Texas Education Agency
Commissioner Mike Morath
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August 14, 2020

Ms. Karen Daniel, Board President
DeSoto Independent School District
200 East Belt Line Road
DeSoto, Texas 75115

Final Report
No Response Required

Dr. D'Andre Weaver, Superintendent
DeSoto Independent School District
200 East Belt Line Road
DeSoto, Texas 75115

Dear President Daniel and Dr. Weaver,

The enclosed final report presents the findings and recommendations for sanctions resulting from a Special Accreditation Investigation (SAI) conducted by the Texas Education Agency's (TEA) Special Infestations Unit (SIU). This investigation relates to allegations of the mismanagement of federal or state funds, and the lack of oversight from the DeSoto Independent School District's (DISD, and or the District) governing board of trustees.

The final report addresses only the allegations described herein, and full incorporates its previously issued preliminary report by reference. The findings may not address all allegations raised before, during, or after the investigation. Additional investigative work may be conducted to address any remaining allegations. Furthermore, other TEA divisions may be in the process of investigating DISD. These division may issue additional investigative reports.

TEA issued a preliminary report on July 3, 2020. In accordance with the Texas education Code §39.058 and 19 Texas Administrative Code §157.1123, TEA provided DISD and any person identified in the preliminary report as having violated a law, rule, or policy the opportunity to request an Informal Review.

DISD provided TEA with a written request for an Informal Review. Having fully considered DISD's response to the preliminary report in its Informal Review, TEA issues this final and unappealable report in accordance with 19 Texas Administrative Code §152.1123. Please Contact me at (512) 463-9141, should you have any questions.

Sincerely,

Adam Benthall

Adam Benthall, Director
Special Investigations Unit, TEA

TEA Special Accreditation Investigation
Final Investigative Report
DeSoto Independent School District

Introduction

On January 31, 2020, SIU issued a notice of SAI addressed to Karen Daniel, Board President and Dr. D'Andre Weaver, Superintendent of the DeSoto Independent School District (DISD/ District). Complaints submitted to TEA on June 18, 2018 and August 22, 2018 alleged that the DISD misappropriated state or federal funds, that administrators abused the District's credit card program, and raised overall concerns about the governance of DISD. Additionally, the District currently faces a multi-million-dollar deficit and received an "F" substandard financial accountability rating warranting TEA intervention pursuant to Tex. Educ. Code §39.057(a)(6) Special Accreditation Investigations.[1]

DISD initiated steps in an attempt to understand the District's financial problems by contracting an auditing firm, Weaver and Tidwell, L.L.P., (Weaver) to conduct a forensic audit and submit an investigative report for fiscal years 2014-2019.[2] The investigative report submitted by Weaver based on the forensic audit highlighted areas of concern within the Districts business and financial practices.

On July 3, 2020, TEA issued a preliminary report to DISD presenting the findings of the SAI. On July 24, 2020 the District responded to the findings of the preliminary report and requested an Informal Review.

After a careful review of the evidence submitted by the District, and after full consideration of the arguments provided in DISD's request for Informal Review, TEA issues this final report.

Background Information

The state's school financial accountability rating system, known as the School Financial Integrity Rating System of Texas (FIRST), ensures that Texas public schools are held accountable for the quality of their financial management practices and that they improve those practices. The system is designed to encourage Texas public schools to better manage their financial resources to provide the maximum allocation possible for direct instructional purposes.

The financial integrity rating for DISD rapidly declined in a short period of time having received an "A" Superior rating in 2016, a "B" Above Standard financial accountability rating in 2017, a "C" Meets Standards financial accountability rating in 2018, and in 2019, DISD received an "F" Substandard Achievement rating.

Financial mismanagement along with the decisions made by Dr. David Harris, former DISD Superintendent, his administration, and actions taken by the Board have led to an incurred deficit

[1] See Appendix 1
[2] See Weaver and Tidwell, LLP Report of Investigations – Exhibit 1

of $21.6 million. The District's General Fund, Debt Service Fund and Capital Projects Fund were impacted due to deliberate financial and accounting decisions.

Documents such as the LBB Audit[3] and the Weaver report demonstrated that both the District's administration and the Board were aware of deficiencies within all areas of the DISD's Finance Department. Actions taken by the Board have shown a complete disregard of advice and recommendations from financial experts, government agencies, and the District's internal employees.

Furthermore, there are potential criminal investigation concerning former DISD employees who made approximately $330,000 in transactions to fictitious merchants using District credit cards. It is at this time unclear to what extent other high-ranking individuals in the District were aware of these potentially criminal activities. In any event, these facts suggest there were obvious failures with institutional controls designed to prevent the potential of these acts. Because criminal investigations may be occurring, or are otherwise imminent, the details of these matters are omitted from this report.

Dr. Harris served as Superintendent for the District from March 2012 through April 2018. He was replaced by Dr. D'Andre Weaver who is the current Superintendent for DISD.

TEA received DISD's response to the preliminary report, and carefully considered the response issued by the District. SIU fully incorporates its preliminary report, and issues this final report upholding its previously issued findings and recommendations for sanctions listed in the preliminary report.

