

May 22, 2019

Via Email and USPS Certified Mail

Dr. Mutchler
Mr. Grosso
227 N Fourth Street
Geneva, IL 60134

Dear Dr. Mutchler and Mr. Grosso,

Consistent with Article II, Section B 5 of the Geneva School District ("GSD") and Geneva Education Association ("GEA") collective bargaining agreement ("CBA"), I file this letter as a preliminary¹ rebuttal to the allegations in GSD's April 22, 2019 letter to me captioned "Deficiencies in the Conduct of Jason Santo." My understanding is that GSD placed the April 22 letter in my employment personnel file.

As a GSD tenured, "certified teacher," as defined in Article I of the CBA, and member of the GSD, my rights, privileges, and terms of employment are covered by the CBA, which contains a "Grievance Procedure" permitting me or the GEA, on my behalf, to file a "grievance" alleging violation(s), misinterpretations, and misapplications of the CBA's terms.

In short, the GSD's April 22 letter violates, misinterprets, and misapplies the CBA's terms and, accordingly, I authorized the GEA to file a grievance on my behalf.

That authorization, however, is not intended to waive or otherwise jeopardize my claims that the GSD, by its April 22 letter, violated my rights as a U.S. Citizen, residing in Geneva, Illinois. As this letter unequivocally identifies, the GSD's disciplinary action against me does not relate to any deficiency regarding my responsibilities as a certified teacher. Rather, as the GSD concedes in its April 22 letter, the disciplinary action imposed on me was solely undertaken for what it claims was inappropriate "political activity." That allegation is unsubstantiated and violates my rights under federal and state laws, in particular my right as a private citizen to engage in free speech regarding matter of public concern.

I: Allegations in April 22, 2019 letter

In its April 22 letter, the GSD concedes that it does not allege any deficiencies related to my performance as a certified teacher. Such a concession is understandable considering my undisputed exemplary record as a teacher of Geneva students over the past eight years.

After all, during these years, I dedicated myself to the welfare and education of Geneva High School students. That dedication resulted in the GTV program and its participating students receiving fifty-three (53) regional or national awards, resulting in GSD receiving regional and national recognition as an institution of excellence.

Following is a list of these awards:

- **2012**
 - STN Convention- Dallas, Texas
 - 1st Place: Live Reporting

¹ The submission of this letter does not in any way waive my right to present additional responses, evidence, or arguments in rebuttal to the "deficiencies" and "required corrective action" cited in the April 22 letter.

- Honorable Mention: Weather Reporting
 - Honorable Mention: Movie Trailer
- **2014**
 - MMEA
 - Ranked the #1 Newscast in Chicagoland
 - STN Convention- Orlando, FL
 - 3rd Place: Sports Highlights
 - Honorable Mention: Tell the Story Editing
 - STN Fall Challenge
 - Honorable Mention: News Story
- **2015**
 - MMEA
 - 2nd place Newscast Chicagoland
 - NATAS Emmy Award Nomination: Talent Category
 - STN Convention: San Diego, California
 - Honorable Mention: Crazy 8 Broadcast Journalism
 - Honorable Mention: Breaking News
 - Honorable Mention: Convention Recap
 - Honorable Mention: Live Reporting
- **2016**
 - STN Convention: Atlanta, Georgia
 - 2nd Place: NAT Package
 - 3rd Place: Sports Highlights
 - Honorable Mention: Anchor Team
 - Honorable Mention: Breaking News
 - Honorable Mention: Tell the Story Editing
 - Honorable Mention: PSA
 - STN Fall Challenge
 - Honorable Mention: PSA
- **2017**
 - MMEA Video Festival
 - 2nd Place: Newscast Chicagoland
 - 1st place: Natural Sound Package
 - 2nd Place: News Package
 - NATAS Honorable Mention: Talent
 - NATAS Honorable Mention: News General Assignment Reporting
 - STN Convention: Anaheim, California
 - 2nd Place: Live Reporting
 - 2nd Place: Spot Feature
 - Honorable Mention: Lead Story
 - STN: Broadcast Excellence Awards
 - Midwest Award Winner: Daily Taped Show
 - STN and Eurasia Foundation
 - 30-Second Video Contest: Awarded a cultural exchange program trip to Russia
 - STN Fall Challenges
 - 2nd Place: High School News Challenge
 - 2nd Place: PSA Challenge

