



SUPERINTENDENT OF PUBLIC INSTRUCTION

RANDY I. DORN OLD CAPITOL BUILDING • PO BOX 47200 • OLYMPIA WA 98504-7200 • <http://www.k12.wa.us>

IN THE MATTER OF THE EDUCATION)
CERTIFICATE OF)
Brooke Lee)
Certificate No. 416078D)

OPP No. D14-01-008
CORRECTED FINAL
ORDER OF SUSPENSION

COMES NOW Walt Bigby, Review Officer of the Office of Superintendent of Public Instruction (OSPI), having reviewed the files of the above-referenced case, and having considered the arguments of each party and the recommendation of the Admissions and Professional Conduct Advisory Committee, does hereby suspend the Washington Education Certificate No. 416078D, of Brooke Lee for twenty four (24) months based on the Findings of Fact and Conclusions of Law set forth below.

FINDINGS OF FACT

1. Brooke Lee was issued a Washington Education Certificate, No. 416078D, on April 22, 2004. That certificate currently remains valid.
2. Brooke Lee was employed by the Yakima Public Schools.
3. On January 8, 2014, the Office of Professional Practices, within OSPI, received a complaint letter from the superintendent of the Yakima Public Schools alleging a lack of good moral character or personal fitness, or a violation of the Code of Professional Conduct, Washington Administrative Code (WAC) 181-87, by Brooke Lee.

BROOKE LEE CORRECTED FINAL
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4. Yakima Public Schools policy 5258, Drug and Alcohol-Free Schools, Community and Workplace, in part, states that the following behaviors are not tolerated: "Reporting to work under the influence of alcohol, illegal chemical substances or opiates. Reporting to work with illegal chemical substances or opiates in an employee's body (system)"; "Using, possessing, or transmitting alcohol, other controlled substances drugs (including marijuana and anabolic steroids) or opiates, and tobacco and delivery devices in any amount or in any manner on district property at any time"; and "Using, possessing, or transmitting illegal chemical substances and opiates in a manner which is detrimental to the interest of the district."

5. On March 28, 2010, Brooke Lee entered her former house, then inhabited by her estranged husband, and assaulted her former father-in-law and brother-in-law. Brooke Lee also made comment referring to doing great bodily harm to these persons. Brooke Lee was arrested and booked into jail by Yakima Police Department officers for two counts of Assault 4th Degree, Yakima Municipal Code (YMC) 6.04.020 and one count of Harassment, YMC 6.45.020; Yakima Police Department Report #10-05101.

6. On March 29, 2010, criminal complaints were filed in Yakima Municipal Court charging Brooke Lee with Harassment and two counts of Assault 4th as a result of the incident occurring on March 28, 2010. On April 21, 2010, both cases were dismissed by Yakima Municipal Court. Yakima Municipal Court No. G00070562YPD and G00070561YPD.

7. From about March 2010 through March 2013, K.C. Mitchell, Ridgeview Elementary School, was informed of and spoke with Brooke Lee about issues such as, but not limited to: Brooke Lee being arrested on March 28, 2010; an unannounced and unknown person in the school inquiring about Brooke Lee; anonymous reports from staff that Brooke Lee was consuming alcohol during the school day; tardiness to school; not completing assigned duties; concerns with classroom behavior; concerns with behavior during parent-teacher conferences; concerns about teaching performance.

8. On April 23, 2012, Mr. Mitchell met with Brooke Lee about concerns, among other issues, with her leave time and not being in her classroom when expected.

9. On June 11, 2012, Brooke Lee was issued a verbal warning by Mr. Mitchell for being late to school and failing to contact the school or Mr. Mitchell.

10. In spring 2013, Ms. Lee's appearance changed markedly (significant weight loss, complexion problems), her attendance dropped off, and she was frequently late for school.

11. On March 14, 2013, Brooke Lee was issued a written reprimand by Mr. Mitchell for continuing to be late to school. Ms. Lee was advised of the expectation to show up on time for work each day and advise him well in advance if she would be late.

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12. On April 15, 2013, Brooke Lee was placed on administrative leave. On the same day, the Yakima Public Schools asked Brooke Lee to provide a sample of her urine at the Yakima Worker Care clinic to test for the presence of controlled substances. The test returned with a positive result for the presence of methamphetamines.

13. Per the National Highway Traffic Safety Administration, a positive urinalysis result for the presence of methamphetamines generally indicates use within 1-4 days but could be up to a week following heavy chronic use.