Allegations

The specific allegations and TEA's findings of fact and analysis, together with the reasons for TEA's final decision are as follows:

Allegation One

The DISD Board of Trustees failed to oversee the management and fiscal performance of the District, in violation of Tex. Educ. Code §11.051 Governance of Independent School District[4] and Tex. Educ. Code §11.1511 Specific Powers and Duties of Board.[5]

Allegation Two

The DISD used state and or federal funds for purposes other than those allowed by law, in violation of Tex. Educ. Code §45.105 Authorized Expenditures.[6]

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[3] See LBB Audit – Exhibit 2
[4] See Appendix 2
[5] See Appendix 3
[6] See Appendix 4

Findings of Fact for Allegation One

The DISD Board of Trustees failed to oversee the management and fiscal performance of the District, in violation of Tex. Educ. Code §11.051 Governance of Independent School District and Tex. Educ. Code §11.1511 Specific Powers and Duties of Board.

The following findings of fact are a result of a review from the Weaver Report, documents submitted by DISD, the 2016 LBB Audit and statements from former DISD employees.

1. DISD's FIRST financial integrity rating rapidly declined from an "A" Superior rating in 2015-2016, "B" Above Standard rating in 2016-2017, "C" Meets Standards rating 2017-2018, to an "F" Substandard Achievement rating in 2018-2019.
2. In 2015-2016, DISD received an "A" FIRST Superior rating; however, the District scored low on indicator test 7, 8, and 11[7]
    a. Indicator test 7 states: Was the measure of current assets to current liabilities ratio for the school district sufficient to cover short-term debt? Score: 4 out of 10 possible points.
    b. Indicator test 8 states: Was the ratio of long-term liabilities to total assets for the school district sufficient to support long-term solvency? Score: 2 out of 10 possible points.
    c. Indicator test 11 states: Was the school district's administrative cost ratio equal to or less than the threshold ratio? Score: 4 out of 10 possible points.
3. In 2016-2017, DISD received a "B" FIRST Above Standard rating; however, the District scored low on indicator test 6, 8, and 11[8]
    a. Indicator test 6 states: Was the number of days of cash on hand and current investments in the general fund for the school district sufficient to cover operating expenditures? Score: 2 out of 10 possible points
    b. Indicator test 8 states: Was the ratio of long-term liabilities to total assets for the school district sufficient to support long-term solvency? Score: 4 out of 10 possible points
    c. Indicator test 11 states: Was the school district's administrative cost ratio equal to or less than the threshold ratio? Score: 6 out of 10 possible points
4. In 2017-2018, DISD received a "C" FIRST Meets Standards rating; the District scored low on indicator test 6, and 9[9]
    a. Indicator test 6 states: Was the number of days of cash on hand and current investments in the general fund for the school district sufficient to cover operating expenditures? Score: 4 out of 10 possible points
    b. Indicator test 9 states: Did the school district's general fund revenues equal or exceed expenditures (excluding facilities acquisition and construction)? If not, was the school district's number of days of cash on hand greater than or equal to 60 days? Score: 0 out of 10 possible points

[7] See FIRST Rating – Exhibit 3
[8] See FIRST Rating – Exhibit 4
[9] See FRIST Rating – Exhibit 5

5. In 2018-2019, DISD received an “F” FIRST Substandard Achievement rating; the District scored the low on indicator test 2.B, 6, 7, 8, 9, 10, 11, and 14[10]
    a. Indicator test 2.B states: Did the external independent auditor report that the AFR was free of any instance(s) of material weaknesses in internal controls over financial reporting and compliance for local, state, or federal funds? Score: Fail
    b. Indicator test 6 states: Was the number of days of cash on hand and current investments in the general fund for the school district sufficient to cover operating expenditures? Score: 0 out of 10 possible points
    c. Indicator test 7 states: Was the measure of current assets to current liabilities ratio for the school district sufficient to cover short-term debt? Score: 2 out of 10 possible points
    d. Indicator test 8 states: Was the ratio of long-term liabilities to total assets for the school district sufficient to support long-term solvency? Score: 2 out of 10 possible points
    e. Indicator test 9 states: Did the school district’s general fund revenues equal or exceed expenditures (excluding facilities acquisition and construction)? If not, was the school district’s number of days of cash on hand greater than or equal to 60 days? Score: 0 out of 10 possible points
    f. Indicator test 10 states: Was the debt service coverage ratio sufficient to meet the required debt service? Score: 0 out of 10 possible points
    g. Indicator test 11 states: Was the school district’s administrative cost ratio equal to or less than the threshold ratio? Score: 6 out of 10 possible points
    h. Indicator test 14 states: Did the external independent auditor indicate the AFR was free of any instance(s) of material noncompliance for grants, contracts, and laws related to local, state, or federal funds? Score: 0 out of 10 possible points
6. In 2015, the DISD Board of Trustees approved the proposal of a Tax Ratification Election (TRE) to increase the District’s tax revenue for the General Fund while simultaneously decreasing investment to the Debt Service Fund by $3 million annually.
7. In April 2015, the District decided to move forward with plans to construct a new elementary school using the remaining bond funds from the 2005 bond package due to significant enrollment growth.
8. The Weaver Report found that in 2015 Dr. Harris received financial projections for a $20 million bond issuance for the construction of the Katherine Johnson Technology Magnet Academy (KJTMA). These projections were based on the same blueprints for Woodridge Elementary as a 74,000 square foot facility. This plan was also based on building the school in Glenn Heights with roads and infrastructure already in place. However, by March 2016, the board approved the bond issuance of $31.8 million to build a 117,000 square foot facility designed to hold 900 students. The Board voted to build the new school in DeSoto adding $2.9 million in additional costs to the project to build roadway infrastructure and purchasing additional land to connect the sewer system. In 2018, enrollment at KJTMA was only at 60% of the designed capacity. According to the Weaver Report, the District could have built KJTMA at the Glen Heights site using the Woodridge Elementary plans and saved $10 - $12 million in construction costs.

