



The Senate of the State of Texas

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Senator Eliot Shapleigh
District 29

MAIN DISTRICT OFFICE:
800 Wyoming Ave., Suite A
El Paso, Texas 79902
915/544-1990
Fax: 915/544-1998

EASTSIDE DISTRICT OFFICE:
1801 N. Zaragosa, Suite C
El Paso, Texas 79936
915/857-4800
Fax: 915/857-4854

CAPITOL OFFICE:
P.O. Box 12068
Austin, Texas 78711
512/463-0129
Fax: 512/463-0218
Dial 711 For Relay Calls
e-mail: eliot.shapleigh@senate.state.tx.us

May 19, 2010

Secretary Arne Duncan
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

VIA U.S. POSTAL SERVICE

RE: Los Desaparecidos/El Paso Independent School District

Dear Secretary Duncan:

My name is Eliot Shapleigh. I am the state Senator for El Paso, Texas. For over six generations, my family has proudly called "la frontera" our home.

Recently, after receiving complaints from teachers, administrators, and data personnel at the El Paso Independent School District (EPISD), we investigated reports that students were being "disappeared" at Bowie High School—the iconic Mexican American high school in El Paso.

In support of this investigation, we enclose the following documents:

- Letter to Superintendent Garcia (May 18, 2010);
- Internal staff memo on Bowie High School enrollment (Equipo Bowie, Jan. 7, 2010);
- Equipo Bowie MOU; and
- Avoidable Losses, Center for Education, Rice University.

It is a frightening prospect when a superintendent can "disappear" 55 percent of an entering class from a Mexican American high school feeder pattern. In order to avoid testing this cohort during their sophomore year, Superintendent Garcia selectively "disappeared" half of the 2007 entering class at Bowie High School. 214 (mostly from the bottom half of the class) of 381 students in the 2007 entering class were transferred, deported, sent to charter schools, held back in 9th grade, or promoted to the 11th grade.



Clearly, the motivation was to avoid the sanctions, publicity, and enforcement actions under phase four of the *No Child Left Behind Act*. If this model is to become the education model of Texas, then we believe the damage inflicted on students of color, particularly Mexican American students with limited English proficiency, will be profound. Accordingly, we ask you to investigate the facts presented in this letter and take action as soon as possible.

I have asked Sushma Smith on my staff to follow up with you in the coming weeks. You may contact her at (512) 463-0129 or sushma.smith@senate.state.tx.us. We look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink that reads "Eliot Shapleigh". The signature is written in a cursive, slightly slanted style.

Eliot Shapleigh

ES/sjs

cc: Deputy Secretary Anthony W. Miller, Region VI Director Taylor D. August

Enclosures: May 18, 2010 letter to EPISD Superintendent Garcia; internal memo on Bowie High School enrollment (Equipo Bowie, Jan. 7, 2010); Equipo Bowie MOU; and Avoidable Losses.



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El Paso, Texas 79902
915/544-1990
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1801 N. Zaragosa, Suite C
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e-mail: eliot.shapleigh@senate.state.tx.us

Dr. Lorenzo Garcia
Superintendent
El Paso Independent School District
6531 Boeing Drive
El Paso, Texas 79925

VIA U.S. MAIL

RE: El Paso Independent School District/June Tax Increase

Dear Dr. Garcia:

In recent months, you have promoted Bowie High School as a "model of student success." On April 21, 2010, at the State of the District luncheon, you stated, "[i]t's not by accident that the test scores are up [at Bowie High School]; it's by design." Here is my response to the "Bowie Miracle" that you now tout.

As you know, with the Texas Education Agency (TEA), Texas Higher Education Coordinating Board (THECB), El Paso Independent School District (EPISD) and dozens of community leaders, we launched "Equipo Bowie" to analyze, innovate and implement systemic reform at Bowie (Exhibit A). Instead, you instituted the "Bowie Miracle" that is described in detail below. We made clear our disagreement with your tactics on Bowie, public corruption and other issues in face-to-face meetings. In our office, we consider your tactics in "disappearing" 214 students from the 2007 entering Freshman Class to be one of the most egregious examples of shameful ambition over true student success in Texas public education today.

