

August 12, 2019

**FACTFINDING REPORT OF THREE AREAS OF INQUIRY POSED BY THE  
AMESBURY SCHOOL COMMITTEE**

On May 6, 2019, former SC member Gretchen Marinopoulos (hereinafter “Ms. Marinopoulos”), made a complaint at the Amesbury School Committee (hereinafter “SC”) meeting and she requested an investigation into the handling of a public records request relating to school matters and the resulting newspaper articles referencing the information from the records produced in response to the request. Specifically, Ms. Marinopoulos requested that the SC investigate the source(s) of the information reported in the article and what specifically was produced by Mayor Gray’s office and review the Amesbury School District’s (the “District”) privacy practices. (See Exhibit 22.)

On June 3, 2019, the SC voted to retain Discrimination and Harassment Solutions, LLC to conduct an investigation and prepare a report limited to the following three areas of inquiry:

1. The events of 2016 at issue in the released emails, the budget votes of 2017 and 2019, all as outlined in greater detail in the April 10, April 29, and May 10, 2019 Newburyport Daily News articles (the “Articles”);
2. The actions, if any, taken by the District personnel, including School Committee members, in response to any FOIA requests received by the District related to Ms. Marinopoulos which are referenced in the Articles;
3. Whether District personnel, including School Committee members, released the emails referenced in the Articles.

Accordingly, this investigation will provide findings of fact and conclusions regarding the three areas of inquiry as presented by the SC on June 3, 2019.

**I. WITNESSES INTERVIEWED OR STATEMENTS RECEIVED**

1. Joan Liporto – Director of Finance and Operations (hereinafter “Ms. Liporto”)
2. Jared Fulgoni – Superintendent (hereinafter “Mr. Fulgoni”)
3. Glen Gearin – Athletic Director and Assistant Principal (hereinafter “Mr. Gearin”)
4. John Debuc – IT Director (hereinafter “Mr. Debuc”)
5. Gretchen Marinopoulos – former School Committee Member (hereinafter “Ms. Marinopoulos”)
6. Mayor Kenneth Gray – Mayor of the City of Amesbury (hereinafter “Mayor Gray”)
7. Evan Kenney – Chief of Staff for Mayor Gray (hereinafter “Mr. Kenney”)
8. Richard Lodge – The Newburyport Daily News reporter (hereinafter “Mr. Lodge”)

**II. DOCUMENTS/VIDEOS RELIED UPON**

- Exhibit 1 – April 10, 2019 Newburyport Daily News article
- Exhibit 2 – April 29, 2019 Newburyport Daily News article
- Exhibit 3 – May 10, 2019 Newburyport Daily News article
- Exhibit 4 – SC meeting video May 6, 2019
- Exhibit 5 – Documents produced by Ms. Liporto (91 pages)
- Exhibit 6 – FOIA request from Mr. Lodge to Ms. Liporto, dated April 11, 2019
- Exhibit 7 – Statement presented by Mayor Gray

- Exhibit 8 – Statement presented by Mr. Kenney
- Exhibit 9 – Ms. Liporto’s email communications regarding the public records request
- Exhibit 10 – SC Staff Communications Policy
- Exhibit 11 – SC Member Authority
- Exhibit 12 – SC meeting video April 8, 2019
- Exhibit 13 – Email chain between Ms. Marinopoulos and Mr. Lodge
- Exhibit 14 – Emails produced by Mr. Kenney to Mr. Lodge
- Exhibit 15 – Additional Emails sent by Ms. Marinopoulos to Mr. Gearin
- Exhibit 16- August 27, 2016 email from Ms. Marinopoulos to [boysshssoccer@gmail.com](mailto:boysshssoccer@gmail.com) with the subject (a)
- Exhibit 17 – August 29, 2016 email exchange between Ms. Marinopoulos and Mr. Gearin “soccer cuts”
- Exhibit 18 – October 28, 2016 email exchange between Ms. Marinopoulos and Mr. Gearin “red cards”
- Exhibit 19 - January 18, 2017 Ms. Marinopoulos email to Mr. Gearin from her SC email questioning the athletic department’s budget
- Exhibit 20 - January 23, 2017 Ms. Marinopoulos email to SC members and Mr. Gearin regarding the “cut policy” and the athletic handbook
- Exhibit 21 – SC minutes April 8, 2019
- Exhibit 22 – SC minutes May 6, 2019
- Exhibit 23 – Email communications between Ms. Marinopoulos and Ms. McAndrews