[10] See FIRST Rating - Exhibit 6

9. In January 2016, the LBB Audit was conducted and highlighted multiple areas within the DISD that required improvement. The LBB Audit found that the Board was unable to openly deliberate issues and effectively govern. The LBB Audit states, "Some board members perceive that some board members limit discussion and debate of issues in public, such as out-of-district travel expenditures for the superintendent and his cabinet members."[11]
10. The LBB Audit also presented weak internal controls in the DISD purchasing department. LBB auditors found that the District was not enforcing purchasing guidelines established by the Board.[12] The use of purchase orders significantly declined from 2012 to the time of the 2016 LBB Audit and were only being used 34% of the time. Additionally, the District was using check requests to circumvent the procurement process instead, removing the level of security provided by purchase orders. Further, in the 2016 financial accountability rating, TEA found that the District failed Indicator Test 2.B "Did the external independent auditor report that the AFR was free of any instance(s) of material weaknesses in internal controls over financial reporting and compliance for local, state, or federal funds?".
11. The LBB Audit reported that DISD lacked effective and efficient financial oversight and internal controls. DISD was deficient with cash handling practices, staff interest-free payroll loan programs, asset management. and compliance with competitive purchasing requirements.[13] The LBB Audit specifically mentioned that DISD lacked procedures to monitor the vendor database to maintain accurate and updated vendor list, did not maximize its financial system to monitor and track aggregate purchases to ensure compliance with state law, and did not have a process to manage warehouse inventory.
12. During the March 28, 2016, Board Meeting, DISD's former CFO, Mr. Bobby LaBorde, informed the DISD Board of Trustees that the district's financial advisor, George K. Baum & Company (GKB), provided financial projections for the potential $32 million bond issuance to build KJTMA. Mr. LaBorde informed Trustees that the district failed the 50-Cent Test[14] without using state aid and failed the test using the Instructional Facilities Allotment. Further, the former CFO stated that the District would have passed the test using Tier 1 funds, using a combination of Tier 1 aid and Instructional Facilities Allotment, or using a combination of Tier 1 aid, Tier 3 aid, and Instructional Facilities Allotment. The Weaver Report stated that this projection also assumed an increase in the Interest & Sinking (I&S) tax rate from $0.29 to $0.47 in fiscal year 2017, a rate higher than the pre-TRE I&S tax rate. [15][16] The former CFO warned the Board that the District was at the very top of the 50-Cent limit and would "introduce an element of risk that has not been part of the District's past financial strategy" since the district would be dependent on growth in property tax values.
13. At the April 11, 2016 board meeting, Trustees authorized for Dr. Harris to move forward with issuing a bond to fund the construction of a KJTMA. The Board also approved a 5% pay raise for all pay schedules at the start of fiscal year 2017. The 5% raise would

[11] See LBB Audit Pg. 4 – Exhibit 2
[12] See LBB Audit Pg. 159 – Exhibit 2
[13] See LBB Audit Pg. 8 – Exhibit 2
[14] The 50-Cent Test is a legal requirement for the issuance of bonds used for construction of school facilities that requires school districts to demonstrate to the Texas Attorney General utilizing financial projections that the school district can pay the principal and interest on the proposed bonds and all outstanding bonds from a tax rate not to exceed $0.50.
[15]The September 2015 TRE reduced the District's I&S tax rate from $0.43 to $0.29.
[16] See Weaver Report Pg. 7 – Exhibit 1

approximately increase annual salaries by $2.9 million which accounted for the majority of the additional $4.6 million revenue estimated to be received in the General Fund as a result of the TRE. As per the Weaver Report, the portion of TRE funds that should have been reserved to replace the projected $3 million annual deficit in the Debt Service fund, were instead encumbered by the increased salaries each year going forward.[17]

14. Construction for KJTMA was complete by August 2018 creating a $2.6 million deficit in the Capital Projects Fund. There was only $32.3 million in funds available for these projects however, the total coast of KJTMA and other planned renovation projects was $34.9 million. As per the Weaver Report, Dr. Harris appointed former Associate Superintendent, Dr. Gabrielle Lemonier to manage the construction projects and gave her full authority for all decision making related to planning, design, and budgeting without having a background in managing a construction project.[18] The District never established a budget with the Board and assumed that the project would cost $25.3 million based on the contractors Guaranteed Maximum Price (GMP) and failed to set aside funds for expenditures that were the District's responsibility. The Board also neglected to oversee the cost of these projects as they were not made aware of the District's spending until the end of the project and bond funds had been disbursed.
15. In 2018, the District's former Interim CFO, Debbie Cabrera conducted a review of the District's business practices and concluded that the District had not improved its use of purchase orders since the LBB audit.
16. For fiscal year 2018, the Board set the I&S tax rate at $0.32 and disregarded the advice previously received from Mr. LaBorde to set the tax rate at $0.47. This forced the District to borrow funds in 2019 to meet debt obligations.
17. During fiscal years 2017-2019, the District did not experience the growth they had projected.[19] The actual average daily attendance decreased by 165 students in fiscal year 2018 and 305 students for fiscal year 2019. Mr. LaBorde previously advised Trustees of the risk of being dependent on future growth to meet debt obligations.
18. A former District employee (Employee One) stated that the Board of Trustees made it difficult for the new administration to address the deficit and deficiencies.[20] Employee One stated that at the time when the District found itself having financial issues, there was very little that could be done to correct those issues because the board would not approve any of the recommendations that the administration put forth. Employee One indicated that the superintendent recommended individuals to fill critical positions within the finance department however the board refused to approve the recommendation. This individual stated that there was no apparent reason for the board not to approve the recommendations from the superintendent if the candidate was experienced and qualified to execute the required duties. Further, approving this individual would have saved the District $90,000.
19. The District also failed to retain a CFO during a critical time because of reported board overreach and micromanagement. Employee One stated that administration had put together a $23 million budget reduction plan however the Board decided to make cuts to that plan and lowered the amount to $16 million. Although the HR Director was only following the Board Policy on Reduction In Force, the Board questioned the list that was