We plan to let El Pasoans know the facts at Bowie, and we have asked for investigations regarding potential violations of state and federal laws and regulations on this and other matters. Moreover, as a citizen who loves our community, whose family has been proud to call El Paso home for six generations, and who attended school in EPISD, I will cast my vote against any tax ratification election (TRE) at EPISD until new leadership, new plans and better times make real success a reality.

As you are undoubtedly aware, there is no greater supporter of public education than our office. We have championed teacher pay increases, more equitable school funding formulas, and even a statewide income tax to reduce property taxes across Texas to better fund schools.



Further, in the past, we have supported Ysleta ISD regarding its tax increase and Socorro ISD regarding its bond issue. For these reasons and many more, we have been deeply honored to have received the Texas Legislative Champion for School Children award from the Texas Equity Center, the Texas Classroom Advocate of the Year award from the Texas Classroom Teachers Association, and the Freedom to Teach Award from the Association of Texas Professional Educators. Just last session, our office championed the return of \$3.2 billion in stimulus funds to public education to address challenges at districts all across Texas. In my tenure as your Senator, I have worked with dozens of superintendents—four at EPISD alone—to improve student success, and as Chairman of the Senate Committee on Base Realignment and Closure (BRAC), I have worked on key innovations to address BRAC-related student challenges at EPISD.

Your model at EPISD is not a model of student success that we support. We have serious concerns about EPISD's ill-timed and ill-conceived tax increase. Here's why:

1. Public Corruption

Questions remain about public corruption at EPISD. The cloud that hangs over EPISD will make it difficult, if not impossible, for voters to support a tax increase. The overall number of EPISD officials involved is the most disturbing aspect of the FBI's investigation. Among those involved in the corruption investigation:

- Former EPISD trustee Salvador "Sal" Mena Jr. was arrested by the FBI and charged with six counts of accepting bribes and bribing others;
- Carlos "Coach" Cordova, former EPISD trustee, pleaded guilty in federal court and admitted that he exchanged his vote for money;
- Former trustee Charles Roark resigned from the Board when he was named a "target" of the corruption investigation in documents filed by the U.S. Attorney's office;
- Luther Jones, who was indicted on charges of bribery and mail fraud, was deeply involved in the multimillion-dollar Medicaid reimbursement program at EPISD;
- Bob Jones pleaded guilty for bribing EPISD, Ysleta ISD, and Socorro ISD trustees in order to secure business for his company, Access HealthSource;
- Gary William Lange, a businessman from Michigan, pleaded guilty to one count of conspiracy to commit mail fraud for bribing Mena and an unnamed EPISD administrator on behalf of Strategic Governmental Solutions (SGS). SGS was awarded the contract to manage the district's School Health Related Services (SHARS) and Medicaid Administrative Claiming (MAC) programs;
- In 2006, Fernando Parra was named the district's SHARS/MAC coordinator. Parra pleaded guilty in July to one count of taking and receiving obscene

pornographic videos and to one count of conspiring with others to bribe members of the El Paso County Commissioners Court; and

- Bernardo Lucero Jr., the Vice President of Lucero/Melendez Architects, pleaded guilty to conspiracy to commit mail fraud and conspiracy to make false statements to obtain credit, saying he influenced an unnamed EPISD trustee by securing \$25,000 using illegal practices.