Exhibit 24 – Email communications between Ms. Marinopoulos and Mr. Reese

### **III. FINDINGS OF FACT**

Having considered all the evidence and testimony and giving the appropriate weight thereto, and based on the applicable standard of proof, a preponderance of the evidence, I make the following relevant findings of fact:

1. Mayor Gray is the Mayor of the City of Amesbury (hereinafter “Amesbury”) and, pursuant to the City’s Charter, he serves as the Chairman of the SC.
2. The SC named Superintendent Fulgoni interim Superintendent in 2018 and appointed him Superintendent in March 2019. (Interview of Superintendent Fulgoni.)
3. Ms. Marinopoulos was elected to the SC in November 2015 and sworn in in January 2016. She remained in this position until she abruptly resigned on April 9, 2019. (Interview of Ms. Marinopoulos)
4. Mr. Gearin is the .5 Athletic Director and the .5 Assistant Principal for Amesbury High School (hereinafter “AHS”) and has been employed by Amesbury for approximately 8 years. Elizabeth McAndrews (hereinafter “Ms. McAndrews”) is the Principal of AHS, and Danielle Ricci (hereinafter “Ms. Ricci”) is the full time Assistant Principal. (Interview of Mr. Gearin)
5. Luke Alley (hereinafter “Mr. Alley”) is the boys’ varsity soccer coach and a teacher at Amesbury Middle School. (Id.)
6. Ms. Liporto is the Director of Finance and Operations for the District and has held this position for three years. (Interview of Ms. Liporto)

7. Mr. Kenney is the Chief of Staff to Mayor Gray and reports directly to Mayor Gray. He is not an employee of the School. (See Exhibit 8)
8. Mr. Debuc is the Director of the IT Department for both the District and the City.  
(Interview of Mr. Debuc)

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**Issue No. 1. The events of 2016 at issue in the released emails, the budget votes of 2017 and 2019, all as outlined in greater detail in the April 10, April 29, and May 10, 2019 Newburyport News articles**

**i. Events of 2016**

9. In August 2016, [REDACTED] (a) [REDACTED] by the coach, Mr. Alley. Upon learning of [REDACTED] (a) [REDACTED], on August 27, 2016, Ms. Marinopoulos sent an email to Mr. Alley asking him to reconsider his decision [REDACTED] (a) [REDACTED]. She enumerated five reasons to support her request for reconsideration. (See Exhibit 16) The email was sent from Ms. Marinopoulos' personal email account, [REDACTED] (a) [REDACTED], to an email created by Mr. Alley for the team, [boysahssoccer@gmail.com](mailto:boysahssoccer@gmail.com). (Id.)
10. Mr. Alley shared the email with his supervisor, the Athletic Director, Mr. Gearin, and inquired as to whether he should revisit his decision because Ms. Marinopoulos was a SC member. (Interview of Mr. Gearin)
11. Mr. Gearin advised that if he, "followed the process and [REDACTED] (a) [REDACTED], then stick with it." Thereafter, Mr. Gearin forwarded the email to the then

Superintendent of Amesbury Schools, Gary Reese, and the AHS Principal, Ms.

McAndrews. (Id.)

12. Mr. Alley then sent a response to Ms. Marinopoulos on August 28, 2016, advising that he would not reconsider his decision and referring her to Mr. Gearin if she had any “further questions.” (See Exhibit 16)
13. Next, on August 29, 2016, Ms. Marinopoulos emailed Mr. Gearin requesting an opportunity to sit down with him to discuss her concerns regarding “recent cuts of players to the AHS Boys’ Soccer Team.” As with the email she sent to Mr. Alley, Ms. Marinopoulos sent this email from her personal email account. (See Exhibit 17)
14. Mr. Gearin agreed to meet with Ms. Marinopoulos, and he invited his assistant Steve Bastene (hereinafter “Mr. Bastene”) to attend. (Interview of Mr. Gearin)
15. Ms. Marinopoulos explained to Mr. Gearin that she thought the process employed by Mr. Alley in cutting players from the soccer team was unfair because the players were not notified in advance that there were going to be cuts and because there had never been cuts before. At the conclusion of the meeting, Mr. Gearin informed Ms. Marinopoulos that he would not disturb the decision of Mr. Alley and referred Ms. Marinopoulos to Ms. McAndrews if she had any additional concerns. (Interview of Ms. Marinopoulos)
16. Ms. Marinopoulos was pleased that Mr. Gearin agreed to meet with her but reports that the conversation “didn’t generate any positive movement going forward.” (Id.)
17. Ms. Marinopoulos then sent an email to Ms. McAndrews on September 7, 2016, to follow up on her meeting with Mr. Gearin and Mr. Bastene. The email, which was sent from Ms. Marinopoulos’ private email account, addressed “the recent cuts to the boys’

soccer team” and expressed her concern that their message “is completely juxtaposed to AHS' philosophy of the experience we want our students to have.” (See Exhibit 23)