[17] See Weaver Report Pg. 7 – Exhibit 1
[18] See Weaver Report Pg. 11 – Exhibit 1
[19] Average Daily Attendance 2017-2019 – Exhibit 7
[20] Former DISD employee Requested anonymity

presented because of the employee and not because of the position. Administration also recommended that 33 high school coaches teach 4 classes and eliminate a $17,000 stipend they received however it was not approved by the Board.[21] Although the Administration's plan was to reduce budget, the Board voted to increase the pay grade of all elementary school counselors.

20. From fiscal years 2017-2019 DISD incurred a $21.6 million deficit in three major funds: General, Capital Projects, and Debt Service.
21. The Weaver Report found that cabinet members traveled as frequently as desired for conferences pointing out that some administrators each went on 20 trips per year including 6 out of state trips each year.[22] Staff ignored the District's travel guidelines and stayed at hotels with rates above the General Services Administration (GSA) rates. There were 50 instances in which cabinet members and family members stayed at a hotel with a rate in excess of $300 per night. The Weaver report stated that the district spent $420,000 on travel from 2014-2019.
22. As per the Weaver Report, credit card expenditures were less than $3,000 per month prior to Dr. Harris tenure as superintendent.[23] Because Dr. Harris did not set spending limits for cabinet members, credit card expenditures increased to up to $35,000 per month. During fiscal years 2014-2019, 14 individuals expended $961,000.[24] The Weaver Report indicated that corporate cards were used to circumvent purchase orders which allowed for unmonitored spending. Further, the Board was aware of credit card expenditures, as Mr. LaBorde would update the Board on credit card use. When traveling, cabinet members charged $311,200 for travel, lodging and other expenses.[25] The District charged $65,000 on corporate credit cards for meals that were not travel related and $4,000 for food and beverage services during 3 football games at the AT&T Stadium. The District also spent $10,000 at local restaurants. Moreover, internal employees approved 50 credit card transactions totaling $330,000 to 3 fictitious vendors which the internal employees created.[26]

Analysis of Allegation One

TEA finds that Allegation One, the DISD Board of Trustees failed to oversee the management and fiscal performance of the District, in violation of Tex. Educ. Code §11.051 Governance of Independent School District and Tex. Educ. Code §11.1511 Specific Powers and Duties of Board is substantiated. The DISD Board of Trustees neglectful oversight of the district contributed to an "F" FIRST rating in 2019 and cause an incurred deficit of $21.6 million from 2017-2019.

According to Tex. Educ Code §11.051 (a)(1), (2)[27] the Boards responsibility is to oversee the management of the district and to ensure that the superintendent implements and monitors plans, procedures, programs and systems to achieve appropriate, clearly defined and desired results in

[21] High School Coaches did not teach class for any core subjects
[22] See Weaver Report Pg. 57 – Exhibit 1
[23] See Weaver Report Pg. 16 – Exhibit 1
[24] See Weaver Report Pg. 48 – Exhibit 1
[25] See Weaver Report Pg. 50 – Exhibit 1
[26] See Weaver Report Pg. 53 – Exhibit 1
[27] See Appendix 2

the major areas of district operations. TEA finds that the DISD Board of Trustees failed to manage the District and failed to monitor the superintendent's administration of the District.

As detailed in findings of fact 1, the Board violated Tex. Educ. Code §11.1511 (b)(9), when the Board failed to intervene once DISD's First rating dropped from an "A" rating in 2015-2016 to an "F" rating for 2018-2019. There was no apparent board intervention taken that resolved the Districts declining FIRST ratings.

As detailed in findings of fact 2, 3, and 5, the Board violated Tex. Educ. Code §11.1511 (b)(9), when the Board continued to operate without sufficient assets to support long term solvency as required by indicator test 8. The District failed test 8 in 2016, 2017, and 2019 and the Board still decided to move forward with the issuance of a bond.

As detailed in findings of fact 2, 3, 5, 6, and 7, the Board violated Tex. Educ. Code §11.051 (a)(1), when the board approved the proposal for a Tax Ratification Election lowering the tax rate from $0.43 to $0.29 which was then approved by voters, the Board cut the revenue stream to the Debt Service fund assuming that continued growth would compensate the loss of revenue. Ultimately, enrollment declined, and the District had to borrow money to pay debts. After lowering the tax rate, the District had plans in motion to build KJTMA which required the issuance of a bond. It is unclear if the Board understood financial revenue streams and still made decisions that negatively impacted the District with a budget deficit clearly mismanaging the district. Further, the District failed test 8 in the Financial Integrity Rating System of Texas on three separate occasions that requires districts to measure the ratio of long-term liabilities to total assets to support long-term solvency. The Board did not take action to resolve this issue and inherently made it worse.