14. On April 26, 2013, and again on May 30, 2013, drug and alcohol evaluations were completed by Brooke Lee. The outcome of each evaluation was a recommendation that Brooke Lee enter and complete intensive outpatient treatment.

15. On June 3, 2013, Brooke Lee entered intensive outpatient treatment with Barth & Associates.

16. On August 12, 2013, Dr. Elaine Beraza, Yakima Public Schools Superintendent, received a letter from Barth & Associates, stating that Brooke Lee was expected to complete the intensive outpatient portion of her treatment on August 23, 2013. After that time, she was scheduled to transition to a weekly continuing care group.

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17. On August 13, 2013, Brooke Lee participated in a meeting with Yakima Public Schools' administrators. Topics of discussion included: Ms. Lee's well-being and current treatment status; Ms. Lee would continue with outpatient treatment through August 23, 2013, provided appropriate progress was made; possible pressures of Ms. Lee returning to work; Ms. Lee stating she had a support system in place to assist her; support offered to Ms. Lee by Dr. Beraza, Mr. Mitchell, Mr. McKenna, and Mrs. Garza; the right of the school district to randomly drug test as they deemed necessary; and that if Ms. Lee had several successful assessments, the district may cease from performing drug assessments.

18. On September 3, 2013, the Yakima Public Schools asked Brooke Lee to provide a sample of her urine at the Yakima Worker Care clinic to test for the presence of controlled substances. The test returned with a positive result for the presence of methamphetamines; both D-methamphetamine and L-methamphetamine.

19. On September 12, 2013, the Yakima Public Schools asked Brooke Lee to provide a sample of her urine at the Yakima Worker Care clinic to test for the presence of controlled substances. The test returned with a positive result for the presence of methamphetamines; both D-methamphetamine and L-methamphetamine.

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20. On September 17, 2013, Brooke Lee was placed on administrative leave. On the same day, Brooke Lee participated in an interview with Yakima Public Schools administrators. Brooke Lee denied using any form of methamphetamine and stated, among other comments, that her only prescribed medications are Lexapro, an anxiety/depression medication, and a migraine medication.

21. On September 24, 2013, Brooke Lee participated in an interview with Yakima Public Schools administrators. During the meeting, among other comments, Brooke Lee denied having used methamphetamines since the beginning of the year and posited that any positive urinalysis tests could be the result of Tylenol, ibuprofen and/or Ny-Quil.

22. On October 1, 2013, Brooke Lee was issued a five (5) day suspension for the positive urinalysis tests on September 3 and 12, 2013.

23. On October 3, 2013, Dr. Beraza received a letter from Barth & Associates (Barth Clinic). The letter, among other comments, stated that Brooke Lee "has failed to continue in her recommended treatment at Barth Clinic", that she "has had no contact with our office since September 10, 2013 and attempts to contact her have been unsuccessful."

24. On October 8, 2013, the Yakima Public Schools asked Brooke Lee to provide a sample of her urine at the Yakima Worker Care clinic to test for the presence of controlled substances. The test returned with a negative result for the presence of controlled substances.

25. On October 10, 2013, Brooke Lee signed a last chance agreement with the Yakima Public Schools. Per the agreement, Brooke Lee: received a five (5) day suspension for having violated the District Drug and Alcohol policy, policy No. 5258; agreed to random urinalysis tests at the discretion of the District for two (2) years; agreed that any future misconduct related to controlled substance abuse would constitute sufficient cause for termination; and agreed that a refusal to submit to a urinalysis would constitute sufficient cause for termination.

26. On October 21, 2013, Brooke Lee was instructed to provide a sample of her urine at Yakima Worker Care clinic for urinalysis testing. The result of the test was positive due to Ms. Lee's refusal to be tested.

27. Between October 21, 2013, and October 27, 2013, Brooke Lee and Dr. Beraza spoke about Brooke Lee's refusal to take a urinalysis test. Dr. Beraza allowed Brooke Lee to take personal leave and agreed that if Brooke Lee submitted to a urinalysis and the urinalysis was negative for methamphetamines, Brooke Lee could return to the classroom.

28. On October 28, 2013 at the Yakima Worker Care clinic, Brooke Lee submitted a sample of her urine for urinalysis testing. The results returned with negative results for the presence of controlled substance. Brooke Lee returned to work on October 29, 2013.

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29. On December 2, 2013, Brooke Lee was directed to provide a sample of her urine at the Yakima Worker Care clinic for urinalysis testing. Brooke Lee provided a liquid sample. The urinalysis test of Brooke Lee's sample returned as invalid due to synthetic urine and/or not Brooke Lee's urine.