18. On September 15, 2016, Ms. Marinopoulos met with Ms. McAndrews, and Mr. Gearin was present. Again, at the conclusion of the meeting, Ms. Marinopoulos was advised that Mr. Alley’s decision to [REDACTED] (a) [REDACTED] would not be changed.
19. After the meeting, Ms. Marinopoulos emailed Ms. McAndrews and told her that she felt she “misused her power” by inviting Mr. Gearin to the meeting and that she left the meeting “more concerned about the leadership at AHS than when I went in.” (Interview of Ms. Marinopoulos and Exhibit 23)
20. Next, Ms. Marinopoulos emailed former Superintendent Reese to report her dissatisfaction with her meetings with both Mr. Gearin and Ms. McAndrews. She explained that she felt both meetings were “threatening” and expressed concern about the leadership of the athletic program and how it is “lacking in transparency.” She also complained that the cuts from the boys’ soccer team were unnecessary and cruel. (See Exhibit 24)
21. From the tone of the emails to Mr. Gearin’s supervisors, it is apparent that Ms. Marinopoulos disapproved of Mr. Gearin and did not respect the Athletic Department at AHS. (See Exhibits 23 and 24)
22. After this exchange with Mr. Gearin and his supervisors, Ms. Marinopoulos began to send him emails complaining about or questioning Mr. Gearin’s authority and questioning Mr. Alley as a coach. (See Exhibit 18)

23. On October 25, 2016, Ms. Marinopoulos sent an email to Mr. Gearin regarding the boys' soccer team receiving red cards and questioned why he was giving "erroneous information" to parents and players. (Id.)
24. All of the emails sent to Mr. Gearin from Ms. Marinopoulos in the fall of 2016 were sent from her personal email account and were not copied to the Superintendent. (See Exhibit 14)
25. Next, on January 18, 2017, Ms. Marinopoulos sent an email to Mr. Gearin from her SC email account questioning the Athletic Department's budget. Again, Ms. Marinopoulos failed to copy the Superintendent on this email. (See Exhibit 19)
26. Ms. Marinopoulos also began to question Ms. Liporto about the Athletic Department budget. Notably, Ms. Marinopoulos did not question any other department's budget. Ms. Marinopoulos requested documentation to support the Athletic Department's expenses and budget for the preceding three years. Ms. Liporto found this very unusual, as no other SC member has ever asked for this information for any department. (Interview of Ms. Liporto)
27. Next, on January 23, 2017, Ms. Marinopoulos began to question the Athletic Department's "cut policy" and the Athletic Department handbook, when she sent an email to other members of the SC, Superintendent Reese and Mr. Gearin. Ms. Marinopoulos referred the cut policy to the SC member in charge of policy and the policy regarding athletes being cut from teams has changed. (See Exhibit 20 and interview of Ms. Marinopoulos)
28. During the process of considering the no cut policy, Mr. Gearin and Ms. McAndrews attended two meetings and originally voiced their opposition to a no cut policy, but



they ultimately agreed to a policy that put limits on the minimum number of players that can be on a team. (Id.)

29. Over a nineteen-month period beginning in March 2017, Ms. Marinopoulos sent the following emails to Mr. Gearin from her SC email account: March 7, 2017 – questioning the Athletic Department budget as well as questions regarding uniforms; November 6, 2017 - questions concerning “Scoreboard Repairs and Uniform Inventory Request”; November 26, 2017 - questions about “Additional Uniforms” and an inquiry about Title IX; December 19, 2017 - questions regarding “Cheerleading Practice Space”; September 5, 2018 - more questions about “Additional Uniforms”; and October 8, 2018 - requesting an “Itemized Athletic Budget,” and lastly, a request about “JJIB and athletic participation” (8<sup>th</sup> graders and Sparhawk’s students participating on AHS sports teams.) (See Exhibit 5)
30. Additionally, she sent emails to Mr. Gearin from her personal email account regarding the cancellation of the fall sports night in June of 2017 and 2018 and, on October 1, 2017, questions about “Seniors on JV team.” (See Exhibit 15)
31. No other SC member initiated nearly as many email communications with Mr. Gearin as Ms. Marinopoulos did. Mr. Gearin explains that one other member emailed him on a couple of occasions, but that was nothing compared to the number of emails Ms. Marinopoulos sent him. As a result, Mr. Gearin felt harassed and reported this to former Superintendent Reese. (Interview of Mr. Gearin)
32. There is a SC policy that provides, “All official communications, policies, and directive of staff interest and concern will be communicated to staff members through the superintendent.” (See Exhibit 10)