As detailed in findings of fact 8 and 14, the Board violated Tex. Educ. Code §11.1511 (b)(9)[28] when the board failed to monitor the District's finances. Tex. Educ. Code §11.1511 (b)(9) states, the Board shall, monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records. According to Dr. Weaver, the Board did not hold any construction project committee meetings prior to his arrival thus the board did not monitor the Districts spending. Furthermore, the district had options to save $10 - $12 million on the construction of KJTMA, however Trustees opted to build KJTMA at a site in Desoto that did not have infrastructure in place to operate a school. The District could have used the same plans used for Woodridge Elementary however trustees voted to build a 117,000 square foot school instead that is currently at 60% capacity. These construction projects went over budget therefore creating a deficit in the Capital Projects fund.

As detailed in findings of fact 2, 9, 10, 11, 15 and 18, the board violated Tex. Educ Code §11.051 (a)(1), (2) and Tex. Educ. Code §11.1511(b)(9) when the board failed to hold the District accountable and address the findings from the LBB Audit. The District and the Board of Trustees were made aware of the deficiencies in the finance department from the LBB Audit in January

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[28] See Appendix 3

2016 when the audit was complete, yet in 2018, the internal audit conducted by the former Interim CFO found that the problems identified in the LBB audit still existed and had not improved. The District's FIRST rating rapidly declined from an "A" rating to an "F" rating from 2016 to 2019. In this instance, TEA's Finance division found some of the same material weakness previously found in the LBB Audit.[29] The Board failed to oversee the superintendent and monitor that the district was properly maintaining the district's financial procedures and records.

As detailed in findings of fact 12, 13, 16, and 19, the Board violated Tex. Educ. Code §11.051 (a)(1), when the board mismanaged the District by making decisions that went against the recommendations of financial advisors, the LBB, and DISD administration. Board approved actions such as moving forward with issuing a bond after being informed that the district failed the 50-Cent test without using state aid and without raising the I&S tax rate to $0.47 demonstrated a complete disregard to the advice received from financial advisors. Moreover, when the Board approved the TRE it linked the revenue stream to the Debt Service fund. Financial projections indicated that the TRE would generate $4.6 million revenue for the General fund of which a portion of those funds should have been reserved for the Debt Service fund. Instead the Board approved the $2.9 million in salary increases and neglected to secure funds for the Debt Service fund. Further, as evident in finding of fact 11, the board failed to raise the I&S tax rate to $0.47 and instead raised it to $0.32 disregarding the advice from the financial advisor thus forcing the District to borrow funds to cover debt obligations. Moreover, the board had an option to fund the construction for a $20 million school however opted to approve the construction of a $32 million school instead, which is currently at 60% capacity. In addition to these financial decisions, the board could not retain a CFO in a time that the District was having severe financial problems. As referenced in findings of fact 14 the board would micromanage and reject plans necessary to address the budget deficit, once more rejecting the recommendations of the administration whose role is to address those situations.

As detailed in findings of fact 2, 3, 5, 21, and 22, the board violated Tex. Educ. Code §11.1511(b)(9)[30], when the board failed to monitor the District's finances by allowing the administration to expend funds without following internal controls. This attributed to the District failing test 11 of the FIRST rating system in 2016, 2017, and 2019. District policy CAA (LOCAL) states that, "All Trustees, employees, vendors, contractors, agents, consultants, volunteers, and any other parties who are involved in the District's financial transactions shall act with integrity and diligence in duties involving the District's fiscal resources.[31] The District's administration failed to follow through with purchasing requirements when making travel arrangements and circumvented the process by using district issued credit cards to fund their trips which resulted in resulted in $420,000 in travel expenditures.[32] Further DISD Travel Guidelines that were based on Tex. Gov't Code §660.007[33] states, "The district must minimize the amount of travel expenses reimbursed by ensuring that each travel arrangement is the most cost-effective considering all

[29] See LBB Audit – Exhibit 2
[30] See Appendix 3
[31] See Appendix 5
[32] See Weaver Report Pg. 55 – Exhibit 1
[33] See Appendix 6

relevant circumstances."[34] The Weaver Report analyzed and compared travel expenditures with other districts and found that those districts restricted travel for Administration to $5,000- $10,000 each year. DISD administration regularly incurred up to $20,000 in travel expenses each year.

Therefore, TEA sustains that DISD violated Tex. Educ. Code §11.051 Governance of Independent School District and Tex. Educ. Code §11.1511 Specific Powers and Duties of Board. The board failed to monitor the district and the administration continues to make decisions that go against the recommendations of professionals in those subject matters which resulted in the incurred deficit of $21.6 million.

<u>DISD's Response to Allegation One</u>[35]

DISD maintains that the District should not be held accountable for the actions of the previous Board of Trustees and those of the Administrators that are no longer employed by DISD. Further, the District informs TEA that only two of the District's Trustees that were involved in the decision making that impacted the District remain on the Board. Although TEA acknowledges that the majority of the DISD Board of Trustees are new Trustees, the same two Trustees from the previous Board hold leadership roles as President and Vice-President.

The following are responses that DISD provided in their request for informal review. DISD did not respond to all the findings however focused on six areas of the analysis of Allegation One.

1. DISD indicates that the District did took action regarding the declining FIRST rating.

In response to this finding, DISD stresses that the District had taken action to address the declining FIRST rating when the rating declined from an "A" in 2015-2016 to an "F" rating for 2018-2019. The District provided an action plan detailing how the District would correct deficiencies and improprieties.

