



## THE SCHOOL DISTRICT OF LEE COUNTY

### Offices of Civil Rights and Equity and Positive Prevention

**TO:** Christopher S. Bernier, Ed.D., Superintendent of Schools

**FROM:** Charles E. Bradley, Director of Positive Prevention  
(Clara M. Diaz, J.D., Coordinator of Civil Rights and Equity)

**RE:** *Report: Title VI Investigation of FMHS Baseball Program*

**DATE:** July 17, 2023

#### I. Executive Summary

This investigation is the result of a series of incidents that involved staff and students associated with the baseball program at Fort Myers High School during the 2022-23 school year. The common element of the incidents are allegations of the use of racial slurs, discrimination and/or harassment based on race, as well as discrimination based on other factors. Therefore, the investigation was conducted under the umbrella of Title VI of the Civil Rights Act of 1964, which states that, "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Upon review of the general complaints, district leaders determined that it would need to be investigated at the district level through the Office of Civil Rights and Equity (Legal Services) and the Office of Positive Prevention (Student Services). The investigation began on March 7, 2023. During the investigation, the following information was collected and analyzed:

- Interviews with school administration - Principal, Assistant Principals, Athletic Director
- Interviews with coaching staff - Head Coach, Assistant Coaches
- Interviews with students
- Interviews with parents
- Meeting Notes
- Emails
- Text messages
- Video

The investigation continued with ongoing events that unfolded during March and April, 2023, up to the final game played against Estero High School at Terry Park on April 6, 2023.

## **II. Introduction/Origin of Allegations**

The initial incident was a text message that was sent by Assistant Coach Alex Carcioppolo on Valentine's Day, February 14, 2023. The text included a form of a racial slur and was sent to a group chat that consisted of all the players on the team as well as the coaches. The text was erased within seconds and the coach stated that it was sent to the wrong group. However, the text was viewed by many players and other coaches prior to erasure. In explaining the text, Coach Alex stated that it was meant for a group of African American friends that he served with in the armed forces and was sent to the wrong text group. This single event led to allegations of prior and ongoing use of racial slurs, discrimination based on race and/or other factors, favoritism, and unprofessional behavior of the coaching staff.

## **III. Scope of the Investigation**

Additional incidents prior to February 14, 2023 originating in the 2021-22 school year, and extending through April, 2023, are included in the investigation. Taken together, these incidents were investigated under Title VI, district policies, and the local operational policies and procedures of the Fort Myers High School Baseball Program. This investigation includes the examination of events, actions, decisions, policies and procedures during the activities associated with the program. Specifically, the investigation focuses on allegations of discriminatory actions based on race and/or other factors, staff response to incidents that occurred both during the school day and during baseball activities, and contextual issues that are considered as influences on the actions and events included. However, this investigation is delimited to the actions and events that involve the students and adult coaches of the baseball program, as well as the administration of the school. Contextual issues beyond this scope are referred to other district departments for consideration of further investigation and/or action.

## **IV. Policies and Procedures**

In addition to Title VI, several district policies and applicable state laws are pertinent to this investigation. First, the district's non-discrimination policy 1122 prohibits discrimination on the basis of race (including anti-Semitism), color, ethnicity, national origin, sex, sexual orientation, gender identification, gender expression, disability



(physical or mental), pregnancy, marital status, age (except as authorized by law), religion, military status, socioeconomic status, linguistic preference, genetic information, ancestry, or any other reason protected under applicable federal, state, or local law.

Second, the district's Code of Conduct for Students provides disciplinary direction for profanity that include the use of racial slurs and other derogatory terms (<https://www.leeschools.net/common/pages/DisplayFile.aspx?itemId=32572468>, p.74), School Board policy 5517.01 (<https://go.boarddocs.com/fl/lee/Board.nsf/goto?open&id=policies#>) Bullying and Harassment specifies the requirements and procedures for any specific allegation of bullying and/or harassment toward an individual including class based and non-class based incidents, in accordance with [Florida's Jeffrey Johnston "Stand Up For All Students Act" \(1006.147, F.S.\)](#).

Finally, district policy 0125 requires all personnel to adhere to federal and state laws, school board policies, and other applicable regulations and rules. The policy requires that all administrators and educators adhere to the high standards of The Principles of Professional Conduct for the Education Profession in Florida (<https://www.fl DOE.org/teaching/professional-practices/code-of-ethics-principles-of-professio.shtml>).

## **V. Methodology under Title VI**

Title VI is a component law of the Civil Rights Act of 1964, which specifically states that, "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." As the School District of Lee County receives federal funds for a variety of programs and activities, it is subject to the requirements of Title VI in all educational programs and activities directly sponsored by the district and its component schools (*Lucero v. Detroit Public Schs.*, 160 F. Supp. 2d 767, 785–86 (E.D. Mich. 2001)).

Complaints under Title VI must be investigated to determine if intentional discrimination based on race, color, or national origin has occurred. Because of the variety of complaint types that have been included in judicial review, several analytical frameworks have been developed over time by the courts examining these issues. In determining the best framework for analysis, the nature of the evidence and impact of the actions must be considered. First, the evidence examined in this case is circumstantial in nature instead of direct, as there are no written or spoken policies, or actions that constitute intentional discrimination. Rather, this investigation relied on the testimony, documents, and actions of those included within its scope. Second, the alleged actions are toward individual parties instead of towards a group that constitutes a protected class. Therefore, the best framework for examining the majority of this



complaint is the *McDonnell-Douglas* framework. Aspects of other frameworks may be utilized in determining “the totality of relevant facts” (*Washington v. Davis*, 426 U.S. 229, 242 (1976)).

Under the McDonnell-Douglas framework, the evidence was examined through the following steps:

1. The prima facie case - evidence is required to establish that the individual, as a member of a protected class, has experienced intentional discrimination in accessing and/or participating in the programs and activities, or has experienced differential treatment based on the same. This is usually compared with the like experiences of others that are not part of the protected class.
2. Non-discriminatory rationale - in examining the evidence, legitimate rational explanations of a non-discriminatory nature must be examined for plausibility.
3. Pretext - the evidence is further examined to determine if plausible rationale(s) are legitimate or if they are a pretext for discriminatory action.

## **VI. Findings of Fact**

As previously mentioned, the initial event for this complaint was a text message sent on February 14, 2023 that was sent to a group chat of the varsity players and coaches by Assistant Coach Alex Carcioppolo. The message included a form of a racial slur, “Happy Valentine’s Day my niggas.” After being alerted by players and coaches, the message was taken down and the coach stated that it was sent to the wrong group. He stated that it was meant for a group of African American friends that he served with in the armed forces. Mr. Carcioppolo was removed from coaching duties and the situation referred to the district’s Office of Professional Standards for investigation and appropriate action. However, due to differing perceptions of the event and loyalties to the assistant coach, friction ensued within the team including the players and parents.

A team meeting was held on February 15, 2023 to address team concerns and expectations in the aftermath of the text message. The meeting was led by the Athletic Director, coaches, and school assistant principals. It was stated that there would be no conversation about the assistant coach as the matter was turned over to the district’s Office of Professional Standards. The meeting instead focused on:

- The discipline contract provided to, and signed by each player at the beginning of the season.
- A review of the Code of Conduct for students with specifics on posting inappropriate comments and use of inappropriate language.
- Other topics focused on being a team, healing from the situation, and holding each other accountable.