After the corruption scandal broke, we asked you to clean up the EPISD Board and EPISD administration (especially in construction, insurance, and IT practices), put in place best practice models, and collect on losses due to the taxpayer. We asked you to report back to us and the public, which you never did. As a result, we asked the State Auditor to provide an objective measure of loss at EPISD, and he now awaits reports from the federal courts (Exhibit B). What EPISD did instead was to institute background checks on some vendors while failing to look at certain contract administrators—the place where many believe the real problem continues to exist. In sum, EPISD has not put in place safeguards to prevent corruption, has not provided restitution to the taxpayers, and has not kept faith with the public in excising the scourge of public corruption.

2. Size of Administrative Salaries

EPISD's central administration salaries are far above the state average and have shown a dramatic increase in the recent past. According to the TEA, EPISD's average central administrator earned \$101,181 during the 2007-08 school year. In striking contrast, the statewide average was only \$83,529. Further, the average central administrative salary has jumped from \$70,521 in the 2004-05 school year (where it was below the state average of \$76,324) to 2007-08's \$101,181.

This enormous growth in administrative salaries is unwarranted and should not be passed onto the taxpayers, especially when it does not reflect a statewide trend and given EPISD's per capita tax base. In fact, with a per capita income of \$17,786, El Paso was recently ranked 389 out of 420 cities in terms of wealth. The chart below compares EPISD's central administration salaries to a statewide average:

Average Central Administration Salaries

	El Paso ISD	Statewide
2004-05	\$70,521	\$76,324
2005-06	\$82,302	\$77,499
2006-07	\$92,665	\$80,875
2007-08	\$101,181	\$83,529
Percent change	+43.5%	+9.4%

Source: TEA

Further, as of March 2009, you were paid \$272,944 in addition to an \$18,000 car allowance and an annual phone allowance of \$6,000—compare this to a salary of \$216,743 for City Manager Joyce Wilson, who runs a more complex organization with 44 percent more

dollars in her all funds budget.¹ We understand the need to pay competitive salaries to attract top talent, but inflated central administration salaries, which direct scarce taxpayer resources to administrators and not into the classroom to ensure student success, make it difficult to argue that a tax increase is necessary prior to reducing in-house costs. As your state Senator, my advice to you is to make administrative cuts right now, including to your own salary. You cannot ask for tax increases until you make the difficult cuts that every family in El Paso has to make to their own budget. For your review in making such cuts, I have included a list of EPISD's inflated administrative salaries based on your last budget (Exhibit C).

3. The Bowie Model: “Los Desaparecidos”

As you know, in 2008, our office organized *Equipo Bowie* along with many community stakeholders to analyze and identify best practices, and then reform systemic challenges in the Bowie feeder pattern. Our concern was that Bowie High School, which in 2008 was in phase four of the *No Child Left Behind* federal law, might be closed. For us and all of El Paso, closing Bowie is not an option.

Recently, several Bowie teachers, administrators, and alumni shared with us some very disturbing news—55.4 percent of the 2007 entering Bowie freshman class did not sit for sophomore exams. Of 381 who started, only 167 took the sophomore-level TAKS tests. In fact, the Freshman Class of 2007 is the very class upon which the NCLB enforcement action was based. When 55 percent of an entering freshmen cohort—a jump of more than twice any of the previous five freshmen cohorts—are not enrolled as sophomores at Bowie the following year, it raises grave concerns as to the model for "student success" being implemented by EPISD administration.

The data below summarizes what happened at Bowie with the Freshman Class of 2007. Here, in Table One, is the percentage of student decline between the Fall of freshman year and the Fall of sophomore year at Bowie High School for the years 2002-09. As you will note, the decline for the Freshman Class of 2007 was 55.4 percent, which was more than double from any previous year.