<u>TEA's Analysis of DISD Response- FIRST Rating</u>

TEA is not inclined to reverse its finding regarding the declining FIRST rating. Although DISD has currently taken action to address the failing "F" FIRST rating, the DISD Board failed to take action to prevent the District from receiving an "F" during the 2018-2019 school year. The findings reflect that action, such as the forensic audit conducted by Weaver, should not have been conducted after the District failed financial accountability but an audit would have been prudent once the District received a "C" rating in 2017-2018. The Board did not demonstrate concern or urgency over a rapidly declining rating which was an indicator that problems within the District's finances existed. Therefore, the Board neglected its duty to manage the District and monitor the superintendent.

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[34] See Travel Guidelines for DeSoto ISD – Exhibit 5

[35] See DeSoto ISD SAI Response Pg. 3

2. DISD defends its position for approving the Tax Ratification Election.[36]

In response to this finding, DISD argues that the Board should not be held accountable for making a financial decision that went on to impact the District with a budget deficit by approving the proposal for a Tax Ratification Election. In their response, DISD stated that this decision was based on the Districts assumption that enrollment figures would continue to grow. Moreover, the Board attempts to place the responsibility on Dr. Harris and his administration for not providing the Board with information and further not advising the Board to set aside funds for the Debt Service Fund.

<u>TEA's Analysis of DISD Response- Tax Ratification Election</u>

TEA is not persuaded to reverse its finding regarding the Tax Ratification Election. Although DISD attempts to deflect the responsibility of this financial decision to Dr. Harris and his Administration, the Board is ultimately responsible for making and approving the final decision. Before approving this decision, the Board should have requested more information from the administration to clearly understand all the implications of lowering the tax rate. The Board simply assumed that enrollment growth would make up for the lost funds from the lower tax rate, however, enrollment growth is never certain. Regardless of trends from previous years enrollment figures always change, as evident through the declining enrollment figures that the district has currently faced, further proving that the Board did not make a fact-based decision. Predicting student enrollment is a difficult task no doubt. But the known lack of predictability relating to this variable only makes DISD's Board's reliance on the inherently questionable projection that much more reckless.

3. DISD disagrees that the Boards failure to hold committee meetings constitutes the Board's failure to monitor the District.[37]

In response to this finding, DISD disagrees with TEA's conclusion regarding Board construction committees stating that it was never mentioned in the Weaver Investigative Report, therefor upholding that the Board did not fail to monitor the District's finances. Regarding the construction of KJTMA, the District responded that when Dr. Harris appointed Dr. Lemonier as project manager the Board was being provided with misleading information. Additionally, the Board blames the administration for not preparing a formal budget.

<u>TEA's Analysis of DISD Response- Committees</u>

TEA is not disposed to reconsider its finding regarding the Board Construction Committee. Once more, the Board attempts to deflect the responsibility of the excessive construction costs and deficit of the Capital Projects fund on the administration. The Board's refusal to accept responsibility for the consequences of its fundamental failure to provide effective oversight and effectuate general financial mismanagement is itself a troubling aspect of this matter. Refusal to accept responsibility today suggests the likelihood of refusal to accept responsibility in future matters – a point that casts doubts upon the ability of the Board to effectively manage in the future.

[36] See DeSoto ISD SAI Response Pg. 3
[37] See DeSoto ISD SAI Response Pg. 4

As stated on page 4 of the District's response "administration failed to present an established budget to the Board, resulting in a reliance of the Guaranteed Maximum Price amount prepared by the general contractor." If administration failed to prepare and present a budget, there is no reason why the Board should have moved forward with construction without requesting a budget first. It is the responsibility of the Board to make well informed decisions. Further, had the Board held construction committee meetings, they would have a better understanding of the ongoing costs and would not have to rely solely on Dr. Lemonier's alleged misleading information. The committee would have been able to inspect documents, costs, and updates from individuals directly involved with the construction projects which would be further discussed with the entire Board.

4. **DISD Board of Trustees argue that they were misled by the Superintendent regarding the LBB Audit.[38]**

In response to this finding, the District asserts that Dr. Harris misled the Board into believing that the findings of the LBB were "just suggestions" and the Board did not have to follow its recommendations. Further the District suggests that three Trustees issued a letter to TEA asking for a TEA monitor to attend a board meeting, however the letter was not dated and was not signed by any of the Trustees and it is unknown if TEA ever received that letter.

TEA's Analysis of DISD Response- LBB Audit

TEA is not inclined to change its position regarding the LBB Audit. Although the District does not have a legal obligation to act on, as the District asserts "suggestions" of an LBB Audit, the LBB's findings highlighted significant deficiencies in several areas of District operations including Board functions. The Board was provided with sufficient information to take action and address the deficiencies, but the Board decided not to take action and ignore the recommendations provided by the LBB. Once more, it was the Boards ultimate decision and not the superintendent to not move forward with correcting the problems identified with the Audit. Further, the note authored by the three DISD Trustees mentioned concerns of District finance employees manipulating financial data. This information, along with the LBB report findings, further exemplifies that the Board was well aware of problems within the district and failed to take action to correct them.