The players were provided an opportunity to speak with general encouragement to voice problems and concerns so that they can be addressed. Approximately half of the team reported that they had heard racial slurs used by other teammates.

A meeting was scheduled to be held with the parents of the team on February 16, 2023, but was rescheduled and held on February 23, 2023. The notice of the change in meeting date was sent in an email from Coach Burchfield to the team parents and coaches. In the email, he also provided information on the incident of February 14<sup>th</sup> and the resultant actions including the reporting of the incident to administration, the investigation by the Office of Professional Standards, and the release of Coach Alex from the district. The meeting was organized after consulting with the district's Office of Diversity and Inclusion to provide a semi-structured approach. Utilizing an essential question of how to ensure that every team member felt welcome, parents were encouraged to share their responses, which led to whole group conversation. As a result of the meeting, the coaching staff revised the program rules of conduct in an attempt to address inappropriate behavior such as the use of profanity, racial slurs, and other behaviors deemed as embarrassing to the program. This new set of rules was sent to the parents and assistant coaches the next morning.

A second players meeting was held on February 27, 2023, utilizing the same basic semi-structured approach from the Office of Diversity and Inclusion. It was the intention of this meeting to ensure that all team members felt welcome and supported, and to ensure that there was an understanding of the consequences that would be implemented when misconduct occurred. At this meeting, each player was provided an opportunity to speak and share his concerns.

Prior to, during the time of, and immediately after these meetings, there were a series of confrontations and contentious incidents between players, resulting in parent reports to the school seeking resolution. Some of the incidents occurred during team activities, while others occurred during the school day. Due to the student identifying information, these incidents will be documented in the confidential case file only, and summarized by common characteristics in this report. This is to protect the students and parents' rights under the Family Educational Rights and Privacy Act (FERPA) which prohibits the disclosure of confidential information without parental permission (20 U.S.C. § 1232g; 34 CFR Part 99). The characteristics of these incidents will be treated in the analysis of the case.

Among these incidents, there were several common issues that are germane to this case. There is evidence that division exists in the team and among the parents. The separation is primarily between students who play "travel ball" in the off-season, and those who do not. A secondary separation exists among the parents along these lines and/or in relation to participation with the Green Wave Baseball Alumni Club, an



independent organization. Disparate treatment is alleged from both sides of the student and parent groups. Allegations include inconsistent and unfair application of the baseball players code of conduct, especially in the use of profanity. As a result, the Head Coach issued a new set of rules which were sent to the players and families. However, the new rules were not provided in the same way as the original rules which required parent and student review, as well as a returned signature of receipt. In attempting to enforce these new rules, the consequences issued by the coaching staff to a player were considerably more severe than previously provided for the same infraction. This led to allegations of bias and retaliation by the coaching staff towards the students and families, as well as inconsistent application of the baseball code of conduct – depending on perspective as either too lenient or too severe - largely along the lines of the team and family division. Allegations of retaliatory acts that are specific in nature are included in the confidential case file.

Families also reported a similar divide, especially between those involved in the Green Wave Baseball Alumni Club and those that were not. The division was echoed in the support or criticism of the coaching staff and their actions. This led to tension between the groups, and allegations of social ostracization at games, team dinners, and events. As well, there are additional allegations that the group has directly contributed to the baseball program instead of working through the authorized Athletic Boosters Club, which operates under district policy and required rules. These allegations require further investigation as a possible Title IX violation.

Students and families reported that the division in the team became more pronounced after the text message distribution on February 14, 2023. Of concern are different perceptions of the use of the pejorative term that constitutes a racial slur. There is disagreement regarding this with evidence raised of its “normalization” through music and culture. In other words, some see the stylized version of the term utilized as less offensive, citing the fact that it is used in popular music which is freely accessible. Others criticize this viewpoint as uninformed pointing to a distinction between the acceptable use when used “in group” and unacceptable when used “out of group.” This controversy continued as an underlying component of the conflicts and division identified by the team and families, which continued along the lines mentioned previously by association with travel ball and the outside organization.

In response to ongoing incidents, issues, and complaints, Principal Robert Butz removed Head Coach Burchfield from his coaching duties and informed the parents by email on April 5, 2023. As well, the principal established one-on-one meetings with the parents of the players to provide information and listen to concerns. On April 6, 2023, a portion of the team and coaching staff conducted a walk-out during the varsity game with Estero High School. At this time, this incident continues under investigation by the office of Professional Standards. The team was sanctioned by the Florida High School Athletics Association for the walk-out. As well, Principal Butz made the decision to suspend the rest of the 2022-23 season



## VII. Analysis under Title VI

As mentioned above, the case analysis utilizes the *McDonnell-Douglas* framework.

The prima facie case was first examined within the scope of Title VI regarding intentional discrimination based on race, color, or national origin. Circumstantial evidence was provided through testimony from students and parents as to incidents perceived to be racially motivated, and/or responses to grievances that fell below personal expectations. These perceptions are not dismissed here, as each person's perceptions are their "personal truth." This testimony described actions and responses that are attributed to other players, coaching staff, parents, school administrators, and district leaders. Allegations include:

- A permissive environment in which the use of profanity and derogatory racial terms are tolerated without adequate consequence.
- Inconsistent application of discipline as a part of this permissive environment.
- Some actions taken in response to grievances are interpreted as reactive and/or retaliatory while others are deemed to be inadequate.
- Some actions, including application of discipline and revision of rules, are interpreted by some to unfairly target students belonging to protected classes under Title VI.
- Conversely, other parents interpreted some actions, including discipline, as favoring students belonging to protected classes under Title VI.
- Playing-time of individuals is at least affected in part through these inconsistencies.

Together, these allegations and related circumstantial evidence comprise the prima facie case. More information will be included in the confidential case file report.

In examining the evidence, non-discriminatory explanations were explored. First, it is evident that the school maintained non-discriminatory processes for initial participation in the baseball program, including equal access to athletic eligibility, team try-outs, and team participation in accordance with the requirements of the Florida High School Athletic Association and the policies of the School District of Lee County. In addition, the following non-discriminatory explanations are considered based on the circumstantial evidence provided:



- Leniency is provided when players are using profanity to “let off steam” during game play. It is tolerated as “part of the game” by coaching staff and administration. Tolerance is limited to the extent to which the outburst is “private” in the dugout or minimized on the field (spoken “into the glove” and inaudible to the spectators).
- Racial slurs that are not directed at an individual or group are handled as profanity by administration, consistent with the district’s Code of Conduct for Students which includes racial slurs under profanity. Racial slurs directed at another person can constitute racial bullying/harassment and are required to be handled accordingly.
- The response of school administration is documented in several reported allegations including conducting investigations of complaints and providing remedial actions. Responses reviewed are consistent with the range of corrective actions available in the Code of Conduct for Students.
- The school utilized formal mediation in at least one conflict. This is also consistent with the district’s Code of Conduct for Students as a consequence and alternative to exclusionary discipline.
- The school and coaching staff attempted to address the issues directly through both team and parent meetings.
- Individual meetings were held with parents and administration also in an attempt to address issues.
- The coaching staff attempted to respond to reported incidents and, with parental input, revised the rules for team members with more severe consequences for the use of profanity and racial slurs.
- The Head Coach demonstrated that player performance, health, and conduct are utilized in determining player-time and line-up position.

