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## MEMORANDUM

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**TO:** Shayna van Hoften, Interim General Counsel

**FROM:** Timothy L. Reed

**DATE:** October 22, 2024

**SUBJECT:** Condensed Executive Summary – Michael Hursh Investigation<sup>1</sup>  
*Confidential Attorney-Client Privileged Communication*

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On or about March 20, 2024, Alameda-Contra Costa Transit District (the “District”) Interim General Counsel Shayna van Hoften retained me to conduct an independent, attorney-client privileged investigation into allegations made by General Manager Michael Hursh that Director Sarah Syed (1) engaged in bullying and disrespectful conduct toward him and (2) improperly interfered with his ability to conduct his duties as General Manager. Mr. Hursh’s complaints and allegations were set forth in (1) a March 15, 2024 email from Mr. Hursh to Board President Joel Young and (2) a March 28, 2024 memorandum provided to me by Mr. Hursh.<sup>2</sup>

As part of my investigation, I interviewed Mr. Hursh, Director Syed, and two staff-level witnesses. I also reviewed the documents discussed in Mr. Hursh’s complaint email and memorandum, as described above; various notes provided by Director Syed; pertinent District policies; minutes from, and video of, applicable Board meetings; information from the District’s website concerning Realign; Director Syed’s “Report on Broadway Bus Service Detours”; Mr. Hursh’s New Board Member Orientation Binder; and various emails and other communications involving Mr. Hursh, Director Syed, and others.

Based on my witness interviews and review of the documents and information above, I cannot substantiate that there were any violations of Board Policy No. 201, Anti-Bullying and Prevention of Abusive Conduct. However, the preponderance of evidence establishes that in violation of Board Policy Nos. 101 and 702.

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<sup>1</sup> This Condensed Executive Summary is a general summary of my findings. Based on the witnesses involved in this investigation, I was unable to redact my Executive Summary in such a way that relevant individuals would be made anonymous. Accordingly, I have prepared this Condensed Executive Summary.

<sup>2</sup> The scope of my investigation was limited to the concerns raised by Mr. Hursh in the March 15, 2024 email and March 28, 2024 memorandum.

**CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED COMMUNICATION**

With respect to “conduct toward staff,” Board Policy No. 702 states the following, in pertinent part: “Board members, unless authorized by the Board, shall not individually direct the work of Board Officers or staff, or attempt to influence the content of reports from Board Officers or staff.”<sup>3</sup> Board Policy No. 101 states the following in pertinent part: “Except for inquiry purposes, the Board of Directors and individual Boardmembers shall deal with District employees solely through the Board Officer (General Manager, General Counsel or District Secretary) having supervisory responsibility over individual employees. The Board or individual Boardmembers shall not give orders to any District employee under the jurisdiction of an Officer . . .”<sup>4</sup>

The preponderance of evidence establishes that Director Syed engaged in direct communication with staff that could have been interpreted as direction of their work or as attempting to influence the content of their reports. According to witnesses, there have been instances where Director Syed has reached out to staff in such a way that her communications may have been interpreted as directing their work. Further, email communication reflects that Director Syed requested that staff make changes to materials used to provide information regarding District concerns. In light of Director Syed’s role within the District relative to that of staff, certain requests made by her could reasonably be construed as orders instead of asks.

Based on Director’s Syed’s communications with staff in violation of Board Policy Nos. 101 and 702, I recommend the following:

1. That Director Syed and other Directors undergo governance training that addresses relevant issues, including the role of the Board with respect to policy issues, as opposed to operational ones. Also, Board Policy Nos. 101 and 702 should be covered in any such training;<sup>5</sup> and
2. That it be reiterated to Directors that they should not direct or attempt to influence the reports of Board Officers or staff, and that communications with staff should go through the General Manager to avoid any potential direction or influence of staff.

The above approach is consistent with Mr. Hursh’s desired outcome that Director Syed become “an effective Board member.”

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<sup>3</sup> See Board Policy No. 702, § VI.J.

<sup>4</sup> See Board Policy No. 101, § 3.7.

<sup>5</sup> My understanding from Ms. van Hoften and Director Syed is that there have been at least two governance trainings since the commencement of my investigation. To the extent that such training is shown to be ineffective in addressing potential policy violations, other potential options should be considered.