5. **DISD objects the conclusion that the Board went against recommendations of subject matter experts.[39]**

In response to this finding, the District objects to the conclusion that the Board made decisions that went against the recommendations of subject matter experts such as, financial advisors, the LLB, and DISD administration. The District first objects by stating that the Board was not aware of any specific action regarding the issuance of the bond because they were not informed. The Board also objects to accountability for not reserving money for the Debt Service fund and raising the I&S tax rate to $0.47 based on inaccurate information presented by the Administration. The District goes on to refute the finding that the District could have paid less for the construction of the Katherine Johnson Technology Magnate Academy (KJTMA) because the Board was never

[38] See DeSoto ISD SAI Response Pg. 4

[39] See DeSoto ISD SAI Response Pg. 5

presented with that information. Finally, the District denies that the Board failed to retain a Chief Financial Officer and additionally denies micromanaging the Districts administration.

<u>TEA's Analysis of DISD Response- Subject Matter Experts</u>

TEA is not inclined to overturn its findings regarding the recommendations from subject matter experts. TEA did not imply that subject matter experts provided recommendations that the Board could vote on. To clarify, when the Board approved the proposal to move forward with the bond, they were advised about the risk of exceeding the 50-Cent Test. They did so with the possibility of calling in bonds in 2020 that could be refunded depending on the market rates of the time. This type of risky behavior further justifies the recommended sanctions considering the Districts current financial position.

Moreover, the Board attempts to reject the responsibility for not reserving money in the Debt Service fund and not raising the I&S tax rate citing that they did not receive financial guidance from the District's administration. However, a Board should always be well aware of fund balances and the Districts financial position as it is one of their specific duties as required in Tex. Educ. Code § 11.1511(b)(9), the Board shall monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records.

In regard to the construction of the KJTMA, the Board should have known that there were other options to fund the construction of the school at the best value. Currently, KJTMA is at 60% capacity and the District could have saved money had they requested options that were already available from the administration. The Board did not ask administration for alternatives and further did not request a budget for the construction of KJTMA and relied on the Guaranteed Maximum Price amount prepared by the general contractor. Additionally, a superintendent does not hold the authority to decide where a school will be built, that is a decision is voted on by the Board. This further proves that the Board failed to monitor the District, the District's finances and did not make well informed decisions.

The District rejects TEA's conclusion that the Board failed to retain a CFO while the District was facing a failing financial position. Moreover, the District's response mischaracterizes Ms. Deborah Cabrera's role as CFO. Ms. Cabrera stated that she served as a temporary interim CFO until the District hired Ms. Kimberlyee Chapell as the District's CFO in November 2019. Ms. Cabrera went on to say that during executive session, the Board agreed that she would stay on as a consultant to help Ms. Chapell address multiple deficiencies and existing problems within the finance department as Ms. Chapell was not familiar with all the previously existing problems. Ms. Cabrera then stated that the Board rescinded the agreement of the transition plan, fired her in December and went on to humiliate Ms. Chapell during the January 2020 Board meeting telling her that she shouldn't have applied if she couldn't do the job. Ms. Chapell proceeded to resign, and Ms. Cabrera denied resuming the role of interim CFO until a new CFO was hired.

Ms. Cabrera stated that it was very difficult to accomplish any tasks because of Board involvement. She went on to say that when she was attempting to re-organize the business office, she recommended Gissele Franco as Director of Accounting because Ms. Franco was qualified to do the job as she had already taken over the duties prior to the recommendation. Ms. Cabrera stated that the Board rejected her recommendation because Ms. Franco did not advise the Board of the problems in the finance department during the previous administration, even though audits and failing FIRST ratings were provided to the Board. Additionally, the Board argues that it was in the best interest of the District to reject Ms. Cabrera's proposal, yet did not provided any reasons as to how a fully qualified individual was not in the best interest of the District.

6. The DISD Board denies allowing the District to expend funds while disregarding internal controls.[40]

In response to this finding, the District denies that the Board allowed administration to disregard internal controls. Further, the District directs the responsibility of enforcing policy and procedures to Dr. Harris. The District points out that Dr. Harris failed to hold his staff accountable for going around the District's internal controls.

<u>TEA's Analysis of DISD Response- Expending Funds</u>

TEA is not persuaded to retract its finding regarding the expenditure of funds by the District. Although the superintendent is solely responsible for holding District staff accountable for policy and procedures, it is the Boards main responsibility to ensure that the Superintendent is doing his job; neither occurred. The District did not provide evidence proving that the Board questioned the superintendent as to why the District routinely failed indicator 11 on the FIRST rating system. Indicator 11 states "Was the school district's administrative cost ratio equal to or less than the threshold ratio". Tools such as the FIRST rating system provide Boards with an external review of the District's performance. The Board chose not to act on the information provided and therefore District staff were able to circumvent policy unchecked. Additionally, the Board was well aware that out-of-district travel expenditures were a problem, as mentioned in the LBB Audit identified in finding of fact 9 on the Preliminary Report, and once more the Board did not take any action to resolve the issue. As the Boards only employee, the Board failed to hold Dr. Harris accountable for allowing these issues to continue.

<u>Findings of Fact for Allegation Two</u>

The DISD used state and or federal funds for purposes other than those allowed by law, in violation of Tex. Educ. Code §45.031 Purchasing Contracts. The board's lack of financial oversight extended into District operations, as the Weaver Report identified contracts that should have been formally procured but were not.

The following findings of fact are a result of a review from the Weaver Report.

1. When reviewing contracts, Weaver found that the District did not comply with procurement requirements on two separate occasions. The Weaver auditors reviewed vendors that received more than $1 million in funds from the District from 2014-2019. They identified that John Cook & Associates (JCA) as well as SCM Construction

[40] See DeSoto ISD SAI Response Pg. 7

Services (SCM) were among the vendors that provided services to the District which should have been competitively procured.