- 2018
 - STN Convention: Nashville, TN
 - 1st Place: Multimedia Journalist
 - STN: Teacher of the Year
 - STN Broadcast Excellence Awards
 - Midwest Region winner for Daily Taped News Show
 - NATAS
 - Crystal Pillar: Serious News
 - Crystal Pillar: Public Service Announcement
 - Crystal Pillar: Talent
- 2019
 - STN Convention: Seattle, WA
 - 1st Place: Live Reporting
 - 2nd Place: Crazy 8's Short Film
 - 3rd Place: Tell the Story Editing
 - 4th Place: Sports Commentary
 - 5th Place: Convention Promo
 - STN Broadcast Excellence Awards
 - Midwest Region winner for Daily Taped Announcement Show
 - MMEA Regional Video Festival
 - 1st Place: News Story
 - 1st Place: 7-Day Challenge in News Story
 - 2nd Place: News Story
 - 2nd Place: 7-day Challenge in Movie
 - 3rd Place: News Story
 - 4th Place: Demonstration
 - 5th Place: Newscast
 - 5th Place: Dramatic Narrative
 - NATAS
 - Crystal Pillar: Serious News
 - Board of Education Tradition of Excellence Award- STN Convention Advisor

Due to my exemplary record, I received the Board of Education Tradition of Excellence Award, which is the GSD Board of Education's highest award. In fact, I received this award on April 22, 2019 -- the same board meeting that the notice to remedy was approved.

These accomplishments demonstrate that the deficiencies alleged in the April 22 letter have absolutely no relationship to my responsibilities and actions as a tenured certified teacher of the Geneva School District.

Additionally, prior to the unfounded allegations made in the April 22 letter, there has never been a single complaint by a student, parent, colleague, or administrator about my exemplary performance as a tenured certified teacher.

During the characterized "fact-finding investigation" resulting in the April 22 deficiency letter, students, parents, peers, external professionals with whom I interact on Geneva School District's behalf, neutral community members, and my immediate superiors at Geneva High School were not interviewed about

my performance as a certified teacher, nor about my professional judgement, professional integrity, and professional relationships. If they had been, GSD would have found that these individuals and entities would have attested to the fact that I excel in all these qualities. Absent contrary evidence from them, the malicious allegations written in the April 22 letter about these qualities is unjustified and erodes the credibility of the accusers.

The mere fact that I, or any other person, may favor a political candidate that others, including incumbent Board members, oppose, does not erode my, or that other person's, professional judgement, professional integrity, or professional relationship with the community.

Because the allegations in the April 22 letter are unfounded and irrelevant to my certified teacher responsibilities, it can only be concluded that they are made to undermine my achievements as a tenured certified teacher and to intimidate myself and other educators from exercising their civil rights and participating in collective action.

Furthermore, the GSD's April 22 letter violates a number of the CBA's provisions, which include, but are not limited to, the following:

- Preamble
 - The GSD's CBA commitment to "the free and open exchange of views" described as "desirable and necessary."
 - Disciplining me for non-job/education related reasons unrelated to my "specialized educational qualifications and the success of the educational program of the district."
- Article III, Section B
 - The GSD's agreement "continue not to directly or indirectly, discourage, or deprive, or coerce me in the enjoyment of any rights conferred by the laws of Illinois or the Constitution of Illinois and the United States, [and] will continue not to discriminate against me, with respect to... conditions of employment by reason of participation in any legally permissible activities or membership in the Association."
- Article III, Section G
 - Discipline me for reasons which did not in any manner disrupt the educational process or impact the working conditions of any teacher.
- Article VI, Section B, 1
 - Failing to comply with its CBA obligation to recognize the importance of protecting my due process and human rights.
 - Failing to recognize and apply the CBA's progressive discipline to me.
- Article VI B, 2.
 - By disciplining me for reasons other than an act of insubordinate, misconduct, cruelty, negligence, and other sufficient causes (i.e. just cause) per school code 5/10-22.4 of the School Code
 - Article VI B, 2. Defines insubordination as willful refusal to follow an order, direction, regulation, or policy of the Board or directive of any person who has the responsibility to supervise the member of the bargaining unit.
 - Article VI B, 4. Defines misconduct as any act which reasonably relates to any of the employee's duties that jeopardize the health, safety, and welfare of any student, parent or school employee.

- Article VI, Section C which specifies that except for serious offenses warranting “immediate suspension or termination,” GSD agrees to the concept of progressive discipline starting with a verbal warning.
 - The GSD’s alleged reason for issuing the April 22 letter rather than follow the CBA’s progressive discipline demonstrates that the GSD’s intention was to punish me for my alleged political activity on my personal time, which caused no serious or harmful damage to the GSD’s primary function of educating children nor related in any way to my job responsibilities.

II: Response to Allegations of Deficiencies Unrelated to Job Responsibilities

Any activities I engaged in during the recent Board of Education election were not specifically prohibited by Geneva District policies or laws. Rather, such activities were consistent with my rights as a United States citizen residing in the Geneva community. Therefore, the GSD’s April 22 letter was not only a violation of the CBA, but also an unlawful exercise of a governmental power and an infringement of my rights as a citizen, the least of which was my rights to free speech.