These explanations are not without criticism from some students and parents as pretext to discrimination. In particular:

- Some criticize past responses to the use of racial slurs as too lenient or too harsh, evidencing bias.
- Some point to inconsistencies in application of rules and consequences at both the team and school level as evidence of bias.



- During the parent meeting, some parents felt that they were shut down and not able to discuss specific issues. Bias was alleged.
- Bias was alleged in the formal mediation process based on the perceived race of the mediators.
- The creation of the revised rules was perceived to be biased with the intent to target specific students.
- Player-time and line-up positions are deemed to be biased to some extent.

While the reason for bias was alleged by some to be racially motivated, the majority of complaints alleged that the bias was toward those of non-minority status and/or those who are perceived as non-minority. Alternate reasons were also proposed by both those of minority and non-minority status that are outside of the determination of Title VI, and further discussed below.

### **VIII. Determination of Finding Under Title VI**

In examining the totality of this case, **violation of Title VI did not occur** to the extent that:

- Fort Myers High School administration and baseball program staff did not intentionally discriminate against individuals based on race, color, or national origin.
- Interventions and actions were attempted without regard to individuals' race, color, or national origin.

This determination was made by the analysis of the case through the *McDonnell-Douglas* framework and the specific threshold of Title VI which requires that evidence demonstrate intentional actions of discrimination. Specifically, the non-discriminatory explanations were verified through triangulated data sources. Evidence of pretext was not sufficiently determined, rather demonstrating that bias based on race, color, and/or national origin was largely perceptual, and that the disparate treatment was mostly based on the division in the team between those that play "travel ball" and those who do not. This determination was made by the preponderance of evidence standard which requires that the evidence demonstrate greater than a 50% chance that a claim is true, or in this case, that there is a greater than 50% chance that intentional discrimination based on race, color, and/or national origin occurred.



## IX. Critique and Recommendations

Although violation of Title VI did not occur, there are other factors that are related to the case:

- A. Head Coach Burchfield, former Assistant Coach Carcioppolo, as well as at least one other assistant, coach “travel baseball” in which a number of the Fort Myers High School baseball players participate or have previously participated. As a result, many of these players have a closer relationship with these coaches, resulting in greater perceived loyalties. This created a divide in the team between those who are part of the travel team and those who are not. The divide was exacerbated by the events in this case, resulting in a greater sense of “us” vs. “them” mentality. This was referenced as an alternative rationale for the differences in perceptions and resulting actions, especially in student confrontations. Such divides should be proactively addressed through intentional actions by coaching staff and administration to include all players and families in program activities, group meals, communication, and other team related functions.
- B. While the totality of actions does not constitute intentional discrimination under Title VI, there were actions taken without clear communication and transparency that led individuals to perceive discrimination and/or deliberate harassment (targeting). Some of these incidents are still under separate investigation.
- C. Although all levels of administration - principal, assistant principals, athletic director - and coaching staff attempted interventions in situations of conflict, decision making processes and communication were not sufficiently escalated to deal with the incidents that ensued. This led students and parents to operate on perceptions and assumptions, resulting in ongoing actions that further exacerbated the situation and led to increased levels of division and loss of trust. However, the school does not bear this responsibility alone. The district shares a responsibility to ensure that training is provided to administrators regarding incident response, and to ensure that appropriate systemic processes are identified and implemented to prevent and intervene in incidents accordingly.
- D. In relation to the above, the district needs to create consistency in the implementation of rules and consequences during athletic participation. The district provides the Code of Conduct for Students, which serves as the School Board approved policy of student conduct. Participation in extracurricular activities is included under the provision of this policy, and it should be utilized in addressing behavior infractions accordingly. Expectations of sportsmanship in athletics may also be utilized to address specific issues of participation not addressed in the Code of Conduct for Students (i.e. appropriate attire for practice). These expectations should have the approval of school administration



and be presented in a consistent manner. In this case, the original players' contract was provided for review and required to be signed by participants. The revised rules were sent to players' families without the same requirement, and without the knowledge of administration.

- E. Similarly, the district needs to work with schools to clarify expectations and processes for athletic directors and head coaches in the operation of their programs. This includes supervision of coaching staff, program administration, facility usage, and other issues addressed through Florida's Athletic Coaching Endorsement certification program.
- F. Additionally, the district needs to work with schools in developing proactive communication strategies that foster greater levels of transparency and responsiveness at all levels. While it is understood that during an incident there may be confidential information that is part of an investigation - this investigation included - there are strategies of communicating needed information, care and concern, as well as providing avenues of contact that create a greater level of responsiveness and redress of concerns from students and families.
- G. The district needs to work with schools in improving local investigation models of allegations including those falling under Title VI. This would include a range of prevention and intervention strategies to not only investigate, but to also provide corrective action.
- H. The relationship between the Green Wave Baseball Alumni Club, Fort Myers High School, and the Athletic Boosters Club of Fort Myers High School should be reviewed under Title IX and the district's policies and procedures regarding booster clubs and donations for any potential sources of violation and possible corrective action.

## **X. Miscellaneous**

This portion of the report does not address every incident and allegation provided during the investigation. Many of these allegations are part of separate investigations and/or are of a confidential nature under the Family Educational Rights and Privacy Act (FERPA). Although it has been determined that a violation of Title VI did not occur, these allegations will be evaluated under district policy 5517.01 regarding bullying and harassment and/or other related policies. Additional allegations will be shared with appropriate district offices for consideration of further investigation. As mentioned previously, the details of individual student incidents will be included in the case file report which will be held confidential under FERPA requirements. As required under Title VI, the case file will be maintained in district records for seven (7) years. Families



involved in this investigation will be provided information regarding their right of appeal to the decisions and findings included in this investigation.





# CONFIDENTIAL

The following content of this report contains student identifying information and is confidential under the policies of the School District of Lee County and the Family Educational Rights and Privacy Act (FERPA).





## INCIDENT REPORTS

### PARTIES

The primary complainants include:

- [REDACTED]

The primary counter-complainants include:

- [REDACTED]

Fort Myers High School Staff include:

- Dr. Robert Butz – Principal School
- Kelly Heinzman-Britton, Assistant Principal
- Toni Washington-Knight – Assistant Principal
- Darya Grote – Assistant Principal
- Steven Cato – Athletic Director
- Kyle Burchfield, Economics Teacher and Head Coach Boys Baseball
- Robert Hinson, Assistant Coach Boys Baseball
- Alex Carcioppolo, Assistant Coach Boys Baseball

### INCIDENTS

#### Text Message

On February 14, 2023, members of the Fort Myers Baseball Team and coaching staff were at Famous Dave's BBQ Restaurant. Coach Alex Carcioppolo sent a text to a group that included the baseball players and coaches. His message read, "Happy Valentines Day Niggas" (screenshot included in file). Players notified Coach Alex that it was sent and he retracted the message within one minute. However, the message was captured and reported to school administration. It was then reported to the Office of Professional Standards at the district. Coach Alex wrote a statement explaining that the text was intended for a different chat group with his Marine Corps friends. He also apologized for his actions (statement included in file). He was removed as Assistant Coach the next day. Players continued to share and discuss the text as evidenced in a group chat of [REDACTED] (screenshot included in file) that included [REDACTED] making statements in defense of Coach Alex ("the difference is 1. He didn't mean to say it, 2. Didn't even say it directly to someone, 3. Deleted it immediately and apologized immediately because he knew that he messed up"). As well, there are some statements that demonstrate the divide on the team including possible retaliation toward players



[REDACTED]), and avoiding conversations with those critical of the action [REDACTED] [REDACTED]. There were also some comments regarding not attending the game if Coach Alex was not there. [REDACTED] [REDACTED] reported the conversation the next day to Mr. Vasquez in Professional Standards.

