

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
Austin Division**

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ROB PENDERS	)	
	)	
Plaintiff,	)	Case No. 1:22-CV-178
	)	
v.	)	
	)	
SAINT EDWARD’S UNIVERSITY, INC.	)	
	)	
Defendant.	)	

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**PLAINTIFF’S ORIGINAL COMPLAINT**

**Brief Summary of this Pleading**

In the fall of 2021, a disgruntled former St. Edward’s baseball player accused head coach Rob Penders of race discrimination. St. Edward’s hired an external investigator who, after a thorough investigation, determined unequivocally that Penders had *not* engaged in racism, race discrimination or any other violation of any school policy. The administration, including new St. Edward’s President, Monteserratt Fuentes, agreed with the investigator’s findings and formally exonerated Penders of the allegations. Fuentes even wrote privately to Penders at the end of the investigation, “I am so excited about the bright future of our baseball team under your leadership!”

But when the former player learned Penders had been exonerated of the allegations by the external investigator and by Fuentes, the former player launched an online petition and TikTok campaign. The petition called on President Fuentes to “**Remove Coach Penders of St. Edward’s University for Racist Comments and Discrimination!**” The petition claimed that Penders had been “found guilty” of the allegations against him.

Met with an opportunity to act with integrity and level with students, a leader with an ounce of courage would have told the truth -- that an external investigator and Fuentes herself had found Penders innocent of the allegations of racism and discrimination. But President Fuentes was not interested in telling the truth. President Fuentes’ goal was to seize this moment of campus activism, place herself at the front of it, and falsely glorify herself as a savior fighting against racism. So instead of levelling with students, Fuentes issued a statement confirming the existence of an investigation into Penders but *concealing its results*. Fuentes’s statement went on to mislead the campus community into believing that Fuentes had “taken action” against Penders and imposed “consequences” on Penders for acts of racial discrimination. Meanwhile, St. Edward’s prohibited Penders from responding at all to the growing controversy.

Fuentes's dishonest and self-aggrandizing response only fueled the activism. Students and faculty, misled by Fuentes and in the dark about even the most basic facts underlying the generalized allegations in the "Remove Coach Penders" petition, escalated their calls to fire Penders. The campus newspaper and other media outlets reported on Fuentes's statement and, understandably, concluded that Penders had been found guilty of discrimination when he had in fact been exonerated.

The online petition and campus activism also motivated a different former player – a player who had quit the baseball team literally in the middle of a game almost four years earlier -- to come forward seeking money from the school. The former player made a claim of his own against Penders, alleging that Penders had treated him unkindly during a meeting almost four years earlier when the former player was asking Penders to let him back on the team after the player quit during a game. Fortunately for Penders, that player had secretly recorded the conversation. So there is no dispute what occurred. And, while the former player styled his complaint as one of discrimination, the tape revealed absolutely nothing of a racial nature was said or occurred. The external investigator, after hearing the taped conversation and interviewing both the former player and Penders, determined unequivocally that Penders *had not engaged in any discrimination* or violation of other school policy. President Fuentes herself agreed, and St. Edward's exonerated Penders of this opportunistic allegation of discrimination.

Fuentes was again met with a chance to tell the truth. Yet again, Fuentes decided to mislead students, faculty and the community. Fuentes fired Penders and issued a public statement again concealing that Penders had been exonerated and again falsely glorifying herself as someone fighting for "social justice."

To this day, Fuentes and St. Edward's have refused to tell their own students and community the truth, preferring instead to unlawfully terminate and smear Penders, falsely labeling Penders a racist so that Fuentes can advance a phony narrative that she was fighting for "social justice" by terminating Penders. This suit is brought to remedy President Fuentes's craven, dishonest and unlawful termination and her shameful smearing of a good and honorable man.

Plaintiff Rob Penders ("Penders") files this Original Complaint against Saint Edward's University, Inc. ("St. Edward's") and respectfully requests that the Court enter judgment in his favor and award him all damages, fees, interest, and costs recognized at law or in equity.

### **I. Parties**

1. Plaintiff Rob Penders is an individual residing in Austin, Travis County, Texas.

2. Defendant Saint Edward's University, Inc. ("St. Edward's") is a Texas nonprofit corporation located in Austin, Travis County, Texas. St. Edward's can be served by serving its registered agent for service of process, CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201-3136.

## **II. Jurisdiction & Venue**

3. **Federal Question Jurisdiction** -- This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this case arises under federal law – 42 U.S.C. § 1981.

4. The Court has personal jurisdiction over St. Edward's because it has maintained minimum contacts with the State of Texas sufficient to subject it to personal jurisdiction consistent with due process under the Fourteenth Amendment to the United States Constitution. St. Edward's operates a university in Austin, Texas and employs employees, owns real estate, and conducts extensive business activity in Texas. St. Edward's has thereby purposefully availed itself of the benefits and protections of Texas by establishing minimum contacts with Texas, and the Court's exercise of jurisdiction over Defendants does not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions giving rise to this case occurred in this district. Penders was employed by St. Edward's for over 15 years in Austin as the head coach of the St. Edward's baseball team, which practiced and played its home games in Austin. St. Edward's unlawfully terminated Penders' employment in Austin and waged a campaign of misinformation in Austin to mislead its students and the public about the reasons for Penders' termination.

### III. Facts

#### **A. About Rob Penders: The Most Successful Baseball Coach In St. Edward's History, An Unblemished Record As A University Employee.**

6. Rob Penders was the head baseball coach at St. Edward's from the fall of 2006 until he was fired December 3, 2021. In 15 seasons as head baseball coach, Penders amassed a record of 507-276 (a .648 winning percentage), which makes him far and away the winningest coach in St. Edward's history. In 15 seasons, all of those seasons at the NCAA Division II level, Penders led St. Edward's to 6 regular season and 6 conference tournament championships. To put those accomplishments into perspective, in the 113-year history of St. Edward's baseball, St. Edward's won only three (3) other conference championships, all of them co-championships and none of them at the NCAA level of competition.

7. Under Penders' leadership, the Hilltoppers advanced to 7 NCAA regionals (the only times in school history) and advanced to the NCAA Division II Baseball Championship in 2013 and to the regional tournament championship game in 2016. Penders was named Regional Coach of the Year in 2013 and was named conference Coach of the Year numerous times.

8. At only 47 years of age, Penders' 507 wins put him in elite company among college baseball coaches around the country and had the Hilltoppers program poised for even more success in the future.

9. In addition to the demonstrated excellence of the St. Edward's baseball program he led, Penders was a model employee of St. Edward's. Penders' annual performance reviews were always either "approaches ideal" or "successful," or "achievement beyond goals and job requirements," or "achieved goals and job requirements," which were the top two performance categories in all relevant years. Penders was never written up for poor performance or violation of any rule, policy or directive. Penders is highly respected among fellow college coaches as

evidenced by his election to the American Baseball Coaches' Association's All-American selection committee, an honor shared by only 7 other coaches around the country, and was elected the conference chairman multiple seasons.

**B. Fall 2021 -- Jacques Palmer, A Disgruntled Former Player, Accuses Penders of Racism. After A Thorough Investigation, An External Investigator and the St. Edward's Administration Find No Racism, No Discrimination, and No Violation of Any Rule or Policy by Penders.**

10. Penders recruited Jacques Palmer to St. Edward's prior to the 2020 season. Palmer, having played select club baseball in the suburbs around Dallas-Ft. Worth, was a transfer from Arkansas Pine Bluff. Before that, Palmer had played at New Mexico Junior College.

11. Unfortunately, Palmer's career at the NCAA Division II level did not work out as he and Penders had hoped. Palmer's first season with St. Edward's was the 2020 season, which was abruptly cancelled after only 22 games due to the COVID-19 pandemic. Palmer went 2 for 7 at the plate in 2020. In 2021, Palmer went 0 for 8 and saw limited playing time.

12. Palmer's eligibility expired at the end of the 2021 season. In the summer of 2021, Palmer asked St. Edward's to petition the NCAA to allow Palmer an additional year of eligibility.

13. Whether or not to petition the NCAA for an additional year of eligibility for a player is decided by Associate Vice President for Athletics, Debbie Taylor and the head of compliance, Senior Associate Director of Athletics, Melinda Terry, not by Penders. Taylor and Terry decided in Palmer's case not to petition the NCAA for an additional year of eligibility for Palmer.

14. In August or September 2021, after Palmer learned St. Edward's would not petition the NCAA for an additional year of eligibility for him, Jacques Palmer made a complaint to St. Edward's officials accusing Rob Penders of racism and discrimination. Palmer, who is Black, accused Penders, who is White, of discrimination on the basis of race. Palmer, who had never made any accusation to Penders himself or to any coach or member of the athletics staff, cited

three episodes, all of which related to events that occurred many months earlier, ranging from 6 months to over one year prior.

15. Penders was notified of the complaint on Tuesday, September 7, 2021. Initially Penders was not provided with any written complaint, was not told who had made the complaint, and was not told what the accusations were other than that he had been accused of discrimination. No player, including Jacques Palmer, had ever before raised any complaint or concern about racism or discriminatory treatment by Penders.

16. St. Edward's hired an external investigator to investigate Palmer's allegations. The investigator, DeDe Church, is an experienced Austin-based investigator with a law degree and extensive background as a civil rights lawyer.

17. Church and her firm were, as President Montserrat Fuentes ("Fuentes") told the university community and as Church herself told Rob Penders, independent investigators. Church and her investigation firm were not hired in anticipation of litigation or to defend or prepare to defend the school in litigation. Nor were Church or her firm hired to represent St. Edward's as St. Edward's legal counsel. Rather, St. Edward's' engagement with Church was purely as an investigator to determine facts and reach conclusions about Palmer's complaint against Penders.

18. As described in detail below, the external investigator, after an extensive investigation, concluded unequivocally that Jacques Palmer's allegations of racism and discrimination were without merit. The external investigator determined *that Penders had not engaged in racist or discriminatory acts*, that *Penders had not violated any St. Edward's discrimination or harassment policies*, and that Penders *had not violated any other St. Edward's rule or policy*.

19. President Fuentes, who had only just begun her employment on July 21, 2021, personally received Church's investigation report and reviewed Church's report and findings. President Fuentes personally agreed with the investigation findings and conclusions that Penders

had not engaged in any act of racism or discrimination and had not violated any rule or policy of the school.

