a Portion of the 2019 Bond Election Authorization and a Potential Bond Refunding; Engaging Consultants with Respect to that Bond Issuance and Appointing Members of an Underwriting Syndicate

DISCUSSION / ACTION:

- A. Consider Preliminary 2023-2024 Budget and Authorization of Advertisement of Notice of Public Meeting to Discuss Budget and Proposed Tax Rate

EXHIBIT A

CONSENT AGENDA:

- A. Approval of Personnel Recommendations: New Hires, Retirements, Resignations, Leaves of Absence, Dismissals, Terminations, Non-Renewals, Non-Extensions
- B. Approval of Bids, Purchases, Construction Items
 - 23-44 Carter Junior High Replacement School Project
 - 23-78 Demolition of Structures at 2140 S. Davis Drive & 1221 E. Division Street
- C. Approval of Purchases Greater Than \$50,000 Exempt from Bid
 - 23-06-08-01 Asphalt Parking Lot
 - 23-06-08-02 HVAC Improvements at AISD Annex/Textbooks
 - 23-06-08-03 Rack Systems at AISD Annex/Textbooks
 - 23-06-08-04 Forklifts and Reach Truck for AISD Annex/Textbooks
 - 23-06-08-05 Bowie HS Tennis Courts Resurfacing
 - 23-06-08-06 Outside Contracted Services
 - 23-06-08-07 Charter Buses
 - 23-06-08-08 Human Resources Internet Web Based Sourcing Applications/Software
 - 23-06-08-09 Propane Fuel
 - 23-06-08-10 Computers/Chromebooks/Carts/Deployment/MDM/Catalog
 - 23-06-08-11 Off-Duty Police Officers Extra Duty Pay Summer
- D. Approval of Monthly Financial Reports for Period Ending April 30, 2023
- E. Approval of Monthly Investment Report for Period Ending April 30, 2023
- F. Approval of Minutes of Previous Meetings, May 2023
- G. Approval of the Interlocal Agreement with Tarrant County Local Workforce Development Board to Conduct Tarrant County Adult Education and Literacy Consortium's English as a Second Language, Adult Basic Education, and Adult Secondary Education Program

DISCUSSION:

- A. District Improvement Plan Progress Monitoring Update

OPEN FORUM FOR NON-AGENDA ITEMS:

Must Pre-Register. Registration as stated above must be completed in its entirety and submitted no later than **3:00 p.m.** Any personnel concern should be brought directly to the Superintendent or Board President prior to the meeting, who will guide you to the proper procedure pursuant to Board Policy. Speakers will be limited to two (2) minutes. When more than one individual wishes to address the same agenda item, the President may ask the group to appoint one spokesperson.

SUPERINTENDENT'S REPORT:

This time is for the Superintendent to acknowledge varying kinds of activities occurring within the district. This includes such items as recognition of outstanding performance by district staff and/or

EXHIBIT A

students, the initiating of new programs and special activities.

The Superintendent will report on the following subjects:

- A. Recognition of outstanding performance by district staff and students
- B. Initiation of new programs and special activities

SCHOOL BOARD'S REPORTS:

This time on the Agenda allows each member to inform other Board Members, the administrative staff and the public of activities which are of interest.

The Board Members will report on the following subjects:

- A. Board member attendance at various school and community events.
- B. Board member announcement of various upcoming school and community events.
- C. Board member visits to various campuses
- D. Board member recognition of outstanding performance by district staff and students
- E. Board member recognition of new programs and special activities

GRIEVANCE HEARING:

- A. Level IV Grievance Hearing of David Jarvis

CLOSED MEETING:

At any time during the meeting the Board may adjourn into closed meeting for consultation with its attorney (Tex. Gov't Code § 551.071) or for a posted agenda item pursuant to Texas Government Code sections 551.072 – 551.084 (see below).

ADJOURNMENT

The agenda order may be adjusted by the Presiding Officer at any time during the meeting.

If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Texas Government Code, chapter 551, subchapters D and E or Texas Government Code section 418.183(f).

