

To: Laurie Kash Ph.D., State Director of Special Education

From: Justin Porter Ed.D., Executive Director of Special Populations

RE: Letter of Reprimand

Date: November 3, 2017

Dr. Kash,

This letter of reprimand is being issued pursuant to TEA OP 07-08, Section 8 due to your inadequate job performance and conduct that negatively impacts TEA (subsections (a)(l) and (a) (4) (p)).

The job description for the position for which you applied and were selected lists the following as an essential function of your job:

Supports the agency's and division's mission and objectives by appropriately and professionally collaborating, supporting and communicating with agency staff, special education contacts, local directors of special education, professional organizations, education service centers, school districts, parents and community members.

Over the past several weeks, there have been multiple instances in which you have failed to meet this expectation. Some examples are included below.

1. Inappropriate Conduct

On October 6, 2017, a subcontractor of the agency reported that you had accused Penny Schwinn, Chief Deputy Commissioner of Academics, of awarding a soul source contract to a presumed friend of hers in order to funnel federal IDEA funds to the friend. You had discussed your concerns about this with me the day before, and I told you that was a serious allegation and that I disagreed. In addition, I said that I saw the IEP analysis as crucial to our overall needs assessment and that SPEDx was the only company in the market able to produce such an analysis.

If you believe that the contract was awarded improperly, you have the option of reporting the allegations through appropriate channels, such as the agency's internal auditor or the State Auditor's Office. However, it is not appropriate to make an allegation of illegal or unethical conduct to a vendor, in particular when the allegation is unsubstantiated and so easily proven as false. This is a very serious allegation. It could potentially damage the reputation of the Chief Deputy Commissioner and negatively impact the work of the agency, even though it has no basis in fact.

2. Inappropriate Communications

It was reported that you publicly criticized TEA's decision to engage in an analysis of Individualized Education Program (IEP) data in a meeting with Educational Service Center Directors of Special Education on October 24, 2017. You informed me that you candidly expressed your personal opinions to the group, including that the project had "gotten off on the wrong foot" and "could have been launched more effectively." Further, your words were understood by some in attendance as criticism of the decisions made by TEA and the project as a whole. There was concern expressed to me by some of those in attendance that you were criticizing the agency, the initiatives you are responsible for as part of your assigned duties, and agency team members and staff.

When representing the agency as the State Director of Special Education, it is your responsibility to represent the positions of the agency, not your personal preferences or opinions. Your role explicitly includes the charge to support the agency's mission and objectives. Speaking disparagingly about an initiative, or the staff members who helped to realize that work, is in direct conflict with your role. This is especially true when speaking to partners, agency staff, and ESC staff who are charged with executing on that same work. Demonstrating a lack of support for or alignment to the priorities and initiatives of the agency weakens the effectiveness of the work.

3. Inappropriate Disclosure of Data

During the week of October 16, 2017, you represented TEA at the National Association of State Directors of Special Education Conference in Portland, Oregon. At this conference, you openly discussed data from a Louisiana data analysis report that had been shared with you in confidence by the vendor. Department of Education leadership from two other states expressed concern to TEA regarding your conduct in disclosing data from the Louisiana report. In an attempt to rebuild trust and repair state-level relationships that were negatively impacted by this incident, it is likely that TEA will issue formal apologies to both states directly related to your behavior. In your role as the State Director of Special Education, it is not appropriate to discuss publicly information of this nature which was shared with you in confidence. In this instance, your behavior reflected a lack of professional judgment and discretion.

In addition, you acknowledged that during the conference you spoke disparagingly, in an open setting, of TEA leadership staff and of the decision made by TEA to engage in an analysis of data contained in IEP documentation. As discussed above, when representing the agency as the State Director of Special Education, it is not appropriate to criticize publicly the programs or initiatives of the agency.

4. Additional Examples

There have been multiple examples of both internal and external stakeholders voicing concern over comments that you have made about the agency, agency leadership, and your colleagues. The feedback has indicated discomfort with your comments and some offense to the characterization of the agency's intentions or staff. In short, multiple people have observed you expressing opinions that are critical of the agency's programs and initiatives (even concerning efforts which you are charged with promoting and leading). This is problematic because it conflicts with the responsibilities of your job, and in particular because some of your comments have been inaccurate, unfounded, or inappropriate.

Prior Feedback

On multiple occasions, I have provided you with feedback regarding professionalism and the appropriateness of your interactions with both internal and external stakeholders. Specifically, I have made it clear that in the context of your role as State Director of Special Education, you do not have latitude to discuss negative opinions regarding agency policies, practices, or decisions. You may do so privately with me, in a solutions-oriented manner, and as a way to produce the best possible outcome for the goals outlined in the agency's priorities, initiatives, and responsibilities.

In addition, if you disagree with me, you have the option of raising your concerns through the chain of command in accordance with agency operating procedures.

Performance Expectations

Until further notice, you are not to engage with external stakeholders, including but not limited to LEA and ESC staff, professional or parent organizations, and other states' officials, in person or on the telephone unless I am physically present. This is so that I can provide you with additional coaching and counseling regarding appropriate communications. Written communication with external stakeholders must be through your TEA email account and I must be copied on all such communications. Should you receive text messages from stakeholders with whom you have shared your personal mobile number, you are only to respond using your agency email account (again, with me copied).

You are expected to improve your performance immediately by complying with the following directives:

- When you are acting pursuant to your official duties, your communications must be in alignment with and support agency policies, programs, and initiatives. Your communications must be appropriate, professional, and accurate 100% of the time.
- Provide at least one actionable, reasonable solution for every complaint or concern that you bring to your manager.
- When interacting with a vendor, provide concrete, measurable/quantifiable, and timebound feedback on the deliverable.
- Refrain from disclosing confidential information or information that was communicated to you in confidence (unless disclosure is otherwise required by law).

There is an overall expectation that you will conduct yourself in a professional manner when acting as a representative of TEA in any setting, or in any instances in which stakeholders are engaging with you because of your position with TEA.

Failure to meet the expectations set forth in this letter may result in further disciplinary action up to and including termination.

Please note that these directives are not intended to prohibit the reporting of conduct which you believe to be illegal or unethical. Such conduct may be reported through your chain of command or to appropriate authorities.

In addition to our regularly scheduled meetings, we will meet in two weeks' time to review your progress toward improving your performance in this critical aspect of your job. I am here to help support you in any way I can and am happy to meet more often if that would be helpful.

You were selected for this position due to your knowledge of special education, your alignment with the Office of Academics and Department of Special Populations student-first philosophy, and your openness to new ideas. I continue to be optimistic about your future success in this role and encourage you to: (1) operate with a sense of possibility and solutions-oriented approach in all situations; (2) consider your comments and the context in which you provide them before speaking in your official role; (3) be open to ideas that are not your own and accept and support agency decisions that were made prior to your arrival, and moving forward; and (4) reflect upon the responsibilities and opportunities that come with serving in a state-level role that may be significantly different than a district-level role. Should you have any concerns, I remain open to hearing them and providing you with timely feedback, as needed.

I believe that our team can have a tremendous impact on the over 5 million students in public schools, and that you can be a critical part of that work. I am here to support you in Texas any way that I can going forward.

Respectfully,



Justin Porter Ed.D.

Executive Director, Special Populations

Please sign and date below to acknowledge receipt:

Laurie Kash Ph.D.
State Director of Special Education

Date: _____