Table 1: Fall and Spring Enrollment Count (Bowie High School)

Grade	2002-03		2003-04		2004-05		2005-06		2006-07		2007-08		2008-09	
	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring	Fall	Spring
9	414	374	442	420	472	438	399	394	383	386	381	348	388	367
10	310	304	307	301	340	317	369	355	347	302	303	277	170	168
11	229	198	237	204	268	233	273	257	317	303	271	258	271	224
12	262	272	224	228	209	218	243	246	276	262	318	300	221	253
Total	1215	1148	1210	1153	1289	1206	1284	1252	1323	1253	1283	1183	1050	1012

Source: TEA

¹ City Manager Joyce Wilson's salary as reported in *El Paso Times*, available at: http://www.elpasotimes.com/news/ci_11548345; City of EP's budget is ~\$673 million (all funds), available at: http://www.elpasotexas.gov/omb/_documents/2010_budget_book_1-Budget%20Summary.pdf; and EPISD's budget is ~\$467 million (all funds), available at: http://www.episd.org/_departments/finance/budget_docs/Adopted_2009-10_Budget.pdf.

When 214 incoming Freshman in the Class of 2007 do not sit for Sophomore exams, the question becomes why not? Tables Two and Three show category by category the reasons why freshman students in the 2007 class at Bowie did not return to sit for Sophomore exams:

Table 2: Summary of students not enrolled in the Fall of what would normally be their sophomore year (Bowie High School)

	2007-08 cohort	2006-07 cohort
Enrolled in other El Paso ISD schools	37	32
Enrolled in other Texas schools	21	19
Other leaver data	61	39
Total	119	90

Source: TEA

Table 3: Other leaver data (Bowie High School)

	2007-08 cohort	2006-07 cohort
Dropouts	18	8
Returned to home country	19	11
Enrolled in school outside TX	1	6
Dropout at Fabens ISD	1	0
Enrolled in school in TX after data submission	21	13
Data error for student data submitted to TEA	1	1
Total students identified as leavers	61	39

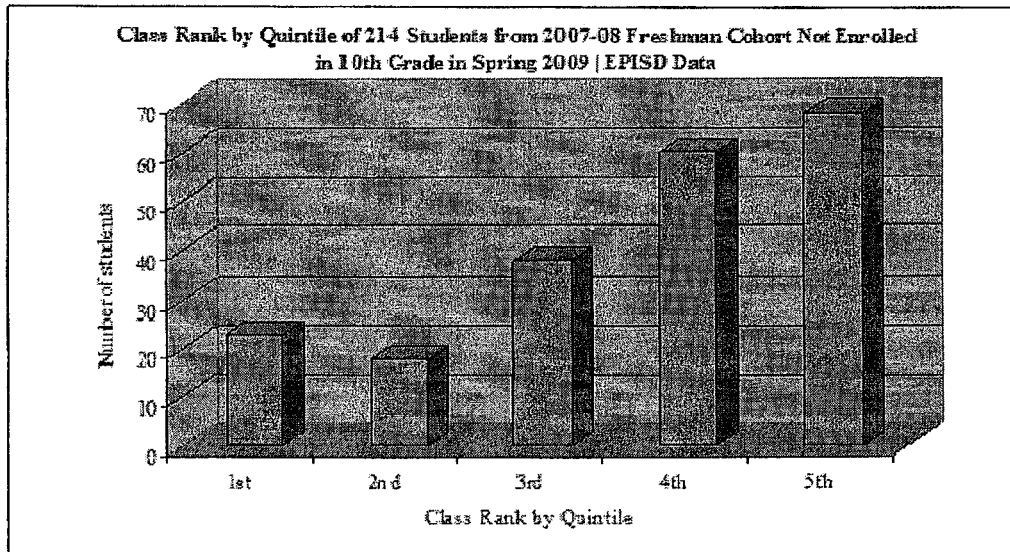
Source: TEA

From Fall 2007 to Spring 2009, the 2007 Freshman cohort at Bowie went from 381 students to 167 students. Table Four along with the graph below show where the *desaparecidos* ranked by quintile.