33. A separate SC policy provides that, “No member of the Committee...shall exercise any administrative responsibility with respect to the schools...” (See Exhibit 11)
34. Ms. Marinopoulos admits that she was aware of these SC policies while she was a member of the SC and believes that she carbon copied the Superintendent whenever she emailed Mr. Gearin. (Interview of Ms. Marinopoulos)
35. In fact, only one email sent from Ms. Marinopoulos’ personal email account, the email dated March 10, 2016, included a carbon copy to the Superintendent, and only some of the emails sent from her SC account included a carbon copy to the Superintendent.

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**ii. Budget votes of 2017**

36. As reported in the April 29, 2019 article in the Newburyport Daily News, on April 3, 2017, when the SC was voting on the District budget, Ms. Marinopoulos expressed her interest in adding a therapeutic program to the AHS budget at a cost of \$58,000. At the same meeting, SC member Debra LaValley followed by making a motion, which was seconded by Ms. Marinopoulos, to eliminate the .5 Assistant High School Principal and the .5 Athletic Director position, then filled by Mr. Gearin, and to add a full-time Athletic Director position at a substantially lower salary. In doing so, there would be money available to fund the therapeutic program. The SC rejected the motion by a vote of five to two. (See Exhibits 2 and 7)
37. Had the SC not rejected the motion, Mr. Gearin would have suffered a reduction in pay even had he been appointed to the position of full-time Athletic Director because the proposed salary for the full-time Athletic Director position paid

substantially less than what he was earning as the .5 Athletic Director and .5 Assistant Principal. (Interview of Mr. Gearin)

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**iii. Budget votes of 2019**

38. On April 8, 2019, Ms. Marinopoulos proposed that the SC eliminate the .5 Assistant Principal position and create a stand-alone .5 Athletic Director position. In support of her proposal, Ms. Marinopoulos presented data regarding the number of Assistant Principals in each school in surrounding communities. (See Exhibits 12 and 21)
39. In expressing opposition to Ms. Marinopoulos' proposal, Ms. McAndrews informed the SC that some of the data proffered by Ms. Marinopoulos was incomplete and, in some instances, incorrect. (Id.)
40. Ms. Marinopoulos then made a motion, which was seconded by Mr. Chamberlain, to eliminate the .5 Assistant Principal and create a stand-alone .5 Athletic Director at a salary of \$50,000, plus health insurance and other benefits totaling approximately \$71,000. This would decrease the AHS Principal line from \$327,630 to \$272,274 for a difference of \$55,256. The SC voted four to three in favor of the motion. (See Exhibit 12 and 21)
41. Ms. Marinopoulos explains that she was not targeting Mr. Gearin but instead seeking a reduction in the administrative staff at the high school. Moreover, she claims that the change could have resulted in either Mr. Gearin's or Assistant Principal Danielle Ricci's (hereinafter "Ms. Ricci") position being eliminated. (Interview of Ms. Marinopoulos)

42. Mayor Gray disputes this claim and believes that Ms. Marinopoulos was specifically targeting Mr. Gearin. He explains that Ms. Ricci was employed as a full-time Assistant Principal and Mr. Gearin was the only “half-time assistant principal.” Moreover, he indicates that the amount of savings suggested by Ms. Marinopoulos matched exactly the salary of Mr. Gearin and differed from that of Ms. Ricci. (See Exhibit 7)
43. Ms. Marinopoulos resigned the day following the successful vote to eliminate the .5 Assistant Principal position. (Id.)
44. Mr. Gearin was devastated by the news that the vote passed and believed that Ms. Marinopoulos moved to eliminate his position. He was convinced that he was being unfairly targeted by Ms. Marinopoulos for [REDACTED] (a) [REDACTED] (a). He had previously expressed his concern that he was being targeted by Ms. Marinopoulos to then Superintendent Reese, who agreed that Ms. Marinopoulos should not be emailing him directly and should be reporting any concerns she may have with Mr. Gearin and/or the Athletic Department to him. (Interview of Mr. Gearin)
45. Although he wanted to file a harassment complaint against Ms. Marinopoulos, Mr. Gearin did not. He explains that he felt like he needed to act like a “big boy” and handle the situation, “never expecting it would come to this.” (Interview of Mr. Gearin)
46. Mr. Gearin also reported his concerns with Ms. Marinopoulos and the fact that she was harassing him and targeting his job to his colleague, Mr. Kenney. (Interviews of Mr. Kenney and Mr. Gearin.)