Regarding Deficiency 1A’s allegation in the GSD’s April 22 letter, as a tenured Geneva educator I did not “intentionally use” any Board of Education property or resources to engage in “prohibited political activity.” Instead, any meeting I participated in was as a resident of the Geneva Community. And at no time during the election campaign did I represent myself as a spokesperson of the GSD or as a GEA member. Further, at no time did I record, direct, or post any political material indicating that I was a spokesperson for GSD or GEA. Accordingly, any activity I may have participated in was on my personal time and not “compensated time” as that phrase is defined in the GSD/GEA collective bargaining agreement and GSD policies. Therefore, that personal activity cannot lawfully be used as a basis for disciplining me. See CBA Article VII Section W.

Additionally, I did not distribute or prepare for distribution through the mail any campaign material or otherwise on behalf of any candidate for the election to the Board of Election. While, like other citizens who voted in the Board of Education election, I preferred specific candidates. That preference was personal and not communicated in connection with my position as a GSD certified teacher or while on compensated time. There is no evidence that in my position as a tenured Geneva educator I personally campaigned for any elective office nor managed or was employed to work on a campaign for elected office in the GSD.

Regarding Deficiency 1B allegation, I did not use school resources for “private purposes” and therefore was not required to obtain any administration authorization. The March 19 video that was referenced in the April 22 letter was filmed, directed, and streamed by a community member, not me.

On March 19, Geneva Middle School South was open to the community for an approved public forum. I did not arrange or schedule the public forum. During that forum, attendees interacted concerning the forum’s topics.

As a community member, I attended the public forum on my personal time and had the right to discuss the forum’s topics with my fellow citizens, including individual candidates. Therefore, contrary to the allegations in the April 22 letter, I did not “organize and host a private political forum” on the Geneva

School District property. Instead, any discussion I had was merely an extension of the open public forum, which all Geneva residents were entitled to attend.

Accordingly, these misstatements in the April 22 letter demonstrate it was issued because two Board of Election candidates who were supported by the GEA won two of the three seats up for election. Those two candidates were active supporters of Geneva teachers and one was an avid supporter of the GEA during the contentious 2018-19 contract negotiations.

The deficiencies alleged in the April 22 letter relate to a time period significantly prior to the April 2, 2019 Board of Education election. Yet, neither the GSD administration, nor the Board discussed those events with me or any other disciplined GSD certified teacher, or the GEA leadership until after the two GEA supported candidates were elected. This compelling evidence demonstrates that it is GEA's support, and my assumed support as a GEA member, of the two newly elected Board of Education members that led to the unfounded allegations stated in the April 22 deficiency letter. Such retaliatory action is inconsistent to the CBA's Preamble, wherein the GSD's proclaimed "desirable and necessary objective of a free and open exchange with all parties," including members of the Geneva community, and a violation of federal and state laws, including the spirit of 735ILCS 110 et seq- Citizen Participation Act- which reads:

"Section 5 Public Policy. Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that the constitutional rights of citizens and organizations to be involved and participate freely in the process of government must be encouraged and safeguarded with great diligence."

III. Required Corrective Action

The required corrective actions in the April 22 letter cover matters extraneous to the alleged deficiencies cited in the letter. Those extraneous matters include approximately 412 pages of GSD's regulations and policies, all of which are subject to varying interpretations. To place my career and family's financial security at risk for such extraneous matters is unjustified and a violation of my due-process rights.

To the extent that the "Required Corrective Action" specifies or implies that in the future I am subject to disciplinary action without recourse to my legal rights, procedures, and remedies provided in the Geneva School District collective bargaining agreement or any state or federal law is impermissible.

Furthermore, the required actions to seek "guidance of administration" and to "attend professional development" regarding undefined "duties that are charged of you as a public employee" is ambiguous and vague. As a result, it would be impossible to meet these requirements, even if any justification existed for them. These ambiguous and vague statements are an unacceptable subterfuge being intentionally used as a springboard for future retaliatory actions.

In light of my exemplary record as a Geneva certified teacher, and the absence of any evidence that I intentionally utilized my position as a GSD certified teacher for "political purposes," or at any time failed to demonstrate a high level of professional judgement, integrity, and relationship with the community, I respectfully submit that the "Required Corrective Actions" listed in the April 22 letter be withdrawn.

Although as indicated above, I have not, as alleged, violated Board Policy 3233 regarding use of Geneva School District premises, now that I have been made aware of that specific policy by the April 22 letter, I will be more judicious in exercising my legal rights to engage in political activity when attending activity on GSD property.²

Respectfully Submitted,

Jason Santo
GHS English Teacher
GHS Assistant Athletic Director- Winter Season
GTV Advisor
President of the Multi-Media Educators Association (MMEA)
STN Convention Advisor
Viking Sports Network Advisor

cc: Dr. Adam Law, Mr. Larry Cabeen, Mrs. Taylor Egan, Mrs. Leslie Juby, Mr. David Lamb, Mr. Mike McCormick, and Mrs. Alicia Saxton

² This statement is not intended to be a waiver of any legal rights I have to attend and participate in political activity.