If, during the course of the meeting covered by this Notice, the Board should determine that a closed meeting of the Board should be held or is required in relation to any item included in this notice, then such closed meeting is authorized by Texas Government Code Section 551.001, et. seq., for any of the following reasons:

Section 551.071 - For the purpose of a private consultation with the Board's attorney on any or all subjects or matters authorized by law.

Section 551.072 - For the purpose of discussing the purchase, exchange, lease or value of real property.

EXHIBIT A

Agenda – Regular Meeting
June 8, 2023
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Bulletin Board

Section 551.073 - For the purpose of negotiating contracts for prospective gifts or donations.

Section 551.074 - For the purpose of considering the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear complaints or charges against a public officer or employee.

Section 551.076 - To consider the deployment, or specific occasions for implementation, of security personnel and devices.

Section 551.082 - For the purpose of deliberating in a case involving discipline of a public school child or children, or in a case in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in a need for a hearing.

Section 551.0821 - For the purpose of deliberating in a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation.

Section 551.083 - For the purpose of considering the standards, guidelines, terms or conditions the Board will follow, or instruct its representatives to follow, in consultation with representatives of employee groups in connection with consultation agreements provided for by Section 13.901 of the Texas Education Code.

Section 551.084 - For the purpose of excluding a witness or witnesses from a hearing during examination of another witness.

Should any final action, final decision or final vote be required in the opinion of the Board with regard to any matter considered in such closed meeting, then such final action, final decision or final vote shall be at either:

- A. the open meeting covered by this notice upon the reconvening of this public meeting, or
- B. at a subsequent public meeting of the Board upon notice thereof, as the Board shall determine.

Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

EXHIBIT A

EXHIBIT A

Agenda – Regular Meeting
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Bulletin Board

CERTIFICATE AS TO POSTING OR GIVING OF NOTICE

On this 5th day of June, 2023 at 5:00 p.m., this notice was posted on a bulletin board at a place convenient to the public at the central administrative office of the Arlington Independent School District, 690 East Lamar Boulevard, Arlington, Texas and readily accessible to the general public at all times beginning at least 72 hours preceding the scheduled time of the meeting.



Dr. Marcelo Cavazos, Superintendent

EXHIBIT A

EXHIBIT B

Transcript – AISD Level 4 Grievance Hearing – 6-8-23 David Jarvis
[On 8-30-23, Jarvis edited the draft transcript for clarity and brevity]

[at 1:24:59 – 1:28:00 on the AISD video recording]

President Fowler: The Arlington ISD Board of Trustees has convened today to hear the consolidated grievance appeals of Mr. David Jarvis. Dennis Eichelbaum, an attorney, will conduct this portion of the meeting for the board. Mr. Eichelbaum will make any rulings that may be required for the efficient presentation of this complaint. Although he is charged with making those rulings, Mr. Eichelbaum is ultimately acting on behalf of the Board of Trustees and a majority of the Board may overrule any ruling. If any board member wishes to discuss or move to overrule a ruling, he or she may address the President at that time. Mr. Eichelbaum will not have any vote in the Board's final decision but may assist the Board in his legal capacity. If there are no objections, I now turn this proceeding over to Mr. Eichelbaum.

Mr. Eichelbaum: Thank you. Consistent with board policies, GF local, and the Texas Open Meetings Act, Texas Government Code 551.074 - the board may go into a closed meeting to hear a complaint or charge against an officer or employee. Mr. Jarvis, before the Board goes into a closed meeting, you indicated in previous emails that you wanted to raise one or more objections. Please proceed briefly with your objections at this time without addressing the substance of your grievance.

Mr. Jarvis: By the way, I am David Jarvis. Good evening. I've been informed that I will be allowed only 10 minutes to argue 4 different grievances. A total of 10 minutes gives me 2 and a half minutes for each grievance which is clearly inadequate to argue four grievances. Since it's a public grievance hearing, it's impossible for the public in our audience and the public viewing online to gain a fair understanding of the context and the history of these grievances if I'm only given 2 minutes and 30 seconds per grievance to explain my position. During the period November (of) 22 through May (of) 23, I had 12 different grievance hearings, and in every one of those hearings, the hearing officer gave me at least 15 minutes per grievance. Sometimes up to 20. Since we're dealing with 4 grievances, 4 times 15 is 60 minutes. I'm certainly not asking for that, but I am asking the Board and attorney Eichelbaum to give me 20 minutes. Especially because I need to save some time - in case there's some rebuttal by the school district. I have no idea (if a rebuttal will be presented). I'm asking Mr. Eichelbaum, the attorney, and the Board to give me 20 minutes for this grievance argument.