20. Despite concluding that Penders did not engage in any racist or discriminatory actions, St. Edward's and President Fuentes have worked steadfastly to conceal the outcome of the investigation. In a stunning display of personal and institutional cowardice and dishonesty, President Fuentes, instead of leveling with the community, has misled them. In an effort to falsely portray herself as a white savior fighting, in her words, for "social justice," President Fuentes and the university have deliberately led students, faculty and the community to conclude that Penders had engaged in racist and discriminatory acts even though an external investigator and Fuentes herself had concluded precisely the opposite.

**C. The Context of Jacques Palmer's Complaint, Which Dr. Fuentes and St. Edward's Have Long Sought to Conceal**

21. Not only did President Fuentes and St. Edwards conceal from students and the community that Penders had been exonerated by the investigator and by Fuentes herself, Fuentes successfully concealed the very nature of the allegations against Penders. Fuentes did so because she did not want students and the larger university community to be able to judge for themselves the conduct Palmer was accusing Penders of. Fuentes far preferred the false narrative she has been advancing to portray herself, falsely, as waging a battle against Penders for, in her words, "social justice."

22. The facts related to Jacques Palmer's allegations against Rob Penders, which St. Edward's senior leadership to this day seeks to conceal, are as follows:

1. **Palmer Claimed Penders Was Racist in Denying Palmer's Requested "Walk-Up" Song, With Lyrics Referring to Women as B!\*ches and Repeatedly Using the Word, N!\*\*er.**

23. First, Palmer alleged in late August or early September 2021 that, 6 to 7 months earlier,

Penders “said the N word in front of the team before a practice.”<sup>1</sup> As described in detail below, Penders never said the actual word that Palmer is referring to. Witnesses bear that out. The context of this allegation, which was never included by Palmer in his online petition, and which President Fuentes and St. Edward’s have long sought to conceal from the community, shows that Penders acted entirely appropriately in denying Jacques Palmer’s request for a “walk-up song” that celebrated these racist and misogynistic lyrics.

24. A “walk-up” song is a song that St. Edward’s and other baseball programs play over the public address system at home games each time a player is “walking up” to the plate to bat. A player is allowed to pick his own walk-up song to inspire and focus him and energize the home crowd for his at-bat. Each player’s choice for his walk-up song is subject to approval by either the athletic administration or the coaching staff for appropriateness.

25. It is contrary to St. Edward’s’ institutional values for a player’s walk-up song to use racist and misogynistic terms like b!&ch and n!\*\*\*er. Families with children attend St. Edward’s baseball games. In addition, St. Edward’s strives to make Lucian-Hamilton Field a welcoming environment for people of all races, ethnicities, sexes and sexual identities.

26. On information and belief, Dr. Fuentes deems it morally repugnant and contrary to St. Edward’s values to blare misogynistic or racist lyrics like b!&ch and n!\*\*\*er over the public address system at St. Edward’s baseball games.

27. Jacques Palmer, on the other hand, celebrates misogynistic and racially offensive song lyrics.<sup>2</sup>

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<sup>1</sup> See **Exhibit A**, which is a true and correct copy of an online petition describing Palmer’s allegations against Penders.

<sup>2</sup> In addition to his requested “walk up” song, Palmer is also fond of promoting himself outside of baseball with music containing lyrics and themes that some consider misogynist, racist, and morally repugnant. For example, a November 2020 TikTok video on his account shows Palmer with a female while Palmer mouths the song lyric b!\*ch. A December 2020 video posted by Jacques Palmer depicts Palmer dancing and smiling to a song repeatedly using the word n!\*\*\*er.



28. At the beginning of the 2021 season, Jacques Palmer requested as his “walk-up” music a song that repeatedly used the words n!\*\*\*er, and b!#ch.

29. Penders refused to approve the walk-up song Palmer requested. Penders deemed it inappropriate – and terribly offensive -- to blare the words n!\*\*\*er and b!#ch over the St. Edward’s PA system at baseball games being hosted by St. Edward’s University.

30. When Palmer learned that the coaching staff would not approve his requested walk-up music, Palmer questioned the coaches. In a conversation that occurred in the dugout before a team practice in late January or early February 2021 (6 or 7 months before Palmer made his complaint), Palmer asked Penders and then-assistant coach Dave Wood, why his song wasn’t being approved. “It gets me pumped up,” Palmer told the coaches. The coaches told Palmer that the song contained inappropriate lyrics. Palmer challenged the coaches further, asking “what’s inappropriate about it? It gets me pumped up.” One of the coaches pulled up the lyrics on the internet on his phone. Penders, pointing to the n-word in the printed lyrics, said words to the effect of, “we aren’t going to play the n-word.” Neither Penders nor any other coach used the word itself. They used the euphemistic expression “the n-word.”

31. This conversation happened in the dugout before a practice, so there were witnesses to it. All witnesses the investigator talked to about this allegation other than Jacques Palmer told the investigator, DeDe Church, the same thing: Penders never used the term n!\*\*\*ger. Rather, Penders, when pressed by Palmer to identify the offensive term, only pointed to the lyrics and used the euphemistic phrase “n-word” to identify the word that Palmer wanted amplified over the St. Edward’s PA system, which Penders refused to permit.

32. Penders thought it incredibly odd and sad that Palmer, then a 22 year-old graduate student with a bachelor’s degree from St. Edward’s University, seemed not to comprehend how repugnant it would be to play these racist and misogynistic lyrics over the PA system at St.

Edward's baseball games.

33. It is unthinkable that Palmer, having requested these specific song lyrics to be played over the loudspeaker at St. Edward's baseball games, was genuinely offended by anything Penders said during that conversation. Certainly Palmer never complained to Penders at any time that anything Penders said during that conversation or any other conversation had offended Palmer. Nor did Palmer make any complaint to the school throughout the 2021 baseball season, which ran from February 5, 2021 to May 21, 2021. Rather, Palmer raised the issue only 6 or 7 months later in late August or early September 2021 when he was disgruntled over the decision by the athletics administration not to petition the NCAA for an additional year of eligibility.

34. By September 30, 2021, DeDe Church's external investigation was completed. The external investigator determined in September 2021 that Penders had *not* engaged in any racist or discriminatory or harassing act and that Penders had not violated any university rule or policy. In a written report that St. Edward's received prior to September 30, 2021, DeDe Church found that nothing Penders did in this or in any other context of Palmer's complaint was racist or discriminatory or a violation of any university rule or policy.

35. Specifically, on information and belief, DeDe Church concluded, as the witnesses told her, that Penders had not used the actual word "n!\*\*\*er" when refusing Palmer's request to play that word over the loudspeaker at St. Edward's baseball games.

36. University leadership agreed with Church's report and formally exonerated Penders of the allegation of racism and discrimination. In a memo dated September 30, 2021, St. Edward's formally adopted Church's conclusions.

37. On information and belief, Dr. Fuentes personally deems song lyrics referring to women as "b!&ches" to be offensive. On information and belief, when Dr. Fuentes learned that Jacques Palmer had requested song lyrics that included the terms b!&ch and n!\*\*\*er, Dr. Fuentes

was personally offended and deemed Palmer's request to be morally repugnant. On information and belief, Dr. Fuentes personally found Penders' response to Palmer's requested "walk up" song to be appropriate.

38. It is known beyond any reasonable dispute that Fuentes personally found Penders' response to Palmer's requested walk-up song to be appropriate. Because after the investigation concluded, President Fuentes emailed Penders telling Penders, "I am so excited about the bright future of our baseball team under your leadership!"

39. Yet Dr. Fuentes has never revealed to students or to the public that Jacques Palmer made this reprehensible request, that Penders declined Palmer's request, or that the basis of Palmer's allegation of the use of "the n-word" arose in the context of *Palmer requesting, and Penders refusing, to broadcast the word itself over the St. Edward's PA system*. As described in greater detail below, Fuentes and St. Edward's instead sought to mislead students and the public to advance the false narrative of Fuentes fighting against White racism.

**2. Palmer Claimed that Penders' Rules Relating to Garments Protruding from the Uniform was Racist.**

40. In the same complaint brought by Palmer in late August or early September 2021, Palmer also alleged that Penders was "telling Black student-athletes to remove their head coverings."<sup>3</sup>

41. Penders did not require any players to remove their head coverings. Nor did Penders single-out Black players for any action, including rules related to garments or the uniform.

42. Penders did, however, instruct players, both Black and White, who were wearing clothing that protruded from the player's body or altered the baseball uniform to either tuck the garment under their uniform or cap or not wear the item during games.

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<sup>3</sup> See Ex. A.

43. Palmer and two other players, one White, were wearing bandanas over their heads under their baseball cap. Wearing the bandana was not a problem. Wearing the bandana under the cap was never prohibited by Penders for Palmer or anyone else on the team. However, Penders insisted that, during games, nothing be protruding from the baseball cap, which is part of the uniform. This rule applied to all players, regardless of race. And the specific issue – players wearing bandanas – was an issue affecting all players of all races.

44. In fact, Palmer continued to wear a bandana throughout the season both during games and in practice. Palmer, like all other players, was expected not to allow the bandana to stick out from the baseball cap during games.

45. Palmer had known of this rule since his first season (Spring 2020) and that it applied to all players of all races and ethnicities. Palmer’s allegation that that Penders told “Black student-athletes to remove their head coverings,” was not raised until two years later.

46. The external investigator determined that nothing about Penders’ handling of this situation was racist, discriminatory or a violation of university rules or policies.

47. St. Edward’s senior leadership, including Fuentes, agreed with the external investigator’s conclusion.

**3. Palmer Claimed that Penders was Racist for Acknowledging Penders’ Own Family’s Historical Shortcomings as it Pertains to Race.**

48. In the third allegation in his August/September 2021 complaint, Palmer complained of Penders “telling multiple Black players about his family’s racist history and being insensitive to the experiences of Black people.” The context of this accusation, which is not provided in the online petition and which President Fuentes has long sought to conceal, illustrates why the external investigator and St. Edward’s leadership determined Penders had not violated any St. Edward’s non-discrimination, harassment or other policy in this regard either.

49. On May 25, 2020, George Floyd was murdered by a police officer in Minneapolis, Minnesota. Floyd's murder and the deaths of other Black Americans at the hands of police officers, led to protests around the world and a national conversation about our country's history of racial violence and inequality. That conversation occurred in institutions across the community and the nation, including the college sports community, St. Edward's, and the St. Edward's baseball program.

50. Under Penders' leadership and with the encouragement of the St. Edward's administration, the St. Edward's community and the baseball team in particular engaged in a dialogue about racial injustice.

51. At least publicly, St. Edward's encouraged a conversation about what it means for people individually and collectively to work together to create practices, policies and environments that are anti-racist.