### **Family Meeting – [REDACTED]**

On February 15, 2023, a meeting was held with [REDACTED] [REDACTED], Dr. Butz, Steve Cato, and Ms. Knight. At this meeting, concerns about the text message were discussed. [REDACTED]

[REDACTED] They shared that this has been on-going with the team and that students of color feel isolated. They asked that this be addressed to “de-normalize the team culture.” They noted that students use the n-word frequently. They requested that a parent meeting be held to reinforce proper behavior. [REDACTED]

### **Coach Alex Meeting**

On February 15, 2023, there was a meeting with Coach Alex, Ms. Grote, Mr. Cato, and Ms. Knight. At this meeting, Coach Alex surrendered his keys and badge, and was told to remain at home until further notice by Professional Standards. He was also asked to write a statement (included in the case file).

### **Team Meeting**

On February 15, 2023, a meeting was held with the baseball team at 2:00 PM. In attendance were Mr. Cato, Ms. Grote, Ms. Washington-Knight, Coach Burchfield, and Assistant Coaches Hinson, King, Chappell, and Daily. In this meeting, Mr. Cato reviewed the players’ discipline contract that was signed by each at the beginning of the year. Ms. Washington-Knight reviewed the district’s Code of Conduct for Students. Ms. Washington-Knight’s minutes of the meeting indicate that there was discussion around the topics:

- What is a team?
- How can it heal?
- High school rules
- Posting inappropriate comments
- Use of inappropriate language

Comments made include:

- Hold each other accountable
- You cannot diminish a word. What may hurt someone because you are diminishing their feelings and will not be the culture of FMHS baseball
- Team needs to communicate better if there is a problem
- We need to speak up if there is a problem – communicate

It was also made clear that there would be no discussion regarding Coach Alex due to the open investigation by the district (Cato's email of 2/23/2023 in the file).

### **Weight Room Incident**

On February 15, 2023, there was an incident in the weight room that involved [REDACTED]. Statements were taken from [REDACTED]. There are no statements from [REDACTED] sent the screenshot of Coach Alex' text to [REDACTED]. In the group text [REDACTED] said that "if coach Alex came back that he wasn't playing". [REDACTED] stated "well, if he doesn't come back then I'M not playing." He then stated that he didn't mean it as he can't quit, [REDACTED]. He later texted [REDACTED] and told him "I'm not for or against anyone." [REDACTED] stated he walked into the weight room and everyone was [REDACTED]. The conversation seemed pretty much over and he [REDACTED] because all it would continue to cause problems. [REDACTED] characterized the exchange as friendly and non-confrontational. However, [REDACTED] viewed the exchange as confrontational. After the exchange, they went to Mr. Cato's office to report the incident. After they left, Mr. Cato called down [REDACTED] to hear their side of the story. While they were still there, Student Affairs called and directed him to bring the students to that office.

### **Cafeteria Incident**

On February 16, 2023, an incident happened in the cafeteria. Statements of the incident were taken by administration from [REDACTED] (in case file). There are no statements from [REDACTED]. [REDACTED] stated that [REDACTED] approached him in the cafeteria in an angry and aggressive manner and tried to make him say the N-word in front of them since "it wasn't a big deal". He states that he defused the situation and they walked over to [REDACTED]. [REDACTED] stated that he saw from across the cafeteria that [REDACTED] were talking with [REDACTED] (but could not hear the conversation) and then they walked to where he was sitting and asked him "why he still liked Coach Alex?" [REDACTED] replied that even though the text was a mistake he still saw him as a mentor and went to explain that the coach had sent text by mistake. He further states that [REDACTED] told him "you're a "racist for that". [REDACTED] and [REDACTED] weren't really saying anything but didn't tell [REDACTED] to stop. They wanted him to admit he was a racist and [REDACTED] refused to say anything. Then they asked where [REDACTED] was and that they were going to him next, to try to make him say he was a racist, and if he did they were going to get him. [REDACTED] also made a statement concerning this incident. He was made aware of his teammates trying to solicit comments from [REDACTED] and that they were looking for him next. He became concerned that they were planning on assaulting him and that he had become a target because of the statement made by Coach Alex. He stated that he never condoned or



supported the coach's actions, but he did state that the coach wouldn't try to hurt them on purpose. He felt that somehow [REDACTED] had taken it to mean that he supported the coach's actions even though he had stated the opposite multiple times.

### Mediation ("Round Table")

On February 16, 2023, the school held a mediation between [REDACTED]. It was facilitated by two trained staff members. First, each student was given an opportunity to tell their side of the story and how they were feeling. [REDACTED] stated he was disappointed in Coach Alex, and that he did not feel the text message was meant as a personal attack. He also stated that his intention in the weight room was to help the team move forward and not to hurt his teammate. [REDACTED] also mentioned that he wanted his teammates to be okay and that the text did not define the character of Coach Alex. He also stated that he understood how [REDACTED] felt and that they were hurt. [REDACTED] stated that he felt [REDACTED] sided with the coach and he was hurt and left out. [REDACTED] stated that he also felt [REDACTED] sided with Coach Alex, and that this was impacting their practice, noting that teamwork was non-existent during practice after the statement was released. The mediation continued with solutions for moving forward including:

- Holding a team meeting ([REDACTED] volunteered, [REDACTED] agreed to participate) and sharing the impact of the incident on [REDACTED].
- Move forward and maintain confidentiality of their conversation at the mediation ([REDACTED] offered)
- Remove derogatory terms from games, practices, and activities and hold each other accountable ([REDACTED] offered).

In interview, [REDACTED] indicated he was uncomfortable with the mediation as both facilitators were African-American and were wearing Black History Month t-shirts during the mediation session.

### Conflict

On February 21, 2023, in the cafeteria during 2<sup>nd</sup> lunch, two students – [REDACTED] – overheard a conversation by [REDACTED]. Statements were taken by [REDACTED], and [REDACTED] (included in case file). [REDACTED] stated that at a point in the conversation, he mistakenly called [REDACTED], which is [REDACTED] nickname on the team. [REDACTED] stated that she heard [REDACTED] say he was going to "beat his [REDACTED] ass." He states that [REDACTED] asked [REDACTED] if anyone using the n-word should be punished. [REDACTED] replied "yes," and [REDACTED] concluded "it is settled then." [REDACTED] then told this information to [REDACTED]. [REDACTED] stated that he was told of the "threat of violence and assault." He further stated that he was in fear for his safety at school. [REDACTED] states that [REDACTED] texted him at 12:04 PM when she saw [REDACTED] go into Mr. Burchfield's classroom "pissed off." She asked what was going on and [REDACTED] responded "someone is getting kicked off the team." [REDACTED] states that at 1:36 PM he received a text from Coach Burchfield stating "go



to the courtyard to see Ms. Knight.” After a conversation, [REDACTED] went to the locker room to talk with Coach Burchfield to tell his side of the story, to which Burchfield replied that he would take care of it/ handle it. [REDACTED] also states that [REDACTED] was told by [REDACTED] that [REDACTED] threatened [REDACTED] to make the statement as [REDACTED] main goal was to get [REDACTED] kicked off the team. [REDACTED] refutes that he ever said he wanted to fight “either one of them” ([REDACTED] or [REDACTED]). [REDACTED] connects this alleged action with the text from [REDACTED] referenced above, “I’ll snitch on whoever I have no problem doing it...” The next day, [REDACTED] and [REDACTED] retracted their statements.