Mr. Eichelbaum: All right. Thank you, Mr. Jarvis. The Board because they had received the emails – discussed it in closed (session) and you will be granted the 20 minutes that you are requesting.

EXHIBIT B

Mr. Jarvis: Okay. Thank you very much.

Mr. Eichelbaum: Thank you.

[at 1:28:00 – 1:30:46 on the AISD video recording]

Mr. Jarvis: The second issue that I wanted to speak to - it's vital in my judgment, that this hearing be open to the public. And I want to make sure that I understand whatever boundaries you're setting – the things that I cannot say which will trigger a closed session. I'm not clear, so maybe attorney Eichelbaum can tell me. My plan was to refer only to an AISD attorney or an AISD senior official. Is that sufficient by not naming the attorney or naming who the official is?

Mr. Eichelbaum: The board did discuss your concerns with respect to these issues that you did reference in your email, and they have decided that the meeting will in closed (session) pursuant to board policy. Unless there are any other objections. I'm going to overrule your objection.

Mr. Jarvis: Okay, can you tell me, what is the basis of closure of this hearing if I do not identify any person- if I just say an AISD official? How could that be interpreted as a charge against an official? This grievance is toward this board - based on the conduct of your employees. If I don't name, the person's name of the employee -- how in the world could that trigger a closed session?

Mr. Eichelbaum: You referenced in your email, Mr. Jarvis - that you would be referring to trustees and therefore, at this time, the Arlington Independent School District will go into a closed meeting pursuant to Texas Government code 551.071, and 551.074 to consider the consolidated grievances of Mr. Jarvis.

Mr. Jarvis: Okay, why don't I agree not to refer to any trustees in my argument?

Mr. Eichelbaum: Your objection has been overruled, sir. At 8:23 p.m. The Board will now go into closed session. I respectfully ask that everyone except the grievant and the administration's representative exit the room into the hall at this time.

Mr. Jarvis: For the record, I would like you to state on the record attorney Eichelbaum what specific part of the state statute, the Texas Open Meeting Act, are you relying on to I think unlawfully close this meeting without justification. So, if I take this on appeal to the TEA - I want to be clear what your legal basis is.

Mr. Eichelbaum: As I have stated previously, Texas Government Code 551.074. Thank you.

Mr. Jarvis: But that is very limited to personnel issues...

EXHIBIT B

Mr. Eichelbaum: Mr. Jarvis, I have ruled on your objection.

[at 1:31:09 – 1:33:13 on the AISD video recording]

President Fowler: I will at this time reconvene into Open Session. The time is 9:40 p.m. The Board concluded its closed meeting at 9:40 p.m. No action was taken in a closed meeting. The Board has completed its deliberation with respect to the consolidated grievances of David Jarvis. At this time, does anyone wish to make a motion?

Mr. Chapa: I do.

President Fowler: Mr. Chapa.

Mr. Chapa: Thank you, President Fowler. Before I make my motion, I'd like to make a brief statement. The grievance process is to determine whether the administration violated law or policy. Mr. Jarvis's grievances sought answers to hypothetical questions and asserted his disagreement with discretionary decisions. That a grievant does not like an answer, a particular decision, an act, or a failure to act does not constitute a violation of law or policy. It is important to note that AISD has statutory limitations on when it can share information such as student and employee discipline. We expect that AISD representatives will conduct themselves with professionalism and courtesy. However, having found no violation of law or policy or an arbitrary or capricious act, I move to affirm the administration's decisions with respect to the grievances and deny all relief requested.

President Fowler: I have a motion from Mr. Chapa, and I will second the motion. Please vote. All vote in the affirmative. At this time, we will close the meeting. The time is 9:42 p.m.

[END].

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