52. At least publicly, St. Edward's urged its coaches to be open with their teams about racial injustice, to not ignore racial injustice and to not be silent about racial injustice. Discussions about racial injustice and discussions that do not ignore and do not involve silence about racial injustice are consistent with St. Edward's stated values and expectations.

53. Penders resolved, with St. Edward's' guidance and encouragement, to acknowledge historical racism, to listen to his players about their experiences and to share his own.

54. In one of these conversations – a Zoom meeting organized by St. Edward's for the baseball program during the summer of 2020 –Penders mainly listened and hoped his players would speak their minds and hearts. Consistent with the university's encouragement, Penders also shared experiences, referred to his own reckoning with his family's history on race and celebrated the progress his family has made. Penders' message was to the effect that, in his own family in

past generations, an interracial marriage would have been met with disapproval. In this way Penders was seeking not to ignore and not to remain silent about a history of racial discrimination, consistent with direction from St. Edward's. Penders also sought to acknowledge and take heart in his family's progress by noting that, in his own generation of his family, three cousins were in interracial marriages and relationships.

55. Nobody, including Palmer, indicated they had taken offense to Penders sharing his own family experience in this way in this context. Nor do the facts indicate that Palmer actually took offense to anything Penders said on that Zoom meeting in the summer of 2020. And Palmer did not report any claimed offense or discrimination to anyone until more than a year later.

56. On information and belief, Jacques Palmer, was not actually offended by and found nothing inappropriate about what Penders said on the Zoom meeting. On information and belief, Jacques Palmer, then a graduate of St. Edward's University, could not possibly be so privileged and so emotionally fragile that hearing Penders' well-intentioned words genuinely offended him.

57. On information and belief, President Fuentes, when she learned of the content of the Zoom call (more than a year after it occurred in the context of Palmer's complaint), concluded that nothing Penders said was inappropriate or racist or discriminatory in any way.

58. On information and belief, Fuentes actually expected Penders not to ignore past racial discrimination and to not be silent about past racial discrimination.

59. Among the instructions on training videos St. Edward's would later require Penders to view were to not ignore and not be silent about past racial discrimination.

60. After a thorough investigation, the external investigator concluded that nothing Penders said on this Zoom call was racist, discriminatory, harassing or a violation of any university rule or policy.

61. St. Edward's senior leadership, including President Fuentes, agreed with the investigator's findings.

62. And, as described above, Fuentes wrote to Penders after concluding that Penders was innocent of the allegations, "I am so excited about the bright future of our baseball team under your leadership!"

**D. St. Edward's Athletic Director: "This is Optics."**

63. By September 30, 2021, DeDe Church concluded the investigation of all three parts of Jacques Palmer's accusations and issued her findings to St. Edward's. As described above, this experienced investigator and St. Edward's' own leadership determined that Jacques Palmer's allegations were without merit and that Rob Penders had not engaged racism or any act of racial discrimination or harassment or any violation of any other university rule or policy. Penders received a memo confirming that he had been cleared of the allegations.

64. Sadly, President Fuentes and St. Edward's leadership did not want to tell the truth to St. Edward's students that Penders had been exonerated. Rather, Fuentes wanted to falsely portray herself as fighting against White racism and against social injustice, even where Fuentes had found it not to be present. Therefore, St. Edward's included in the memo a list of online videos Penders was being required to watch and training he was required to undergo.<sup>4</sup> The memo was given to Penders in a meeting on October 1, 2021 attended by Penders, Associate Director of Employee Relations Georgie Komeiner, Associate Vice President for Athletics, Debbie Taylor, and

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<sup>4</sup> The September 30, 2021 memo stated that, "the complaints and investigative process revealed several issues which do need to be addressed, specifically including a need for better communication and cultural awareness on your part when interacting with players on your teams." No specific examples of a lack of "cultural awareness" or communication were identified. The memo outlined certain training and videos Penders was instructed to watch. The memo stated that the instructions to Penders and the training were designed in part to "increase [Penders'] self-awareness of [his own] cultural background," a direct reference to Penders' race. On information and belief, St. Edward's has never instructed and would never instruct a non-White employee to "increase your self-awareness of your own cultural background."

Associate Vice President for Human Resources, Diversity and Inclusion Melissa Esqueda.

65. During the meeting, these St. Edward's leaders made shocking statements admitting that they did not intend to tell the truth to the university community about the findings of the investigation and admitting that the list of actions they were requiring Penders to take were mere "optics" for Dr. Fuentes's plans to communicate with the university community if necessary.

66. For example, Associate Vice President for Human Resources, Diversity and Inclusion Melissa Esqueda told Penders during the meeting that, if the Human Resources Department concluded the investigation by simply stating the truth – that there were no violations – they would then be asked questions like, "didn't you do something to support this individual and support the department?" Esqueda went on to say that, even though no violation of policy was found, HR must do something.

67. When the meeting ended, Penders walked back to the parking lot with St. Edward's Associate Vice President for Athletics, Debbie Taylor. Taylor told Penders in regard to the memo, "I'll deny I said this, but some of that is optics." Taylor went on to explain that she had watched the videos that Penders was being instructed to watch and that Melinda Terry was going to take the certification course Penders was being required to take. In other words, watching these videos was not remedial or punitive. Requiring Penders, who had been cleared of allegations of discrimination, to take these steps was "optics."

68. St. Edward's also told Penders during the October 1 meeting that the university already had a communications plan developed and ready to deploy to address the matter publicly if necessary. St. Edward's instructed Penders not to communicate publicly about this matter. Penders' loyalty and his obedience to this directive by his employer would end up costing him dearly. For what Penders did not yet know was that the St. Edward's communication plan was to



conceal what the investigator and the school actually determined, to deploy the “optics” of the training videos to mislead its students into believing Penders had been found guilty of discrimination and that “consequences” had been imposed on Penders for discriminatory conduct, and to thereby dishonestly portray Fuentes as a white savior fighting against Penders for “social justice.”

**E. Fuentes to Penders: “I am so excited about the bright future of our baseball team under your leadership!”**

69. With the investigation concluded with an exoneration of Penders, on October 5, 2021, and before Penders knew what St. Edwards’ misleading communication plan would entail, Penders emailed President Fuentes to thank her for how he understood she had handled the situation. Later that day, Fuentes responded to Penders, “I am so excited about the bright future of our baseball team under your leadership!”

**F. Jacques Palmer Learns Penders Has Been Exonerated; Palmer Launches Social Media Campaign to Pressure St. Edward’s President Fuentes to Fire Penders**

70. On Monday, October 4, 2021, St. Edward’s notified Jacques Palmer that the investigation was concluded. St. Edward’s told Palmer that the investigator and the university had found no racism, discrimination or other policy or rule violations by Rob Penders.

71. Palmer then took to social media to put pressure on President Fuentes to fire Penders. Sometime late on October 4, Jacques Palmer and a friend of his posted an online petition with the banner headline, “**Remove Coach Penders of St. Edward’s University for Racist Comments and Discrimination.**” A true and correct copy of the online petition is attached as **Exhibit A**.

72. Palmer and his friend claimed in the petition that Penders was “found guilty of the following claims,” in reference to the three allegations Palmer had made in August or September 2021. The petition went on to state, “Despite the University finding him guilty, they have chosen not to suspend or remove him from his position at the university.”

73. The petition concluded where it started, with a demand that President Fuentes fire Penders: “We are petitioning St. Edward’s to remove Penders from his position & to make them understand the severity of his actions and the consequences his discrimination has on Black players. Please help us in creating change.”

74. Jacques Palmer also took to TikTok to promote this petition. In a video post that TikTok later took down, Palmer repeated to his roughly 19,000 TikTok followers his claim that St. Edward’s had found Penders guilty of racism and discrimination and called on Fuentes to terminate Penders.

**G. Profile in Cowardice: President Fuentes Conceals the Truth from St. Edward’s Students and Fuels False Narrative About Penders.**

75. Sometime on October 5 President Fuentes learned of the online petition and a wave of student reactions to it. Met with a moment that screamed out for Fuentes to tell the truth to the St. Edward’s community – that Penders had been exonerated in an external investigation and by Fuentes herself -- President Fuentes instead rejected truth in favor of phony, performative, self-aggrandizement, and deployed the communication plan designed to position Fuentes falsely as fighting for “social justice.”

76. A leader with integrity would have told students and the broader university community the truth: that after a thorough investigation by an experienced, external investigator, the university had found that Penders was *not guilty* of racist, discriminatory or harassing conduct and had not violated any university rule or policy. A leader with any measure of courage would also have provided context that the online petition had omitted, such as that it was Palmer – not Penders – who wanted St. Edward’s to celebrate and amplify misogynistic and racist epithets. Someone seeking to deal honestly would have pointed out that Penders’ acknowledgment of his own family’s history on race was precisely what the university encouraged its employees to do in the

aftermath of George Floyd's murder. If President Fuentes had been committed to the truth, she would have told the university community what she told Rob Penders in an email the day before: "I am so excited about the bright future of our baseball team under your leadership!"

77. President Fuentes did none of that. Rather than telling the truth, Fuentes chose to coddle and mislead students to further perpetuate the false narrative of a racist white employee whose racism Fuentes was pretending to have stood up to. Late in the day on October 5, St. Edward's rolled out its communication plan. President Fuentes sent an email to every member of the university community in direct response to the "Remove Coach Penders" petition. A true and correct copy of Fuentes's public communication of October 5 is attached as **Exhibit B**.

78. Fuentes began claiming to "affirm my steadfast commitment to diversity, equity, and inclusive excellence in all aspects of St. Edward's university including our athletics program." Fuentes then referred to an investigation, clearly a reference to the investigation of Penders. Fuentes referred to the fact that, following the investigation, the university had "taken action." Fuentes, seeking to portray herself as someone who had fought back against this alleged racism, declared that there "have been consequences that are consistent with the university's mission and policies." The rest of the email to the university community reads like a press release with Fuentes pleading with students and faculty to believe in Fuentes's self-proclaimed commitment to "a culture of greater diversity, equity and inclusion."

79. Having led by referencing the investigation of Penders and having claimed to have imposed "consequences," and "taken action," Fuentes said nothing in her statement about the fact that the university's investigation, and Fuentes herself, had actually exonerated Penders. Fuentes said nothing about the context of the allegations so as to give students an opportunity to judge Palmer's claims and Penders' actions on the merits. Fuentes said nothing about her self-proclaimed excitement about the "bright future of our baseball team under [Penders'] leadership." She hid all

of that on purpose to leave the community with the false sense that Fuentes was battling against racism.