### **[REDACTED] Glove Incident**

On February 21, 2023, [REDACTED] reported that his [REDACTED] glove was missing (included in [REDACTED] statement to the above incident; in case file). Mr. Cato also stated that the glove went missing (statement in case file). [REDACTED] then sent a message to the whole team. Most players responded that they had not seen it. [REDACTED] responded that he saw it in the locker room on Saturday. [REDACTED] states that there was no varsity practice on Saturday and that he was not on campus. He also states that [REDACTED] replied to look in the girls’ softball locker room. In his interview, [REDACTED] stated that he took this as an insult. [REDACTED] response in his interview is that the softball locker room is the location of the lost-and-found. [REDACTED] states that he did ask [REDACTED] who asked the softball team, but all replied they had not seen it. He also noted in his statement that [REDACTED], and found the missing glove “odd.” Mr. Cato took [REDACTED] to the locker room and the glove was found on a table. On February 27, 2023, a meeting was held with Dr. Butz, Coach Burchfield, [REDACTED]. The meeting was called to clarify the situation that happened. Although [REDACTED] was present, he was not part of the conversation. Upon discovering this, [REDACTED] emailed Dr. Butz and Mr. Burchfield to ask if they accused his son of stealing the glove. Both Burchfield and Butz replied that this was not the case. Dr. Butz further stated that he would have [REDACTED] come to the office first thing in the morning and call [REDACTED] to discuss together, unless he wanted to arrange for a face-to-face meeting.

### **Meeting with the [REDACTED]**

On February 22, 2023, there was a meeting at 12:00 noon with the [REDACTED] family, Mr. Cato, and Ms. Knight (Ms. Knight’s notes in case file). The [REDACTED] were concerned that someone wanted [REDACTED] kicked off the team. They reviewed the conflicts between [REDACTED] and further stated that [REDACTED] receives no help from the coaching staff in getting scholarship, there is no communication from the coaching staff, and that minority students sit separated from other players in the dugout. They then talked about the glove incident.

### **Parent Meeting**

On February 23, 2023, a meeting was held at 6:00 PM with 34 of the parents of the baseball players, Dr. Butz, Coach Burchfield, and Ms. Knight (meeting minutes in case



file). The meeting format was developed in cooperation with the Office of Diversity and Inclusion. Mr. Jarrett Eady provided a basic structure with opening working norms and an essential question, "How do we ensure that you are supported and feel welcome?" Dr. Butz opened the meeting and expressed that all were in attendance because, "we love our kids." He further stated that the purpose was to ensure that everyone felt heard, supported, and welcome. There was unanimous consent to the norms:

- Focus on the essential question while demonstrating respect, fairness, and individual worth.
- Show an understanding of perspectives and experiences different from your own.
- Explore ways to put your ideas into action.
- Respect and respond to the experiences of others.

In reply to the essential question, parents replied:

- Better communication from coaches/program
- Come together as a team
- Get past everything and have a great year
- Thankful for appropriate actions
- Misinformation from students which was extinguished
- Appreciate communication from Burchfield – learn from it
- Straighten things out
- Leaders to be positive role models, appreciate swift action
- Kids should & teachers should be held accountable
- Resolution
- Appreciate the severity to allow us to have this discussion
- Openness is appreciated. Is there a gray area – what is the correct action that will be taken?
- Team sport, get on the same page & play or it's a recipe for disaster
- Respect everyone, want a successful program, players, coaches, parents, admin
- Flip switch w/team building w/unified approach
- Process for addressing foul language, how can parents play a role? (Burchfield: talk with your kids at home and share with coach, Cato)
- Positive encouragement from team/coach
- Negative comments from team (culture of negativity) needs to change (Burchfield enforce).
- Glad situation was handled quickly, sorry the kids lost a coach due to his negative language.
- How are we holding kids accountable? (Burchfield explained to team what consequences will be given for inappropriate language)
- Concerns about kids being threatened
- Zero tolerance, swift handling is appreciated – social media. Kids need to understand real life action consequences, norms for conducting themselves



on/off the field, social media, empathy, compassion. Communication from coaches/school as it impacts their future.

- Core values, inform parents – it takes a village
- Pleased how things were handled – learning curve (appreciated)
- Foul language needs to be discussed, move forward and get past this & grow from this
- This is a great life lesson – learn & grow from this. What's the path forward w/getting more minorities on this team?
- Lots of great discussion, expression, did not have the proper tools to navigate through this situation, family sticky situation but and be positive
- Thank you for the time and passion and for helping the kids
- Concerned w/son's emotional wellbeing – targeted by peers and parents – it continued to get better
- Distraught – how does this happen? (Burchfield: lost as to what to say as it relates to the essential question)
- Help students to feel included and respected – one unit and supported by teammates. Respect each other.
- Respect: personal experiences since the age of 3 here to address issue now that should have been addressed when it first came up (issue will not fix itself). Can't turn a blind eye because we don't address the real issue. Nip it in the bud.

Dr. Butz then said that they would support with communication, and asked to be given the opportunity to look into the situation. He also said that they will bring the chemistry of the team back together, and that Coach Burchfield will work on coaching the boys on/off the field. Finally, he stated that they will do what's best for kids and not what's best for adults. Mr. Burchfield stated they need to do better w/being more aware, that he wants the best for your sons, and that he cares for all of the boys. He stated that kids are resilient, and that he takes responsibility doing the best we can.

The meeting adjourned at 7:45 PM.

### **New Rules**

On February 24, 2023, Coach Burchfield sent an email to the parents of the baseball team, and cc'ed Assistant Coaches Dailey, Chappell, Hinson, and King. It was not sent to school administration including Dr. Butz (principal) nor Mr. Cato (Athletic Director). In Coach Burchfield's interview, he stated that the new rules give the coaching staff more power to determine actions and consequences. The new rules focus on immediate concerns regarding the use of profanity, racial slurs, disrespect, and other actions that are deemed to embarrass the program/coaches in any way. In his email, he explains that if he or another coach removes a player from the game, that he will go to the parent with the player after the game and explain what they did. He further states that if racial slurs are used at any point, the player would be removed and suspended until the coaching staff and administration complete an investigation into the manner/purpose in which it was said, which could result in further suspension or removal from the team. He



then states that while consequences are necessary, that he expects mistakes and wants the boys to be given a chance to learn from mistakes. He ends with a request to families to support these new rules and indicates that he will present them to the team at their next meeting. Dr. Butz stated that he felt that the new rules left too much to the coaches' discretion. The new rules were not sent in the same way as the original contract. They did not require parental nor student consent by signature. This caused them to be questioned by some parents who viewed them as unfairly targeting some students (students of color/minority status/non-travel ball players). See the [REDACTED] incident below.