30. On December 5, 2013, Brooke Lee participated in a meeting with Kelly Garza, Assistant Superintendent of Human Resources. Brooke Lee was placed on administrative leave the same day.

31. On December 18, 2013, the Yakima Public Schools issued a letter of probable cause for termination to Brooke Lee.

32. On December 20, 2013, Brooke Lee filed an appeal of the Yakima Public Schools' notice of probable cause for discharge.

33. On March 4, 2014, Brooke Lee participated in a deposition, as part of the termination appeal process, for the Yakima Public Schools. During the deposition, among other comments, Brooke Lee stated: that during the early part of the 2013 calendar year, she was purchasing Desoxyn online without a prescription and using the Desoxyn; that after completing the intensive outpatient treatment, she failed to complete a continuing follow-up outpatient treatment plan; and that after she stopped attending the continuing outpatient treatment, she relapsed and used Desoxyn.

34. Desoxyn is brand name of methamphetamine; a Schedule II controlled substance, RCW 69.50.206(d)(1) and (2).

35. On March 24, 2014, Brooke Lee was directed to provide a sample of her urine at the Yakima Worker Care clinic for urinalysis testing. Brooke Lee provided a sample which returned with a positive result for the presence of methamphetamines; both D-methamphetamine and L-methamphetamine.

36. On April 2, 2014, the Yakima Public Schools issued an amended notice of probable cause for termination to Brooke Lee.

37. On April 17, 2014, Brooke Lee signed a Settlement Agreement with the Yakima Public Schools resigning her position; effective August 31, 2014.

38. Brooke Lee, through her attorney, was offered an opportunity to provide a response to the Office of Professional Practices regarding allegations of misconduct; as per RCW 28A.410.090. Brooke Lee has not provided a response.

39. Good moral character and personal fitness is a continuing requirement to maintain a Washington Education Certificate.

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CONCLUSIONS OF LAW

1. OSPI has jurisdiction over Brooke Lee and over the subject matter of this action.

2. OSPI has shown by clear and convincing evidence that the Washington Education Certificate No. 416078D, of Brooke Lee, should be suspended for unprofessional conduct and/or lack of good moral character or personal fitness. RCW 28A.410.090, WAC 181-86-070, WAC 181-87-060(1); WAC 181-87-055(1); WAC 181-86-013; WAC 181-86-014.

ORDER

THEREFORE, it is hereby ordered that the Washington Education Certificate, No. 416078D, of Brooke Lee be suspended for twenty-four (24) months.

REINSTATEMENT will require: (1) successful completion of a controlled substance/alcohol treatment program which is mutually agreed upon between Brooke Lee and OPP; (2) that Brooke Lee provide written consent for OPP to release documents to the provider for purposes of completing the evaluation; (3) that Brooke Lee will provide OPP with evidence of her successful completion of her treatment program and; (4) if requested, Brooke Lee will sign consent forms authorizing OPP to have access to all records pertaining to her treatment and to discuss any and all treatment undertaken with the providers administering treatment. The cost of conformance to all reinstatement requirements will be the responsibility of Brooke Lee.

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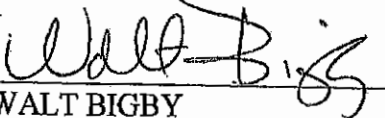
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AND Reinstatement shall (also) require: (1) submission of a new application, including Character and Fitness Supplement, provided by OPP and having Brooke Lee's fingerprints be checked by both the Federal Bureau of Investigation (FBI) and the Washington State Patrol (WSP); and (2) that if Brooke Lee's education certificate expires during the period of suspension, Brooke Lee will show that she meets all academic requirements for renewal/reinstatement of the education certificate. Reinstatement shall also be contingent upon Brooke Lee's fingerprint background check returning with no criminal convictions, occurring after date of Order: (1) that are listed in WAC 181-86-013 and RCW 28A.410.090; (2) no criminal convictions involving alcohol or controlled substances; and (3) and no felony convictions.

This Corrected Order will become final thirty (30) days after the postmarked date of mailing of this Corrected Order unless respondent files an appeal for a formal hearing before the Office of Administrative Hearings. Please direct the appeal and request for formal hearing to the Office of Superintendent of Public Instruction, Administrative Resource Services, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200.

DATED this 27th day of May, 2015.

RANDY I. DORN
Superintendent of Public Instruction
State of Washington


DR. WALT BIGBY
Review Officer