80. Having thus concealed the truth and having thoroughly misled the university community about the facts, Fuentes ended her October 5 email by claiming to be “committed to authentic and transparent communication with intentional action.” The irony of Fuentes committing to “authentic and transparent communication” while so thoroughly misleading her own community would be laughable were it not part of such a shameful and self-aggrandizing assault on Rob Penders’ good name.

81. Fuentes believed that dealing honestly with students and faculty about the claims against Penders would not sufficiently allow Fuentes to bolster her “social justice” credentials at this early hour of her presidency. Fuentes had just started her tenure as President of St. Edwards’s on July 21, 2021. When St. Edward’s announced Fuentes’ hiring, Fuentes and St. Edward’s emphasized that Fuentes – who is of European descent from Spain -- would be “the first Hispanic president to lead St. Edward’s.” (*See Exhibit C*). Fuentes and St. Edward’s then trumpeted Fuentes’s sex – identifying her as the “second female president in the university’s history.” Then St. Edward’s explained why Fuentes was selected as its next president: “because of her deep knowledge of higher education and her shared commitment to social justice and the Holy Cross mission of educating the heart and mind.” Fuentes had sold herself to St. Edward’s on her commitment to “social justice.” Now, falsely using Penders as her foil, Fuentes was pretending to fight for it.

**H. Fuentes’s Failure to Tell the Truth Only Fueled Protests and Demands to Fire Penders.**

82. By not leveling with the St. Edward’s community, Fuentes only raised further questions (which she refused to answer) and only fueled calls for Penders to be terminated for something St.

Edward's and an external investigator had already determined Penders had not done.

83. After Fuentes's email to the university community (**Exhibit B**), the petition to fire Penders based on Palmer's complaints picked up steam. Within a week of its posting, the petition had amassed over 600 signatures.

84. Some St. Edward's faculty members, knowing nothing whatsoever of the substance of the allegations or Penders' response, unaware Penders had been exonerated in the external investigation and by Fuentes herself, and apparently relying on Fuentes' misleading email, signed the online petition.

85. On October 7, Jacques Palmer posted a TikTok video repeating to his approximately 19,000 TikTok followers his claims that the university had found Penders guilty of discrimination, and repeating his calls for Penders to be fired.

86. The next week, the campus dialogue heated up further, fueled by Fuentes's dishonest and misleading communications. On October 12, the school newspaper, *Hilltop Views*, reported on President Fuentes's communication to the university community. The article began:

On Tuesday, Oct. 5, President Montserrat Fuentes sent out a community-wide email addressing the university's commitment to diversity, equity and inclusion. In the email, she referenced a "recent and confidential athletics personnel matter" and how this matter "necessitated a thorough and comprehensive investigation conducted by an independent firm." This investigation involves the university's head baseball coach Rob Penders, who has been with the team since 2006.

87. The *Hilltop Views* article repeated the false assertion that Penders had been investigated by the university and found guilty of racism. Fuentes's administration was given the opportunity by the school newspaper to set the record straight about Palmer's claim that Penders had been found guilty of discrimination. The *Hilltop Views* article quoted the Vice President for Student Affairs, Lisa Kirkpatrick, Ed.D., as saying that an investigation and been conducted that "did not support termination." But neither Dr. Kirkpatrick nor any member of St. Edward's leadership

explained the most salient fact – that the external investigator and President Fuentes actually exonerated Penders. Nor did St. Edward’s inform students about the substance of the complaint.

88. On or about October 13, a student-led protest and demonstration to call for the resignation of Rob Penders was announced. Employing the social media hashtag “#robpendersresignnow,” fliers and social media postings announced a “peaceful protest 10/20/21 @3:30 PM outside of Main Building.” The flier stated:

WE URGE YOU TO TAKE ACTION AGAINST RACISM AND AIM TO UPHOLD OUR HOLY CROSS MISSION THAT IS **SUPPOSED** TO COMMIT TO SOCIAL JUSTICE AND COMBATING RACISM. DEMAND THE RESIGNATION OF ROB PENDERES [sic] NOW. SIGN THE PETITION AND JOIN US ON WEDNESDAY THE 30<sup>TH</sup>.

89. On October 18, with the campus community boiling at the false narrative being perpetuated by Fuentes, Melinda Terry, Associate Director of Athletics for Compliance, informed Penders that she had specifically requested that Vice President for Student Affairs Lisa Kirkpatrick set the record straight about the outcome of the investigation. The St. Edward’s administration never did set the record straight about the outcome of the investigation.

90. Sometime in late October or November, a faculty meeting turned heated with questions from faculty about Palmer’s allegations. Faculty, not knowing the context of Palmer’s accusations and having been misled by Fuentes into believing that Penders had been found guilty of discriminatory conduct, demanded to know why Penders had not been fired. Fuentes and her administration refused to tell the faculty the truth. Fuentes refused, for example, to explain the context, refused to disclose the investigator’s findings, and concealed that she, Fuentes, actually agreed with the investigator’s findings. Telling the truth did not comport with the false narrative Fuentes was advancing to position herself as fighting bravely against White racism.

91. Through all of this, Fuentes’s administration muzzled Penders with the directive that he say nothing and deployed a communications strategy designed to mislead, all while St.

Edward's students and the broader university community organized and rallied around what they believed was true but that President Fuentes knew was a lie.

**I. Fuentes Finds A Pretext to Fire Penders.**

92. Amid the widespread reporting about Jacques Palmer's petition, exacerbated by Fuentes's cowardly refusal to tell the truth, a former disgruntled St. Edward's player who more than three years earlier had quit on his own team during a game, came forward seeking money from St. Edward's.

93. Dom Thornton had played for three different college baseball programs before accepting a scholarship offer from St. Edward's for the 2018 season. Thornton played for Kansas State in 2015, for Howard College, a community college in Big Spring, Texas, in 2016, and for the University of Tennessee in 2017.

94. In his only season at St. Edward's, Thornton started the year relatively well. In his first 8 games, Thornton was 10 for 26 (.384). However, known as a power hitter, Thornton had not yet hit the ball for power. Batting clean-up (4<sup>th</sup> in the order), through 26 at-bats Thornton had no extra base hits.

95. On Friday, February 23, 2018, St. Edward's was playing the first of a 4-game weekend series at home against Regis College. In the bottom of the first inning, Thornton worked his way into a 2-0 count with a runner on first and two outs. 2-0 is a hitter's count. A power hitter like Thornton should execute a powerful swing on a 2-0 count, looking to drive the ball, especially with a runner on base and two outs.

96. On the 2-0 count, Thornton, a right-handed hitter, swung weakly and popped out to foul ground near first base. When Thornton came back to the dugout, Penders walked over to Thornton and said in a calm voice words to the effect of, "Dom, we gotta have a better swing than that in that count." Thornton snapped back, "It was a good swing." Penders, responded to the effect

of, “No man, we’ve got to drive the baseball on that count.” Thornton walked away from Penders, not looking at Penders, and said again, “It was a good swing.”

97. Penders was not inclined to further debate that a weak pop up to shallow foul ground on the opposite side was, by definition, not a good swing there. So Penders did not argue. He simply said to another player, “You’re DH,” meaning that the other player would be replacing Thornton in the lineup.

98. Thornton then simply quit on his team. Thornton walked out of the dugout, left the ballpark, and left campus. Thornton did not return during that game (Friday). Thornton also did not show up for either game of the Saturday doubleheader or the Sunday game that weekend.

99. Saturday night, after he failed to show up for either game of the double header, Thornton texted Penders asking to get back on the team. Penders agreed to meet with Thornton the following week to discuss it.

100. Present in that meeting were Thornton, Penders, and assistant coaches Bryan Faulds (now the head coach at St. Edward’s) and David Wood (now the head coach at the University of St. Thomas). Penders told Thornton that he would not be allowed to return to the team. But Penders, sympathetic to Thornton as a person and not wanting to adversely affect Thornton’s opportunity to get a degree, took the unusual step of allowing Thornton to keep his athletic scholarship despite quitting on his team.

101. Although Penders admits to being frustrated with Thornton and his seeming inability to understand why he was not being let back on a team he literally walked away from during a game, there was nothing about the interaction that was remotely related to race. For example, Penders is not even accused of using racial terms, saying anything that was racially insensitive, name calling or yelling.

102. The interaction at issue happened February 28, 2018. For over three years, Thornton



never made a complaint to St. Edward's, to Penders, or to anyone else about this conversation or anything else.

103. But in October 2021, three years and eight months after Thornton quit on his team but was still kept on scholarship by Penders, Thornton learned of the controversy generated by Jacques Palmer's petition. On information and belief, Thornton believed, as the entire St. Edward's community had been falsely led to believe by Fuentes, that Penders had been found guilty of race discrimination. Thornton sought to capitalize.

104. Through a lawyer, Thornton approached St. Edward's in mid-October 2021 and demanded a monetary settlement from the school. Thornton's lawyer notified St. Edward's that Thornton had secretly recorded a conversation with Penders back in 2018 – the conversation in which Thornton was asking to be reinstated to the team. Thornton's lawyer provided a copy of the recording to St. Edward's.

105. On October 18, 2021, St. Edward's Associate Vice President for Human Resources, Diversity and Inclusion Melissa Esqueda notified Penders that another complaint had been received and that DeDe Church, the external investigator, would be investigating this complaint as well. DeDe Church was again hired to conduct an investigation, this time of Dom Thornton's complaint about the conversation from February 2018. DeDe Church and her colleague Zander Pulis interviewed Penders on October 22 about Dom Thornton's allegation.

106. Penders was told that Dom Thornton's claim was a race discrimination complaint. However, Penders was never told of any factual basis for a claim that Penders' treatment of Thornton was based on race. For example, Thornton did not accuse Penders of using racially derogatory terms or of being racially insensitive. There is nothing on the tape of the conversation (which Thornton made without Penders' knowledge) that is remotely racist or based on race at all.

107. On information and belief, Thornton simply put the "race discrimination" label on his

grievance from over three years earlier because he believed the timing of another story of race discrimination would be problematic for the university and give him settlement leverage.

108. After a thorough investigation, including review of the secretly-recorded conversation and interviews of Penders and Dom Thornton, DeDe Church, the external investigator, concluded unequivocally that Penders *had not* engaged in racism, discrimination or in any other violation of university rule or policy in regard to his dealings with Dom Thornton.

109. St. Edward's leadership, including President Fuentes, agreed with the external investigator and exonerated Penders of any allegation of racism or discrimination in regard to his treatment of Dom Thornton.