### **Team Meeting and Apology Meeting**

On February 27, 2023, a team meeting was held utilizing the same format as the February 23<sup>rd</sup> meeting for the parents. Coach Burchfield, Dr. Butz, Mr. Cato, and Ms. Washington-Knight were in attendance. At the meeting, the players were given the opportunity to reply to the essential question, "How do we ensure that you are supported and feel welcome?" There was a lot of participation with a central theme of communication. Especially if a player has an issue with another player. Additional topics included a discussion on "zero tolerance" of specific actions and resulting consequences, as well as accountability for use of derogatory terminology and profanity. Coach Burchfield would be coming up with a plan of consequences. Mr. Cato stated that the new rules provide latitude for the coaches to handle specific incidents/issues.

After the team meeting, Dr. Butz, Mr. Cato, and Coach Burchfield pulled [REDACTED] into a separate room. At this meeting [REDACTED] apologized to [REDACTED] for reporting that [REDACTED] wanted to beat him up. [REDACTED] stated that he did not feel the apology was trustworthy. He further stated that Dr. Butz asked him to accept the apology, to which he hesitated. He also stated that Coach Burchfield said that the easiest thing would be to kick them both off the team. Dr. Butz asked him again to accept the apology, to which [REDACTED] stated that he did under duress. After the meeting, Coach Burchfield walked with [REDACTED] and asked him, "Do you want to see blood?", to which he replied "no."

[REDACTED]  
On Friday, March 3, 2023, at a home game against Naples High School, an incident occurred in the dugout during the 6<sup>th</sup> inning. Statements were given by [REDACTED]

[REDACTED]. Most report that after [REDACTED] struck out, he tossed his bat against the bat rack, causing the other bats to fall. He then walked into the dugout and slammed his helmet on the bench/ground/wall several times. At this point, some of the players report [REDACTED] engaged [REDACTED] to de-escalate him. [REDACTED] and some of the other players viewed the exchange as arguing/confronting him and running him down. [REDACTED] sent a statement via [REDACTED] to Mr. Cato the next day stating that he was approached by [REDACTED] in the dugout. He asked them 3-4



times to stop talking to him. At that point, [REDACTED] stopped talking to him while [REDACTED] continued. At this point it turned into an argument. [REDACTED] stated that both he and [REDACTED] used profanity. [REDACTED] sent an email on March 5, 2023, stating that he confronted [REDACTED] and told him to “quit throwing your helmet,” “lose the attitude,” grow up and stop being so immature,” get back on the field and make some plays and help out the team,” and “you better stop or you’re going to end up sitting the rest of the game.” [REDACTED] stated that he heard from other players that [REDACTED] stated he would beat him up, but was unsure if it had been said. He sent a second email on March 6, 2023, stating that several players told him they heard [REDACTED] say “shut the fuck up or imma beat your ass.” [REDACTED] further states that he was not able to hear this over his own voice. At this point in the confrontation, Coach Burchfield approached the dugout and benched [REDACTED] for the remainder of the game. Coach Burchfield stated that he reported the incident to Mr. Cato, and that he went to [REDACTED] with [REDACTED] to report that he heard him use the N-word. [REDACTED] denied that he said this. Coach Burchfield stated that he talked with Coach Hinson to determine that the consequence of the incident would be a 5-game suspension for [REDACTED], including 3 games for using the N-word, and 2 games for threatening [REDACTED]. On Tuesday, March 7, 2023, Coach Burchfield notified [REDACTED] of the consequences in the hall way. [REDACTED] family protested the severity of the consequences to school administration as unprecedented and targeting their son unfairly with the new [REDACTED] rules.” The creation and use of the new rules, including the severity of the consequences and appearance of targeting students of color/minority status led the district and school administration to suspend their use until the completion of the investigation. The coaching staff was directed to utilize the original players’ contract rules and provide consequences consistent with past practice. Prior to the new rules, the standard consequences included “extra conditioning” (running for 30 minutes per infraction), and/or sitting out for up to 4 innings. Although the incident was characterized as a threat by Coach Burchfield, it was not handled as such under the Code of Conduct for Students.

### **Administrative Intervention**

On March 8, 2023, a meeting was held with Ms. Grote, Mr. Burchfield, Mr. Cato, and Dr. Butz (by phone) to develop a plan with district consultation to ensure the safety of the players at games. Specifically, the plan included adding administrative supervision in the dugout, proper handling of student and parent complaints, intervention in conflicts, and administrative involvement in communication with families.

### **Estero HS Game**

On March 9, 2023, Former Assistant Coach Alex Carcioppolo attended the game upon the request of [REDACTED] ([REDACTED] mother). [REDACTED] stated that she called Alex to come and support [REDACTED], and that they rode together to the game. While there, the travel team players from Estero and Fort Myers HSs came to Coach Alex to greet him. [REDACTED] stated that he was benched by Coach Burchfield, and upon asking why, he replied, “not my choice.” [REDACTED] were reported to have thrown bats and yell “fuck” during the game. The appearance at the game and



interaction with the players by Coach Alex led to protests from some families to administration, which were relayed to Professional Standards. It was determined that he could not be prohibited from attending as a spectator with a purchased ticket. Although released from his coaching duties, no other action, such as a trespass order, was in effect at the time of the game that would prohibit attendance.

### **March and Early April Games**

During the remaining games from March 9 through April 3, 2023, the school reported that things cooled down during this time. This was attributed to several factors. First, the team became accustomed to the administrative presence in/near the dugout and at the games. Second, the team won seven of the nine games played during this time. Some minor incidents were reported that included use of foul language, throwing of equipment, and loss of playing time/ not being included in the line-up. Some of these minor incidents are included below in individual student reports. However, the divide in the team and among the families remained.

### **Locker Room Incident (2)**

In mid-March (specific date not determined), 2023, ██████████ was reported to use the N-word in the Locker Room. Mr. Cato stated that this was overheard by Coach Burchfield and several players. As a result, ██████████ received discipline for 4 innings in the next game. ██████████ sent an email on March 27, 2023, indicating that he ran onto the field when his time was up, but was pulled by Coach Burchfield until the bottom of the 6<sup>th</sup> inning.

### **Hallway Incident**

On April 4, 2023, during class change between 6<sup>th</sup> and 7<sup>th</sup> periods, ██████████ passed by ██████████ Mr. Cato, and Mr. Copeland. It is reported that Mr. Cato said "██████████" to which ██████████ stated that he raised his hand and said "Hi." He also stated that He was later told by Coach Burchfield that ██████████ Coach Burchfield benched him for the game against North Fort Myers High School that evening. ██████████ stated that he asked ██████████

██████████ stated he replied ██████████ The incident was reported to the school who relayed it to Professional Standards as possible employee misconduct. The

that ██████████ The ██████████ According to Professional Standards, the information was relayed by ██████████ to Mr. Burchfield, and that he may not have articulated the information accurately, possibly leading to ██████████ being benched for the game. At this time, there is still an open investigation into this incident by Professional Standards. Also, as a result of this allegation and investigation, Mr. Burchfield was removed temporarily from his coaching duties as Head Coach of the Fort Myers High School baseball program ██████████