47. Subsequently, on May 6, 2019, Mayor Gray successfully moved the SC to approve the AHS budget in the amount of \$4,803,225, which included the \$55,256 necessary to retain the .5 Assistant Principal position that was removed in the April 8, 2019 vote. (See Exhibits 12 and 22)

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#### **iv. The three newspaper articles**

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48. The three newspaper articles in the Newburyport Daily News, dated April 10, April 29, and May 10, 2019, report on the relationship between Ms. Marinopoulos and Mr. Gearin and the budget votes of 2017 and 2019. (See Exhibits 1, 2, and 3)

49. The April 10, 2019 article addresses Ms. Marinopoulos' abrupt resignation on April 9, 2019, the elimination of the .5 Assistant Principal position, and the creation of a stand-alone .5 Athletic Director position for a savings of \$55,257. (See Exhibit 1)

50. The next article, dated April 29, 2019, quotes numerous emails from Ms. Marinopoulos questioning Mr. Gearin about the soccer team and the Athletic Department, beginning with an email wherein Ms. Marinopoulos appeals to Mr. Gearin to [REDACTED] (a)

[REDACTED]. (See Exhibit 2)

51. When Mr. Gearin refuses to [REDACTED] (a), the article cites specific emails between Ms. Marinopoulos and Mr. Gearin and suggests that they “illustrate a history of conflict” between the two. (See Exhibit 14 and Exhibit 2)

52. The May 10, 2019 article addresses Mayor Gray's request to review the budget, based on information released in the April 29, 2019 article, and again mentions the emails

referenced in the April 29, 2019 article and the “history of conflict” with Ms.

Marinopoulos questioning Mr. Gearin’s decisions as Athletic Director. (See Exhibit 3)

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**B. The actions, if any, taken by School District personnel, including School Committee members, in response to any FOIA requests received by the District related to Ms. Marinopoulos which are referenced in the Newburyport News articles**

53. On April 11, 2019, Ms. Liporto received an email from Mr. Lodge requesting “access to and a copy of all emails or other written correspondence sent any time in the period from July 1, 2016, through April 11, 2019, to or from Ms. Marinopoulos and any of these individuals: AHS assistant principal Glen Gearin, AHS Principal Elizabeth McAndrews, and coach Luke Alley.” (See Exhibit 6)
54. In response, Ms. Liporto reached out to Mr. Dubuc, the Director of Information Technology for District, and requested that he retrieve the requested records. (Interview of Ms. Liporto)
55. Mr. Debuc provided Ms. Liporto with the responsive documents later that day. (See Exhibit 5)
56. In performing his search for the records, Mr. Debuc inputted the last names of the individuals identified in the Freedom of Information Act (hereinafter “FOIA”) request that were to be searched, i.e. “Marinopoulos,” “McAndrews,” “Gearin,” and “Alley”, into a search engine and was able to capture all of the emails stored on the District’s computer system that were sent between Ms. Marinopoulos and the individuals. (Interview of Mr. Debuc)

57. Particular to Ms. Marinopoulos, Mr. Debuc's search retrieved emails sent and received on Ms. Marinopoulos' SC email account as well as emails sent to any of other identified individuals from her personal email account, [REDACTED] (a) (hereinafter "Ms. Marinopoulos's personal email") after 2016. (See Exhibit 5 and interview of Ms. Marinopoulos)
58. Mr. Debuc was also able to determine that no one else conducted a search of the server for the emails of Ms. Marinopoulos and Mr. Gearin, Ms. McAndrews, or Mr. Alley. (Interview of Mr. Debuc)
59. The first email located in the search was dated November 3, 2016 and was sent from Ms. Marinopoulos' SC email account. (See Exhibit 5)
60. Notably, the emails that Ms. Marinopoulos sent from her personal email account in 2016 to Mr. Gearin and Mr. Alley that related to the boys' soccer team were not uncovered during Mr. Debuc's search. He opines that this was due to a change in the email layout associated with Ms. Marinopoulos' personal email account which didn't display her last name in the email header until 2017, when her personal email account header displayed as "Robert Marinopoulos." This explanation makes sense when comparing the header on the 2016 emails from Ms. Marinopoulos' personal email account to the 2017 emails. (See Exhibit 5 and interview of Mr. Debuc)
61. Only two emails were sent from Ms. Marinopoulos' personal email account to Mr. Gearin from 2017-2019. These emails addressed the cancelation of a fall sports meeting and whether senior athletes can play on junior varsity. (See Exhibit 5 and interview of Ms. Marinopoulos)