110. Melissa Esqueda communicated these results of the investigation to Penders on November 16, 2021. Penders also received written confirmation dated December 2, 2021 that the "investigation did not find any support for the allegations of racial discrimination or any violation of the University's discrimination policies." But yet again, St. Edward's decided to keep the university community in the dark about the finding.

111. When she learned of the allegation by Dom Thornton, President Fuentes saw an opportunity. The controversy generated by Jacques Palmer's accusation and Fuentes's refusal to tell the truth about it was still escalating. A march on the Main Building was being planned as part of the #RobPendersResign movement. Faculty were asking tough questions, understandably confused by Fuentes' seeming confirmation of Palmer's allegations but failure to act.

112. President Fuentes made the decision to terminate Rob Penders' employment. She did so because, amid escalating pressure to fire Penders for discrimination, she had misled the community into believing Penders had engaged in discrimination. Fuentes wanted to appear to be fighting for "social justice" by firing a White employee who Fuentes had falsely led the campus community to believe had engaged in racial discrimination.

113. On December 1, 2021, Melissa Esqueda asked Penders to meet with her the next day to discuss the investigation. The next morning, Esqueda informed Penders that Associate Vice President for Athletics, Debbie Taylor, and Senior Associate Director of Athletics, Melinda Terry, would also attend that meeting.

114. At the meeting on December 2, 2021, Esqueda told Penders that, although he had been exonerated of all accusations of race discrimination and had not violated any university policies, the “new leader” of the university – meaning President Fuentes – had determined that Penders’ employment was being terminated. In bureaucratic jargon, Esqueda told Penders he was being terminated because “it appeared that your behavior is not in direct alignment with the operating principles, with the values, and with the position we are taking at this time on any episode like this.” Esqueda cited no examples of Penders’ conduct. Esqueda kept repeating that this decision was “not made unilaterally” and that it was made above her level authority.

115. Even though Esqueda had just told Penders that his behavior was not in alignment with St. Edward’s “values and with the position we are taking at this time on any episode like this,” Esqueda said that Penders would be permitted to coach the 2022 baseball season and that his employment termination date would be June 15, 2022, thus giving lie to the stated reason for termination. St. Edward’s told Penders that it intended to announce the next day, December 3, that Penders’ employment was being terminated and that the 2022 season would be his last.

116. Penders was shocked. He had been told two weeks earlier that he had been investigated and exonerated. He was also found to have been in compliance with all university policies and rules. The stated explanation of his firing, to the extent it was coherent at all, was false. That Penders’ conduct was contrary to “values and with the position we are taking at this time on any episode like this” is not consistent with the stated intention to allow Penders to continue coaching for another full season. Nor was that stated decision consistent with the fact that

the person who ended up coaching the 2022 season participated in the 2018 meeting with Dom Thornton and deemed the meeting to be consistent with his own values.

117. Penders told Esqueda that he considered the termination to be “wrongful termination.” Penders, tried to get his lawyer on the phone but could not reach him. Esqueda told Penders she would not continue the meeting with Penders’ lawyer present and that she would have to involve the university’s lawyer if Penders’ lawyer was contacted.

118. Penders left the meeting with the intention of reconvening the meeting when Penders’ lawyer and the university’s lawyer could be present. A few hours later, St. Edwards retaliated against Penders for opposing his discriminatory firing by making his termination effective immediately.

**J. Fuentes Continues Misinformation Campaign to Falsely Position Herself as Fighting for “Social Justice”**

119. President Fuentes’ communication plan further demonstrates that she terminated Penders’ employment because of his race to advance her false narrative and bolster her self-proclaimed status as a fighter for “social justice.”

120. On December 3, 2021, Fuentes sent an email to the St. Edward’s community about Penders’ firing. A true and correct copy is attached as **Exhibit D**. Fuentes’s announcement began by stating that Penders had been terminated. In the next paragraph, in reference to Jacques Palmer’s allegations (which the university had exonerated Penders of) Fuentes claimed that over the fall semester she had “engaged in discussions about the university’s commitment to social justice principles related to the experiences of a former student-athlete on the baseball team and framed around a particular set off allegations made against the head baseball coach.” Having previously informed the campus community that she had imposed “consequences” on Penders, and having just spent the better part of two paragraphs discussing a specific personnel matter, Fuentes wrote

that “our university policies restrict discussion of specific personnel matters.” Fuentes’s claim that she could not discuss a personnel matter was a lie. Fuentes was in fact discussing a personnel matter. She just wasn’t telling the truth about the personnel matter.

121. Following these self-evidently contradictory statements, Fuentes’s announcement of Penders’ firing went on with Fuentes pleading that the university community believe her that “the university’s prior application of its social justice principles and the ongoing commitment to those principles are resolute.”

122. Fuentes then got even more specific in discussing Penders’ specific personnel matter. Fuentes wrote that “New concerning information and allegations have been identified regarding the head baseball coach that are not in alignment with our values. As a result, I concluded that there was a need for a leadership change.”

123. Once again President Fuentes refused to tell the truth to her own university community. Caught up in self-glorification and her phony, performative fight for “social justice,” Fuentes failed to inform the university community that Jacques Palmer’s and Dom Thornton’s allegations of racism and discrimination against Penders had been determined to be without merit both by an external investigator and by President Fuentes herself.

124. The evidence makes clear that Fuentes’ intention was to terminate Penders because of his race and to thereby falsely perpetuate a narrative that she was taking bold action to combat White racism and achieve “social justice.”

125. Fuentes’s dishonesty worked. KVUE, the Austin ABC television affiliate, led its newscast on December 16 with the story of Penders’ firing. Quita Culpepper began the newscast that night by saying, “The head baseball coach at St. Edward’s University fired over allegations of racism and discrimination.” KVUE detailed Jacques Palmer’s allegations. KVUE reported what St. Edward’s told them –that St. Edward’s had hired an external investigator. But, instead of telling

KVUE that that investigator had exonerated Penders, St. Edward's issued another carefully parsed statement intended to conceal the truth rather than communicate the truth. St. Edward's stated merely that the allegations "did not merit termination."

126. KVUE's coverage the day of Penders' firing is just one of example of how Fuentes's carefully crafted strategy to mislead the public and glorify herself played out just as she intended. Because of Fuentes's campaign of misinformation, other media reported that Penders had been found guilty of the claims against him and that he had been fired because of racism and discrimination.

127. For example, on December 17, 2021, *Austonia* reported that "St. Edward's found Penders guilty of the claims [made by Palmer] but elected to have the coach take cultural background classes rather than firing him." *Austonia* also reported that Penders "was terminated early Friday morning after an October petition calling for the coach to be fired on allegations of racism resurfaced." *Austonia* amplified Fuentes's purposefully cryptic quote that "New concerning information and allegations have been identified regarding the head baseball coach that are not in alignment with our values." *Austonia* asked the university to specify what the new allegations were. Fuentes and St. Edward's refused to do so.

128. St. Edward's and Fuentes intended for the public to draw the conclusion that media did in fact draw – that Penders was found to have engaged in discriminatory conduct.

129. On December 19, 2021, *Oncue Sports* reported on Fuentes's actions this way: "A university in Texas has replaced its head baseball coach after a spate of allegations by former players that he was racist." The article reads as follows:

 By Sports News — On Dec 19, 2021



A university in Texas has replaced its head baseball coach after a spate of allegations by former players that he was racist. In an [anonymous online petition](#) to remove head coach Rob Penders at St. Edward's University, claims were made that he used racial slurs and told Black players to remove head coverings. The petition also complained that he was insensitive to Black people's racial experiences. On Dec. 3, St. Edwards released a statement acknowledging the allegations made against Penders and his immediate termination.

"New concerning information and allegations have been identified regarding the head baseball coach that are not in alignment with our values. As a result...there was a need for a leadership change," the statement read. Bryan Faulds will now lead the team.

[Read it at KVUE ABC](#)

[Read More: Texas St. Edward's University Replaces Head Baseball Coach Rob Penders After 2021-12-19 08:32:48](#)

130. Fuentes achieved her goal. She misled the university community and the general public into believing that she had stood up to White racism and demonstrated her commitment to "social justice" by terminating a high profile white coach whom she falsely led the community to believe had engaged in acts of discrimination.

#### **IV. Causes of Action**

##### **Count 1: Race Discrimination and Retaliation in Violation of 42 U.S.C. § 1981**

131. Penders incorporates by reference the allegations set forth in paragraphs 1-130 above.

132. 42 U.S.C. §1981 prohibits race discrimination and retaliation in the making and enforcing of contracts, including the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges and conditions of the contractual

relationship. Specifically, Section 1981 affords a federal remedy against discrimination in private employment on the basis of race. Penders, who is White, is a member of a protected class. As the United States Supreme Court has long held, Section 1981 protects White persons from discriminatory treatment on the basis of their race. *McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 287 (1976).

133. St. Edward's intentionally discriminated against Penders because of his race and in retaliation for his complaint and opposition to race discrimination and because of his participation in an investigation of race discrimination in violation of 42 U.S.C. §1981 by unlawfully discharging him. The unlawful practices committed by St. Edward's were and are a direct cause of Penders' damages, as more fully set forth below.

134. Penders was and remains highly qualified for the job he was fired from. As described in great detail in section II.A. above, Penders' 507 wins and .648 winning percentage in 15 seasons as head coach make him hands down the most successful coach in the 113-year history of St. Edward's baseball. Penders led his teams to 6 regular season and 6 conference tournament championships, and 7 NCAA regional berths. Even President Fuentes, before she needed to sacrifice Penders to mislead the public into believing she was fighting for "social justice," said in an email less than 60 days before firing Penders that was "so excited about the bright future of our baseball team under your leadership!" Penders received only positive performance reviews and was never found to have violated any workplace rule or policy.

135. But for his race, Penders would not have terminated. As described in detail in Section II above, Penders' race was an essential but-for factor in the decision President Fuentes and St. Edward's made to fire him. Fuentes was hired by St. Edward's because she sold St. Edward's on her self-described commitment to "social justice." In the first semester of her presidency, when a



Black former player launched an online campaign to have the White baseball coach fired over allegations of race discrimination, Fuentes was met with an opportunity to tell the truth: that an external investigator and Fuentes herself had determined that Penders had not engaged in discrimination. Instead, Fuentes misled the campus community into believing Penders was guilty of discrimination and then fired him so that she could falsely portray herself as having “taken action,” and having imposed “consequences” in her fight for “social justice.” Fuentes’s actions were phony and performative. Her words and her craven silence were dishonest. And her decision to terminate Penders’ employment, which she would not have taken but for his race, was unlawful.

