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## BOARD AGENDA ITEM

Information/Discussion\_\_\_\_\_

Future Action\_\_\_\_\_

Action\_\_X\_\_

Item: Appeal of FOIA Denial

Submitted by: Dave Rodgers

Date: 11-11-25

Recommended by: Dave Rodgers

Board Meeting Date: November 17, 2025

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### RECOMMENDATION:

It is recommended that the Board reverse the denial in part and issue a written notice upholding the denial, in part. It is recommended that the Board uphold the cited FOIA exemptions below; however, produce the investigation records specifically related to Mr. Vincent Truszkowski's own personal statement, interview, incident report and notes from Mr. Truszkowski's interview. It is recommended the Board uphold the denial of the investigation records related to other employee witness statements, witness interview summaries and witness interview notes based on the frank communication exemption, MCL 15.243(m). *Bukowski v City of Detroit*, 478 Mich 268 (2007), *Herald Co, Inc v Eastern Mich Univ Bd of Regents*, 475 Mich 463 (2006).

It is recommended that the Board uphold the denial as it relates to the FERPA exemption, MCL 15.243(2); however, solely for the purpose of redaction of student names in the documents to be produced to keep confidential the identity of any student identified in the investigation in the production of public records.

### BACKGROUND:

A former employee of Kent ISD resigned his employment as of April 25, 2023. Through this appeal of the administration's recent FOIA denial, the requestor's seeks records concerning his resignation and related investigations. The employee resigned prior to the conclusion of the Kent ISD's investigation. Multiple ISD employees, including Mr. Truszkowski, were interviewed. During the investigation, witnesses were informed that the information they provided to Administration related to the investigation would be kept confidential and used only for the purposes of the investigation. The public interest in nondisclosure of the exempted material outweighs the public interest in disclosure as the public disclosure of records relating to the Kent ISD's internal investigations into possible employee misconduct would destroy or severely diminish the ISD's ability to effectively conduct such investigations. If employees knew their statements would be a matter of public knowledge, they might refuse to give any statements at all or be less than totally forthcoming and candid. Employees are often already reluctant to give statements about the actions of fellow employees and the ISD must preserve its ability to conduct its investigations effectively.

The requestor was previously provided a copy of his personnel file under the Bullard-Plawecki Employee Right to Know Act, MCL 423.504. In the recent FOIA denial, it was stated:

*Your FOIA request for records related to the District's investigation is denied as the records are exempt under the FOIA pursuant to the following FOIA exemptions:*

- *MCL 15.243(m): Communications and notes within a public body of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. The District's records from the investigation are records that were preliminary to a final determination of policy or action, as you resigned from your employment prior to the conclusion of the investigation. Further, the District's public interest in encouraging frank communication from the witnesses who participated in the investigation and provided information during the investigation outweighs the public interest in disclosure.*
- *MCL 15.243(2): A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974. To the extent any of the investigation records disclose information related to students, or personally identifying information from student educational records, this information is exempt under FOIA pursuant to FERPA.*