62. Upon receiving the FOIA request, Ms. Liporto notified Ms. McAndrews and Mr. Gearin that they were named in the FOIA request, as she believed it was the right thing to do. (Interview of Ms. Liporto)
63. Before authorizing the search for the records requested in the FOIA request, Ms. Liporto contacted Superintendent Fulgoni to confirm his position on the release of the records. Superintendent Fulgoni ordered the release of the records but cautioned Ms. Liporto to make sure that she redacted any information relating to students' names/information. (Interview of Superintendent Fulgoni)
64. Prior to releasing the records, Ms. Liporto reviewed the documents three times to make sure that no student names/information were released. (Interview of Ms. Liporto)
65. On April 18, 2019, Ms. Liporto explains that she attempted to send the documents to Mr. Lodge but had technical difficulty, so she asked Mr. Debuc to send them, and he agreed. (Id.)
66. Once received, Mr. Lodge could not open the files because they were in ".pst" format and he did not have the program required to open such files. (See Exhibit 6)
67. Ultimately, Ms. Liporto printed the documents, and James Sullivan from Mr. Lodge's office came to her office and retrieved them. (See Exhibit 5)
68. Ms. Marinopoulos called Ms. Liporto on April 30, 2019 and asked for the documents produced in response to the FOIA request, and on May 1, 2019, Ms. Liporto sent her the documents. (See Exhibit 5 and interview of Ms. Liporto)



69. None of the emails produced by Ms. Liporto included Ms. Marinopoulos' emails to Mr. Gearin about [REDACTED] (a), or the red cards issued to soccer players that were addressed in the Newburyport Daily News article. (See Exhibit 5)
70. The only document produced to the Newburyport Daily News by Mayor Gray regarding this matter was Ms. Marinopoulos' letter of resignation. (Interview of Mayor Gray and Exhibit 7)
71. Mr. Kenney produced emails to the Newburyport Daily News although as confirmed by Mayor Gray, Mr. Kenney is not a School District employee or a member of the School Committee. He was acting in his capacity as the Chief of Staff for the City when he produced the emails. (Interviews of Mayor Gray and Mr. Kenney.)

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**C. Whether School District personnel, including School Committee members, released the emails referenced in the Newburyport News articles.**

72. The Newburyport Daily News ran an article on April 29, 2019 and referenced specific emails between Ms. Marinopoulos and Mr. Gearin. These included emails dated March 10, 2016, August 27, 2016, August 29, 2016 and October 26 -27, 2016, all of which were sent from Ms. Marinopoulos' personal email account. (See Exhibit 14 and Exhibit 2)
73. These emails were all produced by Mr. Kenney in his capacity as the Chief of Staff. (Interviews of Mayor Gray and Mr. Kenney and Exhibits 8 and 14.)
74. The email of March 10, 2016 was not produced by Ms. Liporto because it was outside the time frame referenced in the FOIA request by the Newburyport Daily News. (See Exhibit 6) In addition, the email dated August 27, 2016 was not produced by Ms.

Liporto, as it was not uncovered during Mr. Debuc's search because it was sent only to the email account "[boysahssoccer@gmail.com](mailto:boysahssoccer@gmail.com)," an account created by Mr. Alley specifically for the boys' soccer team, and not to any of individuals identified in the FOIA request. (See Exhibit 16 and interview of Mr. Debuc)

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75. Mr. Kenney claims that he produced these emails in response to a telephonic request made by a reporter for the Newburyport Daily News, who sought all emails from 2016 by and between Ms. Marinopoulos and AHS Athletic Department employees. Mr. Kenney explains that he deemed the request to be a FOIA request and he produced all of the emails within his custody that were responsive to this request. (See Exhibit 8 and interview of Mr. Kenney)

76. Mr. Lodge confirms that he received documents from the Mayor's office in response to a FOIA request and "believes they were redacted." (Interview of Mr. Lodge)

77. Mr. Kenney explains that he produced the records based on his understanding of "the Public Records Law (and of my obligations, as a public employee, to comply with the law's mandatory disclosure requirements)," and because "the records in question were informative as to whether Ms. Marinopoulos was carrying out her duties as a School Committee member in a law-abiding manner, it was my opinion that the public's "right to know" significantly outweighed the public official's privacy.<sup>1</sup>" (See Exhibit 8)

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<sup>1</sup> Whether Mr. Kenney produced the records in compliance with the FOIA is beyond the scope of this investigation.