136. Additionally, training materials St. Edward’s requires of employees provides additional evidence of racial animus. For example, in one of the training videos St. Edward’s required Penders to watch as part of the “optics” following the investigation of Jacques Palmer’s allegations, the presenter instructs St. Edward’s employees that a person’s “whiteness” means “the all-encompassing dimensions of White privilege, dominance, and assumed superiority in society. These dimensions include: ideological, institutional, social, cultural, historical, political and interpersonal.”

137. The speaker in one of the training videos further generalized about and stereotyped White employees, saying that Whites “make, like, white the norm. So when we (referring to White people) think about policies, or we think about professionalism, or we think about culture, that is all rooted in whiteness. And for most [whites] we don’t even see that because it’s so ingrained in the systems.”

138. In addition, the September 30, 2021 memo issued to Penders for reasons of “optics” after the investigation of Jacques Palmer’s allegations stated that the training videos he was being instructed to watch were designed in part to “increase [Penders’] self-awareness of [his own]

cultural background,” a direct reference to Penders’ race.

#### **V. Damages**

139. As a result of St. Edward’s’ unlawful conduct, Penders has suffered economic and actual damages, including past and future lost income, back wages, interest on back pay and front pay, future wages or front pay, lost earnings in the past and future, lost benefits under the contract or employment relationship, employment benefits in the past, and employment benefits in the future.

140. Penders has also incurred other actual damages as a result of St. Edward’s’ unlawful conduct, including but not limited to past and future pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character and reputation, and other pecuniary and non-pecuniary losses.

#### **VI. Punitive Damages**

141. The conduct committed by St. Edward’s against Penders is the type of conduct demonstrating malice or reckless indifference to Penders’ rights. Therefore, Penders additionally brings suit for punitive damages.

#### **VII. Attorneys’ Fees and Expert Fees**

142. A prevailing party may recover reasonable attorneys’ and experts’ fees under Section 1981. Penders seeks all reasonable and necessary attorneys’ fees in this case, including preparation and trial of this lawsuit, post-trial, pre-appeal legal services, and any appeals. Penders additionally brings suit for expert fees.

#### **VIII. Jury Demand**

143. Penders demands a trial by jury of all the issues and facts in this case and tenders herewith the requisite jury fee.

**Conclusion and Prayer**

Penders respectfully requests that it have judgment against St. Edward's for:

- a. Economic and actual damages, including past and future lost income, back wages, interest on back pay and front pay, future wages or front pay, lost earnings in the past and future, lost benefits under the contract or employment relationship, employment benefits in the past, and employment benefits in the future;
- b. Past and future pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character and reputation, and other pecuniary and non-pecuniary losses and lost earning capacity in the past and future, and other pecuniary and non-pecuniary losses;
- c. Punitive damages;
- d. All costs of expert witnesses and the costs of litigation;
- e. Attorneys' fees for prosecution of this case at trial and on appeal;
- f. Pre-judgment interests as required by Chapter 304, Texas Finance Code or other applicable laws;
- g. Post-judgment interest, at the maximum legal rate;
- h. Equitable and injunctive relief, including back pay, front pay, and reinstatement; and
- i. All other relief to which Penders may be entitled at law, or in equity.

Respectfully submitted,

/s/ Thomas A. Nesbitt

Thomas A. Nesbitt

State Bar No. 24007738

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**COUNSEL FOR PLAINTIFF  
ROB PENDERS**

# Exhibit A

SIGN IN JOIN CONTRIBUTE

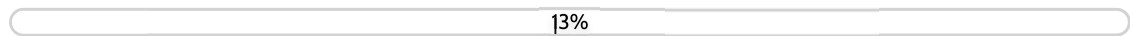


anya janke 0

# Remove Coach Penders of St. Edward's University for Racist Comments and Discrimination

605 people have signed this petition. Add your name now!

605 people have signed.



Noah Furman signed recently

Head Coach Rob Penders of the Baseball Program at St. Edward's University in Austin, Texas was investigated by the school and found guilty of the following claims:

- saying the N word in front of the team before a practice
- telling Black student-athletes to remove their head coverings
- telling multiple Black players about his family's racist history and being insensitive to the experiences of Black people.

Despite the University finding him guilty, they have chosen not to suspend or remove him from his position at the university. Instead they are having him take cultural background classes.

We are petitioning St. Edwards to remove Penders from his position & to make them understand the severity of his actions and the consequences his discrimination has on Black players.

Please help us in creating change.

## Share for Success

### COMMENT

JD Garza  
Dec 14, 2021

Dec 14, 2021  
upvote reply show

You also forgot to mention the person making these claims was kicked off the team for not showing up for a few games/days without telling any coaches and was voted to remain off the team by his own team mates!!! That's why there are no signatures from anyone on the team!!!

JD Garza  
Dec 14, 2021

Dec 14, 2021  
upvote reply show

And the University did not find him "guilty" of these things which is another LIE!!! I served on the SEU Board of Directors for over 10 years and know the TRUTH so feel free to contact me if that is at all of interest to you.

Thank you  
JD Garza SEU '82

**SIGN PETITION**

Dec 14, 2021  
upvote reply show

This "petition" is totally BOGUS!!! I guarantee you most of the people signing do not even know Coach Penders because he is FAR FROM A RACIST!!!! I have known him for over 15 years going back to St Ed's to play in alumni games every year (1993 Alumnus). As a Hispanic, he has NEVER shown a hint of racism or discrimination. So much so that myself and ex-alum donated money to St Ed's and the program every year. He especially would not be stupid enough to use the N word in this hyper sensitive environment that now exists. I can guarantee you this is about a player not getting the playing time he thinks he deserves and is using this complaint and abuse of "minority victimism" to get back at Coach Penders. DO YOUR DUE DILIGENCE. Look at how many minority players have played, started and have been given scholarships under Coach Penders the past 15 years. Again, being Mexican American, I am all for Diversity, Equality and Inclusion but I am sick of this younger generation of folks abusing it to hurt or get personal revenge on others. The person that made these bogus claims will soon get theirs and I have a few words of advice: PRACTICE!!! and maybe you'll get a better chance of playing more and not have to result to such pathetic tactics! \*And NO I am not "signing"; this stupid petition this is me submitting comments

Morgan Miller  
Oct 12, 2021  
Oct 12, 2021  
upvote reply show

Do better SEU. This behavior should not be tolerated.

Megan Ireson  
Oct 10, 2021  
1 Oct 10, 2021  
upvote reply show

St. Edward's also needs to update their policies to make clear that this behavior is not acceptable.

Alejandro Aguirre  
Oct 10, 2021  
upvote reply show  
Oct 10, 2021

Disgraceful.

Anonymous  
Oct 09, 2021  
upvote reply show  
Oct 09, 2021

If

Anonymous  
Oct 09, 2021  
Oct 09, 2021  
upvote reply show

St.Eds just continues to disappoint. This racist must go.

Amelia Valencia  
Oct 08, 2021  
upvote reply show  
Oct 08, 2021

screw him

sarahi villalobos  
Oct 08, 2021  
Oct 08, 2021  
upvote reply show

**Brian Lozano**  
Oct 08, 2021

← Oct 08, 2021  
upvote reply show

As an alumni of St. Edward's University, I don't support the university's decision of not removing the head coach of the SEU baseball team.

**Victor Rodriguez**  
Oct 08, 2021

← Oct 08, 2021  
upvote reply show

Sick of the white privilege academia is a joke

**Tate Seroczynski**  
Oct 08, 2021

←  
upvote reply show  
Oct 08, 2021

Get him out.

**Ruby Valtierra**  
Oct 08, 2021

← Oct 08, 2021  
upvote reply show

He needs to be fired!!!! How can St. Edward's keep someone like this on our campus?!!!

**Jeila Rios**  
Oct 08, 2021

← Oct 08, 2021  
upvote reply show

This school preaches social justice and equality but isn't firing a racist. That's wrong and needs to be changed. They need to show their students that we are all welcomed, safe, and that they will do their part to hold people accountable for their actions.

**Desiree**  
Oct 08, 2021

← Oct 08, 2021  
upvote reply show

How does St. Edwards want the theme of this year be anti racist but they're still having a racist coach? Doesn't add up

**Christopher Perez**  
Oct 08, 2021

← Oct 08, 2021  
upvote reply show

damn st. Ed's you really showing your ass

**Isa Mikhail**  
Oct 08, 2021

←  
upvote reply show  
Oct 08, 2021

This is unacceptable

**Sydney Pegram**  
Oct 08, 2021

2 ← Oct 08, 2021  
upvote reply show



**Breuna Westry**

Oct 08, 2021

← Oct 08, 2021  
upvote reply show

I won't donate ever to my alma mater if this is what they represent. Diversity is definitely not coming first to y'all today.

**Anonymous**

Oct 08, 2021

1 ← Oct 08, 2021  
upvote reply show

This kind of behavior should NEVER be tolerated. REMOVE HIM FROM CAMPUS.

**Magaly Arredondo Lopez**

Oct 08, 2021

← Oct 08, 2021  
upvote reply show

Really? A suspension? How are people actually going to be held accountable and learn?

**Alejandra Cristancho**

Oct 08, 2021

← Oct 08, 2021  
upvote reply show

Hold Everyone Accountable for this behavior.

**Miguel Trevino Trevino**

Oct 08, 2021

← Oct 08, 2021  
upvote reply show

Racism shouldn't be tolerated anywhere especially here.

**olivia carpenter**

Oct 08, 2021

← Oct 08, 2021  
upvote reply show

school claims to care about ending injustice & discrimination and about promoting equality. prove it

**Leon Linam**

Oct 08, 2021

←  
upvote reply show

Oct 08, 2021

Do better.

**Nina Martinez Hilltop Views EIC**

Oct 08, 2021

← Oct 08, 2021  
upvote reply show

If you have anything you'd like to share as we report on this story, please email me or the paper at nmarti21@stedwards.edu or hilltopviewseditors@gmail.com.

**Jillian Krulac**

Oct 08, 2021

2 ← Oct 08, 2021  
upvote reply show

The way this school continues to fake a progressive agenda and permit these things on campus is disgusting.

Alexandra Torres

The baseball team is rampant with homophobic, sexist, and racist beliefs. I'm not surprised the coach behaves the same way the players do.

**Selma Gutierrez**

Oct 08, 2021

1  Oct 08, 2021

upvote reply show

BIPOC communities should be protected and respected.

**Lexi Reeves**

Oct 08, 2021

 Oct 08, 2021

upvote reply show

This is an institution that prides itself on inclusion and diversity. Protect your students and do the right thing. Unacceptable.

**Zoe**

Oct 08, 2021


 Oct 08, 2021

upvote reply show

Racism should not have a place in any school.