Table 4: Class Rank by Quintile of 214 Students

Class rank by quintile	Number of students (%)
1 st	23 (10.7%)
2 nd	18 (8.4%)
3 rd	38 (17.8%)
4 th	60 (28.0%)
5 th	68 (31.8%)
<i>Subtotal:</i>	207 (96.7%)
Students with no GPA	7 (3.2%)
Total:	214

Source: EPISD



Source: EPISD

During our face-to-face meetings, you never disputed our numbers—in fact you agreed with every single number. The numbers confirmed the anecdotal information from teachers and administrators. Any "Plan for Excellence" must be based on student success. Here, "Los Desaparecidos" is an incentive system designed around superintendent ambition—not student success. Such dramatic change done behind closed doors, kept from prior approval by members of the EPISD Board, and put in place without full public debate and scrutiny, will not move Bowie to systemic reform. I refer you to a similar model pioneered at Houston Independent School District and analyzed by Rice University in a report titled *Avoidable Losses* (Exhibit D).²

What happened at Bowie in 2007 was clear—214 of the freshman of 2007 (mostly from the bottom half of the class) were transferred, deported, sent to charter schools, or held back in order to avoid the sanctions, publicity, and enforcement actions under the *No Child Left Behind* law. That model might make a superintendent look good for his next contract, but it inflicts serious damage to the spirit of a 9th grade child who needs an education to get a job in a competitive world.

4. Economic Reality

El Paso is in the midst of the greatest economic downturn since the Great Depression. From 5.2 percent unemployment rate in April 2008, El Paso's unemployment rate has skyrocketed to 9.2 percent in December 2009 (the most recent date for which public data is available). As yet unseen is the economic impact of the tragedy that is Juarez today. For every ten jobs lost in Juarez, one is lost here. By recent calculations, at least 100,000 jobs have been lost in Juarez.

² Rice University Center for Education, *Avoidable Losses: High-Stake Accountability and the Dropout Crisis*, Jan. 2008, available at: <http://centerforeducation.rice.edu/Research/AvoidableLosses.htm>.

Earlier this year, Portfolio.com/bizjournals created a six-part formula to assess the relative affluence of all 420 cities, incorporated towns and unincorporated urban areas with populations of more than 75,000.³ With a per capita income of \$17,786, a median household income: \$37,600, and only 1.8 percent of households with incomes of \$200,000 or more, El Paso ranked 389 out of 420.⁴

At the same time that unemployment is growing, EPISD is asking the voters to pay an additional \$130 in taxes annually for every \$100,000 of assessed property value. While \$130 may not seem like much to a superintendent who makes \$272,944 a year, in a county that ranks the fourth poorest in the U.S. in per capita income, for many it is the difference in being able to feed their family, keep the lights on, or pay rising gas bills just to get to work. Simply put, the current economic reality facing El Pasoans makes it the wrong time to ask for a tax increase.

5. Leadership

Recently, you applied to move out of El Paso for positions in other cities. Now, you're asking voters to approve a tax increase to support your plan, when the reality is that you do not intend to stay to implement it. Other issues revealed at recent EPISD Board meetings make it less likely that you will have the strong backing of teachers who question the values of your style of leadership.

I take my role as "the education Senator in Texas" very seriously. To go to taxpayers during a severe economic recession with EPISD's current "model of success" is neither feasible nor wise. EPISD should postpone any such initiative until they have a better plan, better leadership, and better economic times. I will vote "no" against a tax increase unless EPISD postpones its election to another date and time with another leader who has a better plan for real results.

Very truly yours,



Eliot Shapleigh

ES/sjs

Enclosures: Exhibits A-D

³ The study's raw data come from the U.S. Census Bureau's 2008 American Community Survey, the most recent source for federal statistics at the local level. All figures are for specific municipalities, not for the broader metropolitan areas to which they belong. Places with high income levels and large inventories of expensive homes naturally earn the highest scores.

⁴ Portfolio.com/bizjournals, *Ratings of American's Wealth Centers*, available at: <http://www.portfolio.com/resources/us-wealth-centers.pdf>