78. Mr. Kenney asserts that he redacted what he believed to be all confidential information, specifically that relating to (a) (See Exhibit 8 and Interview of Mr. Kenney.)
79. Mr. Kenney asserts that he had received the emails that he produced from an individual, who he would not identify because the individual was “seeking and asserting status as a ‘whistleblower’ under G.L. c. 149 , §185,” after the School Committee voted to eliminate funding for the Assistant Principal/Athletic Director position at Amesbury High School. (See Exhibit 8)
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80. Mr. Kenney claims that this individual believes that “Ms. Marinopoulos had repeatedly used her position as a School Committee member to target Mr. Gearin because of his refusal to grant her request to reverse a coach's decision to (a) (a) ” He claims that the whistleblower provided him with copies of emails because they contained evidence that would substantiate his accusations against Ms. Marinopoulos. (Id.)
81. When first receiving the emails, Mr. Kenney alleges that he reviewed them for two purposes: “the first being whether any possible ethics violations may have been committed, and the second being whether Ms. Marinopoulos' actions may have exposed the City to financial liability, such as a lawsuit for wrongful termination.” (Id.)
82. Mr. Kenney claims that he provided the emails to the Newburyport Daily News while the Mayor was out of the office and did not inform the Mayor of the request nor his response to it. (See Exhibit 8)

83. Mayor Gray “has no concerns” with the actions that Mr. Kenney took regarding the production of the emails to the media and Mr. Kenney was never disciplined for doing so. (Interviews of Mayor Gray and Mr. Kenney.)
84. Mr. Gearin admits that he provided a copy of the emails exchanged between Mr. Alley and Ms. Marinopoulos on August 27, 2016, to Mr. Kenney during April vacation in 2019. He explains that he did so in response to the SC vote on April 8, 2019, to eliminate his position based on Ms. Marinopoulos’ motion, as after consulting with his sister-in-law, who is an attorney, he believed that he was being targeted by Ms. Marinopoulos for not requiring Mr. Alley to (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z) (aa) (ab) (ac) (ad) (ae) (af) (ag) (ah) (ai) (aj) (ak) (al) (am) (an) (ao) (ap) (aq) (ar) (as) (at) (au) (av) (aw) (ax) (ay) (az) (ba) (bb) (bc) (bd) (be) (bf) (bg) (bh) (bi) (bj) (bk) (bl) (bm) (bn) (bo) (bp) (bq) (br) (bs) (bt) (bu) (bv) (bw) (bx) (by) (bz) (ca) (cb) (cc) (cd) (ce) (cf) (cg) (ch) (ci) (cj) (ck) (cl) (cm) (cn) (co) (cp) (cq) (cr) (cs) (ct) (cu) (cv) (cw) (cx) (cy) (cz) (da) (db) (dc) (dd) (de) (df) (dg) (dh) (di) (dj) (dk) (dl) (dm) (dn) (do) (dp) (dq) (dr) (ds) (dt) (du) (dv) (dw) (dx) (dy) (dz) (ea) (eb) (ec) (ed) (ee) (ef) (eg) (eh) (ei) (ej) (ek) (el) (em) (en) (eo) (ep) (eq) (er) 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85. Mr. Gearin denies producing any documents or records to the Newburyport Daily News and only produced this one document to Mr. Kenney. (Interview of Mr. Gearin)
86. The article also referenced other emails without citing the specific dates that the emails were sent. The article reported generally that the emails were sent between 2017-2019. (See Exhibit 2)
87. These emails were produced as part of the FOIA request production sent by Ms. Liporto to the Newburyport Daily News in response to the FOIA request. These emails addressed issues such as the Athletic Department’s budget, athletic uniforms and equipment, scoreboards, a “no cut” athletic policy, additional Uniforms, cancellation of the spring and fall sports nights, Title IX, eighth-grade athletic waivers, and the school's co-op program with Sparhawk School. (See Exhibit 5)

## VI. CONCLUSIONS

The events of 2016 at issue in the released emails, the budget votes of 2017 and 2019, all as outlined in greater detail in the April 10, April 29, and May 10, 2019 Newburyport Daily News articles;