## Walkout

On April 6, 2023, at the second Estero HS game played at Terry Park, there was a walkout by some of the players and coaches. The incident is being investigated by Professional Practices for possible employee misconduct. In an interview with Professional Practices, Mr. Cato stated that there had been rumors of a protest since the Estero Game on March 9, 2023 after [REDACTED] was allowed to play on March 8, 2023 at the Port Charlotte game, which upset some of the parents including the [REDACTED], especially since their son was not in the line-up at that game. Mr. Cato stated that he arrived at approximately 7 pm with SRO Mike Perry. At this point, he saw the Fort Myers players walking out of the dugout. As they walked by, he asked them what was going on, but received little to no response. He stated that he then saw [REDACTED] who said "you need to be a man and take a stand with us." He then saw [REDACTED] walk by and asked where he was going, with a response of, [REDACTED]. He then called Ms. Washington-Knight who was the administrator on duty in the dugout. She replied, "they walked out – there was nothing I could do." He then saw [REDACTED] and [REDACTED] in their batting helmets on the field, and a couple of players in the dugout with Coach Jones (?). Some parents began recording video of the walkout. Mr. Cato further stated that he met with Mr. Budmayr, Athletic Director of Riverdale HS (tournament host), and the coaching staff of Estero HS to discuss the incident. It was decided that Fort Myers HS would need to discontinue the game as they did not have enough players remaining. Mr. Cato further states that he then called Dr. Butz, and as he was calling, he noticed the players and parents congregating behind the bleachers. He heard raised voices, at which time Officer Perry began blowing his whistle and directed people to leave the area. Verbal disputes continued during this time, and eventually everyone cleared the area. However, some parents, players, and spectators remained in the parking lot. [REDACTED] stated that the [REDACTED] and [REDACTED] had to be escorted to their cars by police, passing by some still in the parking lot. Further direction from police to leave was given and no further incidents occurred.

[REDACTED] stated that on the day of the walk-out, [REDACTED] was told by [REDACTED] or Mr. Cato to be at the game by 5:30 PM and to meet near the batting cages. However, upon arrival, no one was at the cages. She then saw 4-5 players in the parking lot as well as [REDACTED] at approximately 5:40 PM. She stated that as they were setting up chairs that a friend of hers asked if they were playing and that they heard there was going to be a walk-out. She stated that she then heard cleats and turned to see [REDACTED] and [REDACTED] walking out with other players behind them while [REDACTED] was at bat. She stated that the parents in the bleachers began applauding, cheering, and fist-bumping the players walking out. [REDACTED] described the incident as, "it felt like the kids [REDACTED] were in a zoo." She also stated that [REDACTED] questioned the line-up with [REDACTED]. She further stated that after the game was called, kids and parents began yelling at the [REDACTED] and [REDACTED] families. She stated that someone made a point to say, "it isn't about skin color," and that [REDACTED] was taunted by a mom with, "oh, my skin," presumed to be a reference to a statement she made at the parent meeting.



Mr. Cato stated that the following were the participants of the walkout:

[REDACTED] (confirmed)  
[REDACTED] (most likely)  
[REDACTED] (confirmed)  
[REDACTED] (confirmed)  
[REDACTED] (confirmed)  
[REDACTED] (confirmed)  
[REDACTED] (confirmed)  
[REDACTED] (confirmed)  
[REDACTED] (most likely)  
[REDACTED] (confirmed)  
[REDACTED] (confirmed)

Players that remained on the field/in the dugout:

[REDACTED] (confirmed)  
[REDACTED] (confirmed)  
[REDACTED] (confirmed)  
[REDACTED] (confirmed)  
[REDACTED] (confirmed)

After the walkout, Dr. Butz contacted Professional Standards to report the incident. [REDACTED] during their investigation. At this time, the investigation by Professional Standards is still underway. This incident was also reported to the Florida High School Athletics Association for a determination of consequences. It was determined that the Fort Myers High School would be fined \$500, and be required to compensate Estero High School for costs related to the game. Finally, Dr. Butz made the determination to cancel the remaining games of the season.

## SUPPLEMENTAL INCIDENTS BY INDIVIDUAL STUDENT

[REDACTED]

**Allegations of Misconduct:** Harassment based on race; general harassment; retaliation

Student and family allege that [REDACTED] and member of the Fort Myers Varsity Baseball Team, was subjected to incidents of harassment and/or retaliation from Head Coach Burchfield, Assistant Coach Hinson, Dr. Butz, and players. Among these allegations:

- 1) [REDACTED]
- 2) [REDACTED]
- 3) [REDACTED]
- 4) [REDACTED]
- 5) [REDACTED]
- 6) [REDACTED]
- 7) [REDACTED]
- 8) [REDACTED]



- 9) [Redacted]
- 10) [Redacted]
- 11) [Redacted]

**Findings:**

Allegation 1 – [Redacted]

Allegation 2 – [Redacted]

Allegations 3 – 6 – [Redacted]



[Redacted]

Allegations 7 –

[Redacted]

Allegation 8 –

[Redacted]

Allegation 9 –

[Redacted]

Allegation 10 –

[Redacted]

Allegation 11 –

[Redacted]





[REDACTED]

**Allegations of Misconduct:** General harassment; retaliation

Student and family allege that [REDACTED] and member of the Fort Myers Varsity Baseball Team [REDACTED] was subjected to incidents of harassment and/or retaliation from Head Coach Burchfield.

**Allegation –** [REDACTED]

[REDACTED]

**Findings –** [REDACTED]

[REDACTED]



[Redacted]

**Allegations of Misconduct:** Harassment based on race; General harassment; retaliation

Allegation 1 – [Redacted]

Allegation 2 - [Redacted]

**Findings**

Allegation 1 – [Redacted]





[Redacted text block]

Allegation 2 -

[Redacted text block]

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## GENERAL ALLEGATIONS

### Tolerance for Racist Comments

Extending to prior years, there are allegations from families regarding the use of racist comments. In 2021-22, a former player [name withheld upon request] stated that another player at practice said, "I don't like dark-skinned people. Let me rephrase that, I don't like [N-word]." Some parents also reported that coaches used the N-word talking with each other, assuming they were not being overheard. When reported, players were given various responses from coaching staff including, "it is just a word, don't worry about it," and "I'll take care of it, don't worry." However, incidents of the use of racial slurs constitute at the least a non-SESIR infraction for Profanity (PRO) in the Code of Conduct for Students, and possibly a SESIR infraction of Harassment (HAR) or Bullying (BUL) depending on the context of usage. Each incident should have been reported to administration for investigation.

In interviews there were sub-issues that are related to this allegation:

- 1) Fort Myers High School has a history associated with resistance to integration, which included a riot at the school in 1969, and perceptions of ongoing racial tensions since that time.
- 2) There are differing perceptions over the use of a stylized version of the N-word, "nigga," depending on the persons' backgrounds and ethnic/racial identities. In context, this version has been used in popular culture for several decades among musicians, sports figures, and others considered celebrities. This has normalized the usage and led to differing perceptions of who may use the word, situations in which it may be used, etc. For the record, the School District of Lee County does not tolerate the usage of any version of the word and sees all versions as a violation of the non-discrimination policy 1.27 and Code of Conduct for Students.

### Division in Family Relationships

The team divide extends to the relationships among the families. This was reported by parents along the primary divides mentioned above based on travel ball participation, Green Wave Baseball Alumni Club participation, and loyalty to Coach Alex and Coach Burchfield. Allegations include being left out of communication, favoritism (alleged from both sides), ostracism at parent events, and ongoing conflicts.