**Anonymous**

Oct 08, 2021

 Oct 08, 2021

upvote reply show

Not surprised. Make the change.

**Sam adam**

Oct 07, 2021



upvote reply show

Oct 07, 2021

Remove him!

**Janette Casares**

Oct 07, 2021

 Oct 07, 2021

upvote reply show

Although going to culture background classes may help him understand.. the students are not comfortable with him here. He should not be coaching!!!

**St. Edward's Baseball Player**

Oct 07, 2021

2  1 Oct 07, 2021

upvote reply show

This is all half truths and misleading information. No one that has signed this petition knows the full story of what happened nor have they asked any of the acting players on the team for the full story behind these accusations. I personally know some of the people that have signed this petition and not one has asked me about what actually happened. Before y'all jump to conclusions try to find all the facts.

**Anonymous**

Oct 07, 2021

4  1 Oct 07, 2021

upvote reply show

After being assaulted by one of the players and knowing many others who had similar experiences, it is time for St. Edwards to hire a new leader and coach for baseball. The University needs to stand up against the racism and rape

**SIGN PETITION**

Oct 07, 2021

Oct 07, 2021  
upvote reply show

This coach needs to be removed from his position.

**Hannah Martin**  
Oct 07, 2021

upvote reply show  
Oct 07, 2021

steds do better

**Hildana Adhanom**  
Oct 07, 2021

upvote reply show  
Oct 07, 2021

Seriously infuriating!

**Elle**  
Oct 07, 2021

1 upvote reply show 1 Oct 07, 2021

For a university with a social justice mission, this is not okay

**Jessie Richards**  
Oct 07, 2021

upvote reply show Oct 07, 2021

NO ROOM FOR THIS RACIST AT STEDS!!!

**Lauren Jaresh**  
Oct 07, 2021

upvote reply show Oct 07, 2021

fire racist people! do not give them a platform to continue to do more harm!

**Christine**  
Oct 07, 2021

upvote reply show Oct 07, 2021

There is no room for racism at St. Ed's

**Zoe Train**  
Oct 07, 2021

upvote reply show Oct 07, 2021

Keeping a racist coach employed goes against the values st edwards claims to uphold and their lack of action is unacceptable we must hold him and our campus accountable

**sadie p**  
Oct 07, 2021

upvote reply show Oct 07, 2021

we demand immediate action!

**Lozin Carleton**  
Oct 07, 2021

REMOVE!

**Aaron Kennard**  
Oct 07, 2021

← Oct 07, 2021  
upvote reply show

This kind of behavior should not have any place at St Edward's. Y'all better make him accountable for his actions.

**Rudy**  
Oct 07, 2021

← Oct  
upvote reply show 07,  
2021

i hate racist people lol

**David**  
Oct 07, 2021

← Oct 07, 2021  
upvote reply show

Nothing productive will come from having Coach Penders take courses on cultural inclusivity because it's not actual accountability.

There needs to be consequences for his actions especially given his pattern of behavior. This is not an isolated incident so stop letting people off with a slap on the wrist.

**Joanna McDonald**  
Oct 07, 2021

← Oct 07, 2021  
upvote reply show

Disgusting he needs to be fired immediately

**Millie**  
Oct 07, 2021

←  
upvote reply show  
Oct 07, 2021

Bitch what

**Sonia Fonseca**  
Oct 07, 2021

←  
upvote reply show  
Oct 07, 2021

Petitioning

**Valerie Kauffman**  
Oct 07, 2021

← Oct 07, 2021  
upvote reply show

St. Edward's has a long-standing history of sweeping issues like these under the rug. For once, St. Ed's Admin, do the right thing. Having a good baseball team means nothing when its Black players are mistreated.

**Cassie Herrera**  
Oct 07, 2021

← Oct 07, 2021  
upvote reply show

As a proud alumni I believe St. Edward's core values do not reflect the words and actions of Coach Penders. I would like

**SIGN PETITION**

**Syaney MITCHELL**

Oct 07, 2021

← Oct 07, 2021  
upvote reply show

Incredibly disappointed in St. Edward's inability to remove someone from its coaching staff, despite several complaints and racial targeting of their students

**Joseph Filip**  
Oct 07, 2021

← Oct 07, 2021  
upvote reply show

I was educated at St. Edward's to be socially conscious and an active agent for change and responsibility in the world. I expect the university to live up to the standards they claim to champion in the classroom.

**Paola herevia**  
Oct 07, 2021

← Oct 07, 2021  
upvote reply show  
Oct 07, 2021

Get him out

**Giovana soto**  
Oct 07, 2021

← Oct 07, 2021  
upvote reply show

As a ncaa d2 athlete in the same conference at this school it's sad and disgusting he's not being held accountable for his actions like any other school in the conference has held previous coaches accountable and have fired them

**Bryce Jones**  
Oct 07, 2021

← Oct 07, 2021  
upvote reply show

Absolutely disgusting that he was not fired

**Zachary Mejia**  
Oct 06, 2021

← Oct 06, 2021  
upvote reply show

He's a bad man who said the n word

**Dacia Torres**  
Oct 05, 2021

← Oct 05, 2021  
upvote reply show  
Oct 05, 2021

!!!

**Deshun Lewis**  
Oct 04, 2021

← Oct 04, 2021  
upvote reply show

What kind of coach doesn't play his players

[See More](#)

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SIGNATURES

SIGN PETITION

4 months ago  
4 months ago  
Susan Rickey United States  
4 months ago  
4 months ago  
Megan Ireson United States  
4 months ago  
4 months ago  
Alejandro Aguirre United States  
4 months ago  
4 months ago  
Sandy Garza United States  
4 months ago  
4 months ago  
Valentina Abad Schneewind United States  
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Melissa Lopez United States  
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Kasandra United States  
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Ashley Trejo United States  
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Yana Galarza Ecuador  
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Caroline Turing United States  
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Chung Yi Hung United Kingdom  
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Amanda Korea, Republic of  
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Sophia Magri United States  
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Cameron Kennedy United States  
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Austin Aguilar United States  
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Ashley Guevara United States  
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Lauren Graham United States  
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chloë stagg United States  
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Henry Dubois United States  
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Abigail Pullen United States  
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Kat United States  
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Gavin Waller United States  
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jasmine Ecuador  
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**SIGN PETITION**

Xochitl Lara United States

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Victoria lok Hong Kong  
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Victoria Ecuador  
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Dalila Serna United States  
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Amelia Valencia United States  
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Evelina Pimentel United States  
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Jose Moreno United States  
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Tita Yanez United States  
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Arianna Vacio United States  
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Elysheva Barnett United States  
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Jemima-Ederéwoma Ohwobete United States  
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Danni United States  
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Noah Furman United States  
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Gustavo Ortiz United States  
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Brian Lozano United States  
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Lupita United States  
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**SIGN PETITION**

Emily V Garza United States

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Loralei Carr United States  
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Emmy United States  
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Colton Mitchell United States  
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Sam United States  
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Logan Gonzales United States  
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Madilynn United States  
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Christopher A United States  
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Taylor N Canada  
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Madeline Flannery United States  
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Caitlyn Gonzales United States  
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Kenzie Blaser United States  
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Meriam United States  
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Shelby Canada  
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Ian Torres United States  
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Sophie Sanati United States  
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Valeria Arredondo United States  
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Falyn Taylor United States  
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Isabelle Jean United States  
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gracie United States  
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Christine Johansen United States  
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**SIGN PETITION**

Lucita Rodriguez United States



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Diana Barroso-Moreno United States  
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Ruby Valtierra United States  
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Jeila Rios United States  
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Desiree United States  
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Aisha Kidd United States  
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Hailey Strader United States  
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David Weier United States  
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Leah Fitzgerald United States  
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Becca United States  
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Melanie Tillar United States  
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Eve Dean United States  
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Michelle Clarke United States  
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Magaly Arredondo Lopez United States  
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**SIGN PETITION**

Aswathi Thomas United States

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Katrina Harnden United States  
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Alejandra Cristancho United States  
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Nyla Eaddy United States  
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Khayla DOWls United States  
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Lauren Louk United States  
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Miguel Trevino Trevino United States  
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Rikaela Refuerzo Korea, Republic of  
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Yordanos Mosazghi United States  
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Sarah Bustos-Lopez United States  
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Luis Arellano United States  
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Ysi Colter United States  
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Toni Salerno United States  
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Scarlet Hobbs United States  
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Payten Harrison United States  
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Natalie Hughes United States  
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Daniela Aguilar United States  
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Thomas D United States  
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Kimberly Anguiano United States  
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Nichole Fierro-Ryan United States  
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Emilee Shazer United States  
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Alicia Machado United States  
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Adriana R United States  
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olivia carpenter United States  
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Diego Garza United States  
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**SIGN PETITION**

Luke Tobias United States

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Alyssa Perez United States  
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Nina Martinez Hilltop Views EIC United States  
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Thalita de Souza United States  
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J Horton United States  
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Annie Bresee United States  
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Carolina Camacho United States  
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Maleah Piedra United States  
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Jillian Krulac United States  
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Isabelle Cunha United States  
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Erin Badger United States  
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mia gonzalez United States  
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Jackie Martin United States  
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Nicholas Gonzalez United States  
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Sam Alvarez United States  
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Paloma Michel United States  
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Ana Rodriguez United States  
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Grace Hosek United States  
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Miranda Lowrance United States  
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Olivia Trevino United States  
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skylar United States  
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Alyssa Light United States  
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Selma Gutierrez United States  
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autumn United States  
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Alexia Puente United States  
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**SIGN PETITION**

Ava Pfeiffer United States

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Lexi Reeves United States  
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Therese United States  
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Justin Walker United States  
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Itzayana Rebolgar United States  
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Sofia Segura United States  
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Alexandra Ligh United States  
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Zoe United States  
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Alexandra Mendoza Ortiz United States  
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Lilly United States  
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Fred Goodman United States  
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Hannah Fields United States  
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Joselyne Ochoa United States  
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Isabel Rasmussen United States  
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Josie Hernandez United States  
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Enrique Bustamante United States  
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Princess Lane United States  
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Branya arguello United States  
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Marissa Rios United States  
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Alexis Luinstra United States  
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Julieta Aguilar United States  
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Frida Hernandez United States  
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Andrew Banda United States  
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Amber Vela Duque United States  
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Allie Gordon United States  
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**SIGN PETITION**