After [REDACTED] (a) [REDACTED] by Mr. Alley, she sought to have Mr. Alley reconsider his decision, and when he refused, she then sought to have Mr. Gearin overturn Mr. Alley's decision and [REDACTED] (a) [REDACTED]. When Mr. Gearin refused, Ms. Marinopoulos began to target the decisions and actions of the Athletic Department through email communications with Mr. Gearin. Up until this time, Ms. Marinopoulos had been on the SC for eight months and had only sent one email to Mr. Gearin, in which she expressed concern about how he handled himself in front of parents at a sports meeting. Beginning in the fall of 2016, after Mr. Gearin refused to overturn Mr. Alley's decision to [REDACTED] (a) [REDACTED], Ms. Marinopoulos sent numerous emails to Mr. Gearin challenging his decisions as Athletic Director and questioning his performance. I find that there appears to be a nexus between the significant increase in critical emails sent by Ms. Marinopoulos to Mr. Gearin following the decision by Mr. Gearin not to require Mr. Alley to [REDACTED] (a) [REDACTED].

It is undisputed that Ms. Marinopoulos was upset that [REDACTED] (a) [REDACTED] and upset with the way Mr. Alley, Mr. Gearin, and Ms. McAndrews handled the matter. She accused them of not being transparent and described the cuts to the soccer team as "cruel" and "unnecessary." Within one month of her meeting with the AHS administration regarding her concerns, Ms. Marinopoulos began to focus an inordinate amount of time on scrutinizing the Athletic Department, including its handling of certain issues as well as its budget. Of concern

is that the only department from whom Ms. Marinopoulos requested financial records or whose policies and handbook she questioned was the Athletic Department.

In addition, Ms. Marinopoulos' use of her personal email account to send emails to Mr. Gearin and sending emails from her SC account without copying the Superintendent, in contravention of the SC policies that provide that all "official communications, policies, and directive of staff interest and concern will be communicated to staff members through the superintendent" and "No member of the Committee...shall exercise any administrative responsibility with respect to the schools," of which she was well aware, raises questions about her motives. The emails directly about (a) would likely not be covered by these SC policies, as she sent them in her capacity as (a) and not as a SC member. The emails relating to Mr. Alley and the red cards for the players, when (a), and other emails that she sent in 2017-2018 clearly were done in her capacity as a SC member and (a) and should have gone through the Superintendent.

Moreover, I question Ms. Marinopoulos' claim that she was not targeting Mr. Gearin's position when she voted to eliminate an Assistant Principal position in 2017 and when she moved to eliminate the .5 Assistant Principal position and create a stand-alone .5 Athletic Director position in 2019, and I find that she was in fact targeting Mr. Gearin, who was the only .5 Assistant Principal.

The actions, if any, taken by School District personnel, including School Committee members, in response to any FOIA requests received by the District related to Ms. Marinopoulos which are referenced in the Newburyport Daily News articles;

I find that the School District personnel properly responded to Mr. Lodge's April 11, 2019 FOIA request by searching the computer for the names provided and then searching the responsive documents to see if any information needed to be redacted from the documents that were produced.

Whether School District personnel, including School Committee members, released the emails referenced in the Newburyport News articles;

I find that the emails released by the School personnel, Ms. Liporto in particular, did not include any of the emails identified in the newspaper article that disclosed any personal information about Ms. Marinopoulos' family members. The emails produced by School District personnel were all related to official school business and were referenced generically in the article as relating to the Athletic Department's budget, athletic uniforms and equipment, scoreboards, a "no cut" athletic policy, cancellation of the spring and fall sports nights, Title IX, eighth-grade athletic waivers, and the school's co-op program with the Sparhawk School.

The emails specifically relating to (a) were released by Mr. Kenney, who is not employed by the School District and not a member of the SC. Mr. Kenney produced the emails in his capacity as the Chief of Staff to Mayor Gray. Although this investigation does not conclude whether the release of the emails was done in compliance with all applicable laws, rules and policies, Mr. Kenney offered a reasoned analysis of the public records law to this investigator explaining why he produced the information that he did to the Newburyport Daily News. Specifically, Mr. Kenney asserts that he balanced the public's right to know about the communications between Ms. Marinopoulos and members of the Athletic Department against Ms. Marinopoulos' privacy interest as a

public official and he concluded that the public had a right to know. That being said, Mr. Kenney also represents that he considered the privacy interests of [REDACTED] (a) and redacted what he believed was all confidential information relating to [REDACTED] (a).

If I may provide you with any additional information, please feel free to contact me.

Very truly yours,

*Regina M. Ryan*

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