### Travel Ball

Three players and one former player stated that they were confronted by Coach Burchfield regarding travel ball. For those that are multi-sport athletes, participating in fall sports, they state that Coach Burchfield told them "you have to choose: baseball or [your fall sport]." This was interpreted to mean that he expected them to play travel ball during the fall. Average travel baseball costs per player range between \$500 - \$2500 per year, which is not affordable for all families. Both Mr. Burchfield and Mr. Chappell coach for the Florida Burn travel teams. Their website is:

<https://www.floridaburn.com/about-us.html>. Mr. Burchfield and Mr. Carcioppolo also



worked together with Victus Elite Baseball FL. One family alleged that a travel team (name/organization unknown) was practicing on Fort Myers High School facilities after hours. When reported to Dr. Butz, he said that he did not know about it.

### **Green Wave Baseball Alumni Club**

There were several statements that included allegations regarding this entity, which is an independent 501(c)(3) that supports the baseball program at Fort Myers High School. Their website is <https://greenwavebaseballalumni.com/>. SunBiz.org lists its current officers as Keith Banasiak, president, Crystal Borton, vice president, Mark Lorenz, secretary, and Angela Cervio, treasurer. John Dailey also served as president in 2017 when the organization was known as FMHB, Inc. [REDACTED]

Allegations were made by several families that there was an expectation to support this organization with volunteer time and financial contribution, in effect, “pay to play.” Some families allege that there was favoritism on the team based on participation in this organization, especially for those who hold office/rank in the organization. Finally, there were allegations of both direct financial support of the baseball program – money provided without going through the official Athletic Boosters Club of FMHS, and direct involvement through volunteer work/donation of materials to complete baseball facility improvements on the Fort Myers High School Campus. These allegations are under a separate investigation for potential capital improvement policy violations and Title IX implications.

### **Improper Physical Contact**

There were two allegations that Coach Burchfield shoved/pushed players. [REDACTED] stated that he pushed a player during a game in the 2021-22 season, and that it was witnessed by other parents. [REDACTED] also stated that he pushed him by the neck to get back into the dugout. These incidents have been relayed to Professional Standards for review.

### **Unprofessional Conduct by Coaches**

There were several allegations of unprofessional conduct by the coaches which was witnessed by the players including discussing their personal relationships, making inappropriate comments about players, and making comments of a sexual nature about the mothers of players.

## **FINAL ANALYSIS**

### **Title VI**

The Prima Facie Case is described in the summary above. The initial allegations were brought forward by the [REDACTED]. The individual student incident reports provide supplemental allegations that were provided by these families.



In addressing the allegations of discrimination and/or harassment based on race/color/national origin, the school provided evidence that they comply with Title VI in providing equitable access to educational opportunities including athletics. This includes open try-outs based on skill and performance, eligibility rules that include minimum acceptable grade point average (GPA) and discipline record, and adherence to district policies requiring non-discrimination. Athletic rosters examined for multiple sports (baseball, softball, basketball, football) reveal that participation includes diverse racial and ethnic backgrounds. However, there is variation in ratios noted with basketball and football teams more closely representing the racial/ethnic make-up of the Fort Myers High School student body than either baseball or softball teams.

The families did not provide evidence of institutional discrimination/harassment that would constitute a violation of Title VI, but did offer evidence of differential treatment. However, even one of the complainants stated that they did not think the differential treatment was based on skin color. As well, [REDACTED] had a previous relationship with Coach Burchfield [REDACTED] either [REDACTED] [REDACTED], or [REDACTED]. The [REDACTED] instead focused on incidents and actions that were interpreted as differential treatment and/or harassment/retaliation.

### **Policy & Procedure**

Although there is no direct evidence for a violation of Title VI, there is evidence of policy and procedural violations, as well as misapplications including:

- A) Failure to follow and utilize the Code of Conduct for Students regarding reports of racist comments made by other players. Coaching staff instead attempted to handle these reports on their own by talking with players and/or reassuring the complainant.
- B) Failure to follow the Code of Conduct for Students regarding inappropriate behavior (peer conflict, possible bullying/harassment, profanity, etc.). This includes failure to properly report incidents that require administrative intervention which prevented thorough investigation of incidents for objective decision-making. Coaching staff instead applied the players' contract with variance. This led to perceptions of differential treatment.
- C) Failure to include parents in educational decisions. [REDACTED], the school may have violated the Parents Bill of Rights, (F.S. 1014.04).
- D) Inconsistent application of the players' contract. As noted above, inconsistencies in application were noted by many families. In review, the players contract, and the new rules that were intended to replace the contract, were vague in description of infractions and provided little information on the range of consequences. In practice, the coaching staff utilized these sets of rules for infractions that are included in the Code of Conduct for Students.
- E) Ineffective and/or inadequate intervention. Throughout this series of incidents, there were multiple attempts to remedy situations and/or to address parent and



student concerns. However, many of these attempts were not effective in addressing concerns, especially regarding racist comments, the team divide, team relationships, parent relationships, and misbehavior.

- F) Permissive Culture. Coach Burchfield stated that profanity is just part of the game. This, combined with the vague players contract, and variance in application, led to a perception that profanity is allowed and will occur. When attempting to intervene in severe cases, previous inaction combined with the vagueness of the rules and consequences caused students and parents to view actions taken by the coaching staff and administration as retaliatory and/or as harassment.
- G) Failure to follow district policies regarding booster organizations. While we applaud the general purpose of the Green Wave Baseball Alumni Club and sincerely appreciate their contributions to the baseball program, it is with criticism. As this organization is operating in effect as a booster organization, the direct contribution to the program with both monetary and in-kind goods/services without school and district oversight violate the policies regarding booster clubs. As well, the benefit provided to one athletic group that comprises a single sex may also violate the requirements of Title IX.

### **Customer Service**

- H) Communication. There were failures of communication at many levels. First, there was a failure to provide timely communication to players regarding coaching decisions and responses to player performance/behavior, led to the interpretation of these decisions and responses as retaliatory and/or harassing. As well, there were failures in communication between coaching staff and administration which led to poor incident response and intervention.
- I) Incident response. While there were indications that administration intervened and assisted in many incidents, there were still gaps in communication and procedural adjustments to deal with the escalation in events and need for tighter communication and decision-making, especially in working with family and student complaints. This led to the perceptions that administration was non-responsive and uncaring of families.
- J) Culture of inclusivity. Coaching staff did not actively promote a culture of inclusivity and instead allowed the division in the team to continue. For example, players were invited to dinners out, but only if they had a ride or could drive themselves. Little to no attempt was made to intervene and assist those without a ride and/or did not feel fully included. This lack of active culture building led to the perceptions of favoritism and differential treatment.

### **Conclusion**

At this time, the final two incidents are still under investigation to determine if employee misconduct has occurred, and if so, to what extent – misfeasance or malfeasance. This report may be amended once these investigations are completed.

Based on the information included in this report, it is recommended that the school and district review for future corrective action. Specific recommendations for corrective action are included in the summary above. Further recommendations should be discussed by district and school administration with input by coaches, parents, and students.

All complainants remaining at Fort Myers High School will be provided the HOPE Scholarship and/or an opportunity to seek enrollment in another school should they so desire. Retaliation toward any complainant, witness, or any other party involved in this investigation is strictly prohibited and will receive disciplinary action according to our district policies including the Code of Conduct for Students.

While every effort was made to correctly and accurately represent the allegations and actions above, no independent report can include every detail and/or viewpoint of a multi-party incident. Parties may provide a written response to the Office of Civil Rights and Equity, which will be included in the case file. This report and the contents of the case file will remain on-site for seven years.

Respectfully Submitted,

Charles E. Bradley, Director of Positive Prevention/District Equity Coordinator

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