David lunan United States

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Ian Hardgrove United States  
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Joshua Mendiola United States  
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Claire Lane United States  
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Alexandra Puentes United States  
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Alex Alexander United States  
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James Parker United States  
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Lacey Nugent United States  
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Allison Venancio United States  
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Christine United States  
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Noli Westfall United States  
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Tara Duval United States  
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Loic Shyaka United States  
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Peyton Phelan United States  
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Michelle Ramirez United States  
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Alexis Peekks United States  
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Martha United States  
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Sam Adam United States  
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Christina Singh United States  
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Janette Casares United States  
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Lauren Polk United States  
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Katie Romero United States  
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Victoria Hoang United States  
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Jeni Jimenez Benitez United States  
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Henry Teccsi United States  
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**SIGN PETITION**

Camila United States

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 Taylor United States  
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 Mariana Alvarado United States  
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 Kaitlyn Stark United States  
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 Laura Stacy Gordon United States  
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 Siddharth Harlan United States  
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 Josh F United States  
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 Tyler Hotz United States  
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 Victoria United States  
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 Emily Lopez United States  
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 John Nolte United States  
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SIGN PETITION

katy United States

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Zanthe United States  
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David United States  
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Donna Van Zandt United States  
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Leon Burgher United States  
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Jackeline Gujardo United States  
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Taylor LatA United States  
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Maggie Rittmeyer United States  
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Sam Flusche United States  
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Fabian Luna United States  
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Gaby Salazar United States  
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Anyka Morquecho United States  
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Andrew Wynne United States  
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Priscilla Stevenson United States  
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Kayleigh Manz United States  
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Blanca Kelly United States  
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Zahra Keshwani United States

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# Exhibit B

Dear St. Edward's Community,

I write to you today to affirm my steadfast commitment to diversity, equity and inclusive excellence in all aspects of St. Edward's University including our athletics programs. A recent and confidential athletics personnel matter necessitated a thorough and comprehensive investigation conducted by an independent firm. Following the investigation, the university has taken actions, and there have been consequences which are consistent with the university's mission and policies.

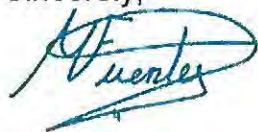
Developing a culture of greater diversity, equity and inclusion requires consistent effort, and we will continue finding ways to improve. Current efforts underway include:

- The NCAA Athletic Diversity and Inclusion designee was recently filled by Erica Zamora, the director of Student Diversity and Inclusion, and she has already begun meeting with stakeholders in Athletics. This direct access will allow ongoing and confidential communication and support for student-athletes.
- Team meetings with the D&I designee will take place at the beginning of each academic semester.
- Continued support will be provided for the Black Student-Athlete and Allies Committee (BSAAC) through the offices of Student Diversity and Inclusion and Athletics. BSAAC was formed in 2020 to provide an avenue for student-athlete diverse opinions to be heard and to have a voice in Athletics and on campus.
- Discussions about diversity and inclusion will be facilitated by the D&I designee within the Topper Pride course for 1st year student-athletes.
- A link on the Hilltopper athletics website is being expanded so that student-athletes can submit a concern and access support services on and off campus. Concerns may be submitted anonymously if desired.
- A comprehensive on-going training plan will be developed in alignment with NCAA best practices to help all our coaches improve at recognizing and breaking down barriers within their teams which could otherwise stifle diverse and inclusive views.

I am committed to authentic and transparent communication with intentional action. I want you to know how much I support our student-athletes and St. Edward's University Athletics. They are important parts of the student experience, our vibrant campus community and our strategic planning process currently underway. I look forward to working together with you to bring about a destination social justice university and a

strong, diverse and inclusive athletics program. I am proud to be a Hilltopper, and I hope to see you at some of our home games.

Sincerely,

A handwritten signature in blue ink, appearing to read "Montse Fuentes", enclosed within a large, stylized blue oval scribble.

**Montse Fuentes, PhD**  
President  
St. Edward's University

# Exhibit C

# St. Edward's University Announces New President, Montserrat Fuentes, After National Search

Dec. 4, 2020

AUSTIN, Texas – On behalf of the Board of Trustees, St. Edward's University is pleased to announce the selection of [Montserrat "Montse" Fuentes](#) as its next president.

Fuentes, a native of Spain, will be the first Hispanic president to lead St. Edward's, representing a significant milestone for the university, which is a Hispanic-Serving Institution and is recognized as 8th in U.S. News & World Report's Best Regional Universities in the West ranking. She will also become the second female president in the university's history, a role held by Patricia Hayes from 1984–1998.

Fuentes will assume the role on July 1, 2021, succeeding President George E. Martin, who is retiring in June 2021 after leading the university for 21 years.

After an [extensive national search](#), the university's Board of Trustees unanimously selected Fuentes because of her deep knowledge of higher education and her shared commitment to social justice and the Holy Cross mission of educating the heart and mind.

"Dr. Fuentes has a dedication to providing world-class scholarship and classroom teaching, an unsurpassed commitment to diversity, equity and inclusion, and a clear vision for the university's future," said Steve Shadowen '80, Board of Trustees chair. "She is the right leader to move the university forward in the growing and evolving state of Texas and in the dynamic, global city of Austin."



*Montserrat Fuentes was named president of St. Edward's University. She will assume the role on July 1, 2021.*

Fuentes, an accomplished administrator, professor of Statistics and researcher, was most recently executive vice president and provost for the University of Iowa, where she championed entrepreneurial and real-world training, curricular initiatives, leverage of technology, and civic engagement to enhance student success.

"It is a great privilege for me to be welcomed into the St. Edward's University community. I am honored to be selected by the Board of Trustees to serve as the next president of St. Edward's University," Fuentes said.

"St. Edward's is an immensely vibrant institution with boundless opportunities," she added. "I look forward to helping St. Edward's reach the next level of excellence, while continuing the university's commitment to offer a relevant, personalized and transformative educational experience that prepares students to be driven by purpose and to aspire to bring positive change to our world."

As a first-generation college student who earned a dual degree in math and music, Fuentes shares the university's dedication to providing a top-notch education for all students. She immigrated to the United States after she was recruited as a graduate student by the University of Chicago, where she earned a PhD in Statistics.

Since then, Fuentes has accrued two decades of experience as a faculty member and administrator. During her role as department head at North Carolina State University, she was named the inaugural Goodnight Distinguished Professor of Statistics, and also served as a director of a National Science Foundation (NSF) research center for atmospheric sciences named STATMOS.

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Before becoming executive vice president and provost at the University of Iowa, Fuentes also served as dean of Humanities and Sciences at Virginia Commonwealth University.

As a researcher, her interests include big data, brain imaging analysis, statistics for spatial data, uncertainty analysis, computer models, interdisciplinary applications in neurosciences, environmental and health sciences. Her work addresses scientific and societal problems in brain imaging, weather forecasting, climate change, air pollution and human health effects from pollution, as well as studies of pregnancy and pregnancy outcomes for both the mother and child.

Fuentes' research has received funding from the NSF, the United States Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration (NOAA), among others. Her work has been published in top scientific journals, and she has authored or co-authored numerous book chapters and two books on statistics.

On top of her academic roles, Fuentes has served on committees and advisory boards for the EPA, the National Academy of Sciences and the National Institute of Health, along with other organizations and nonprofits.

Throughout her career, Fuentes has sought to promote diversity, equity and inclusion. In recognition of her efforts, she received the Equity of Women award in 2013 for major contributions to the equity and wellbeing of women at NC State University. She was also selected as the NC State University faculty liaison for the Office for Institutional Equity and Diversity in 2014 to support women and minorities as they manage a successful career in academia with family responsibilities.

The Board of Trustees said they are confident that Fuentes will continue to lead the university on a path toward growth and excellence set by her predecessor President George E. Martin.

During Martin's tenure, the university has grown undergraduate enrollment by 55%, invested more than \$400 million to enhance the hilltop campus, significantly improved national and regional rankings, continued national leadership in producing Fulbright scholars, and significantly strengthened the endowment. Additionally, Martin has continued the university's commitment to the nationally recognized College Assistance Migrant Program (CAMP), which recruits and provides support to disadvantaged students.

## **About St. Edward's University**

St. Edward's University is a private, liberal arts university in the Catholic, Holy Cross tradition with approximately 4,000 students. Located in Austin, Texas, it is one of the top universities in Texas and offers more than 50 undergraduate and 10 graduate programs. With a network of partner universities around the world, St. Edward's delivers a premier, highly personalized education that helps students explore their own transformational pathways to knowledge, experience, understanding and success. St. Edward's has been recognized for 18 consecutive years as one of "America's Best Colleges" by U.S. News & World Report and holds the #8 spot among Best Regional Universities in the West in the U.S. News 2020 and 2021 rankings. For more information on St. Edward's, visit [stedwards.edu/about](https://stedwards.edu/about).

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St. Edward's University  
3001 South Congress  
Austin, Texas 78704-6489

855-468-6738 (toll free)  
512-448-8400

## Campus Information

- Maps & Directions
- Contact
- Directory
- Careers
- Site Map
- Policies
- Disclosures
- Accessibility
- Title IX
- Covid-19

## St. Edward's on Social



# Exhibit D

have received this email by mistake. Email is not guaranteed to be secure and could be corrupted, lost, destroyed, incomplete, or contain viruses. AQUILA Commercial, LLC does not accept liability for any errors or omissions.

----- Forwarded message -----

From: **Office of the President, St. Edward's University** <[noreply@stedwards.edu](mailto:noreply@stedwards.edu)>

Date: Fri, Dec 3, 2021 at 10:08 AM

Subject: Changes to St. Edward's Baseball Team Leadership

To: <[acontre6@stedwards.edu](mailto:acontre6@stedwards.edu)>



*From the*  
**Office of the President**

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Dear St. Edward's Community,

Effective immediately, Rob Penders will conclude his tenure as head baseball coach at St. Edward's University.

Throughout the fall semester, I received questions and engaged in discussions about the university's commitment to social justice principles related to the experiences of a former student-athlete on the baseball team and framed around a particular set of allegations made against the head baseball coach. While our university policies restrict discussion of specific personnel matters, I assure you both the university's prior application of its social justice principles and the ongoing commitment to those principles are resolute.

We expect all of our employees, including our coaches, to follow our operating principles

and treat one another and our students with mutual respect. New concerning information and allegations have been identified regarding the head baseball coach that are not in alignment with our values. As a result, I concluded that there was a need for a leadership change.

We appreciate his contributions to the baseball program and will be developing a staffing plan to ensure we are prepared for the spring season. I wish Coach Penders the best of luck in his future endeavors.

Sincerely,



**Montse Fuentes, PhD**  
President  
St. Edward's University

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