2. In 2015, the DISD Board awarded JCA a $2 million contract with the guarantee of a minority subcontract participation in excess of 30%. Weaver stated that the contract awarded to JCA did not satisfy the original intent of the Crafts and Trade bid list for minor projects and repairs because out of the $4.1 million spent on vendors using the Trade list, JCA received over 50% of the funds in 2015. SCM was awarded approximately $1.3 million in contracts under the Crafts and Trades bid list during the same year. In its entire relationship with the DISD (2014-2019) SCM received $1.3 million and less than $250,000 was paid using a purchase order.

Analysis of Allegation Two

TEA finds that Allegation Two, the DISD used state and or federal funds for purposes other than those allowed by law, in violation of Tex. Educ. Code §44.031 Purchasing Contracts[41] has been substantiated. DISD failed to procure two contracts which exceeded the $50,000 purchasing threshold indicated by law.

According to Tex. Educ. Code §44.031 Purchasing Contracts, all school district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at $50,000 or more in the aggregate for each 12-month period shall be made by a method that provides best value for the district.

As detailed in findings of fact 1 and 2, the district violated Tex. Educ. Code §44.031 because Weaver's analysis of DISD's contract awarding indicated that DISD attempted to circumvent the requirement of procuring services by using the craft and trades bid list.[42] This list, approved by the board in November 2012, contained 36 vendors and $4.1 million were expended using this list. As per the Weaver Report, DISD awarded JCA a $2 million contract through the QZAB program for the installation HVAC systems. Further, DISD could not demonstrate if there were any attempts to receive quotes from other vendors for best value. Because JCA received over 50% of funds awarded using the Crafts and Trades list, DISD should have procured services performed by JCA. Moreover, the district utilized SCM as an "on-call" contractor for minor repairs however received $1.3 million from DISD in 2015. Once more, there was no evidence that the district attempted to search for the best value and only selected SCM to perform repairs.[43]

Therefore, TEA sustains that DISD violated Tex. Educ. Code §45.031 Purchasing Contracts. The district circumvented the procurement process by utilizing the Craft and Trades list approved by the board however failed to utilize the list appropriately by awarding the majority of contracts to the same vendors.

DISD's Response to Allegation Two

[41] TEA Submits a correction on the Preliminary Report, Allegation 2; TEC §45.031 should reflect TEC §44.031

[42] Bids for Crafts and Trades (Bid B13-001) approved during the Regular Meeting of the Board on November 12, 2012

[43] See Weaver Report Pg. 43 – Exhibit 1

DISD argues that because the WEAVER did not directly conclude that procurement violations occurred there was no evidence that the District violated policy and/or state law.

1. DISD argues that procurement violations did not occur.[44]

In response to Allegation Two the District argues that the Weaver investigative report did not definitively conclude that the District violated the District's purchasing policy or state law when they awarded contracts to John Cook & Associates (JCA) and SCM Construction Services (SCM).

<u>TEA's Analysis of DISD Response- Procurement Violations</u>

TEA will not reconsider its finding regarding Allegation Two. Tex. Educ. Code §44.031 Purchasing Contracts requires districts to procure contracts valued at $50,000 or more in the aggregate for each 12-month period. As per the Weaver report, the Crafts and Trades list was approved by the Board and was intended to have a pre-approved list of vendors for the various crafts and trades categories and solicit quotes for specific projects from the vendors on the bid list that offered the services required.[45] The District did not provided TEA with copies of the quotes received from the contracts awarded to JCA and SCM to disprove that a violation occurred. Because JCA was awarded $2 million in 2015, the District was still required to solicit quotes. Contracts awarded to SCM also exceeded the $50,000 requirement as SCM was awarded $1.3 million in 2015. The District should have provided TEA with documentation that these contracts were properly procured however failed to do so.

<u>Summary</u>

The findings establish that there is need for TEA intervention to assist the District in deficient areas that have been an ongoing problem. Although DISD views the proposed sanctions as a penalty, TEA intervention will only guarantee that the District will thrive once more. As mentioned in the District's response, five out of the seven trustees are recently elected members and lack the experience necessary to address the complex underlying problems effectively and efficiently. In its current position, DISD requires experienced leadership that will guide the Districts Administration to resolve the problems the District is currently facing.

<u>Recommendations for Sanctions</u>

After an extensive analysis of the DISD response, TEA sustains the findings in its preliminary report and maintains the recommendation of appointing a conservator that will work with DISD to identify the issues that led to the non-compliance, and report to the agency on the development of a corrective action plan to address the issue, in accordance with Tex. Educ. Code §§39.057(d), 39A.001(2), and 39A.002(7).

DISD will conduct a hearing by the DISD Board of Trustees to notify the public of the District's insufficient performance, the improvements in performance expected by the agency and the

[44] See DeSoto ISD SAI Response Pg. 8

[45] See Weaver Investigative Report Pg. 43

interventions and sanctions that may be imposed under this section if the performance does not improve, in accordance with Tex. Educ. Code §39A.002(2).

DISD is required to post notice of this hearing as a public meeting to ensure that the general public is allowed to attend and may not limit the number of speakers who would like to address the board, nor may the board limit the amount of time any speaker takes to make their statements regarding DISD's non-compliance with Tex. Educ. Code §§11.051, 11.1511, and 44.031.

The agency reserves the right to implement all available interventions and sanctions under Tex. Educ. Code Chapter 39A, and Title 19 Tex. Admin. Code, Chapter 97, to address the current, or and future, deficiencies identified for DISD.

This report is final and unappealable.