

STATE OF WASHINGTON
OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION
ADMISSIONS AND PROFESSIONAL CONDUCT ADVISORY COMMITTEE

IN THE MATTER OF THE EDUCATION)	
CERTIFICATE OF)	OPP No. D22-05-031
)	
RICHARD CLARK)	FINAL ORDER
Certificate No. 427053D)	OF SUSPENSION
_____)	

UNDER THE AUTHORITY granted by the laws of the State of Washington, and after reviewing the file in this matter; conducting an informal meeting of the Office of Superintendent of Public Instruction (OSPI) with the Admissions and Professional Conduct Advisory Committee (APCAC); considering the evidence, the written submissions, and oral arguments of the parties; and considering the discussion and input provided by the APCAC, the Superintendent of Public Instruction, through his designated Review Officer, Dr. Mark Anderson, enters this Order of Suspension based on the following Findings of Fact and Conclusions of Law.

I. FINDINGS OF FACT

1. The Educator was issued Washington Education Certificate No. 427053D on June 9, 2005. The Educator’s certificate will expire on June 30, 2027, and is and was valid at all times relevant to this matter.
2. The Oroville School District (District) employed the Educator as Head Football Coach during the 2021-2022 school year (SY).
3. The District issued a Notice of Investigation and Non-Disciplinary Paid Administrative Leave to the Educator and placed the Educator on paid administrative leave, effective September 24, 2021, from his duties as head football coach in response to allegations

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concerning “clandestine football practices by the team while in quarantine status, lack of masking enforcement while traveling with the team, and disregard of policy and directives regarding allowing ineligible players to travel with the team.”

4. On or about September 27, 2021, the District engaged the Dan Beebe Group to conduct an independent investigation of four concerns with or allegations involving the District’s high school football program: (1) whether students were allowed to participate and travel when ineligible; (2) whether coaches were involved in or orchestrated clandestine football practices in violations of quarantine restrictions; (3) whether Washington State Department of Health requirements for masking while on busses were followed; and (4) whether the head coach was naked in the presence of players.
5. The investigator interviewed the District’s superintendent, the high school’s vice principal and athletic director, the Educator, an assistant football coach, students, and other individuals between September 27, 2021, and January 28, 2022.
6. While the investigator’s investigation proceeded, the District notified the Educator on or about January 7, 2022, that it would not be using his substitute teaching services after receiving information reflecting negatively on his ability to serve as a substitute teacher.
7. On or about February 23, 2022, the District issued a second Notice of Investigation and Non-Disciplinary Paid Administrative Leave to the Educator, notifying him that his leave would “be extended through [his] spring track coaching responsibilities pending the conclusion of the investigation and until further notice.”
8. On or about April 14, 2022, the Dan Beebe Group issued the final report of its investigation to the District. Attached as Exhibit B to the report is a video recording made by a student in

the locker room at the time of the incident on September 18, 2021, after a football game at Priest River.

9. The recording shows the Educator in a complete state of undress in the locker room and in the presence of students.
10. The Dan Beebe Group's final report also included posts made by students on the Snapchat social media platform discussing the Educator having been naked in the locker room.
11. The Educator told the investigator from the Dan Beebe Group that no other coaches had showered after the Priest River game, or were naked in front of the students.
12. The investigator interviewed Leoni Johnson, a District office administrator, who told the investigator that the Educator had previously been admonished by the District's former athletics director, Mike Hinthorne, for showering before school when students could see him naked in the locker room.
13. The Educator, during his December 15, 2021, interview with the Dan Beebe Group's investigator, admitted that Mr. Hinthorne had spoken to the Educator about his concerns that the Educator's students were seeing him undressed in the locker room, and had instructed the Educator to close the door when showering in the locker room.
14. The Dan Beebe Group's investigator also spoke with the Educator's peer coaches. They agreed that coaches should not be naked in front of their students.
15. After the Dan Beebe Group submitted its final report to the District, the Educator signed a separation agreement with the District on or about May 4, 2022.
16. After receiving the Dan Beebe Group's final report, the District's Superintendent, Jeff Hardesty, submitted a complaint to the Office of Professional Practice (OPP) on or about May 4, 2022. In his complaint, District Superintendent Hardesty alleged that the Educator

may have violated the code of professional conduct by being in a complete state of undress in the presence of students in the locker room.

17. On or about May 24, 2022, OPP notified the Educator by letter that OPP had assigned its own investigator, Jim Connolly, to conduct an independent investigation of the District's allegations.
18. Investigator Connolly spoke with the Educator, Ms. Johnson, and the District's current Athletic Director, Nathan White. The Educator, Ms. Johnson, and Athletic Director White's statements to Investigator Connolly matched those they made to the Dan Beebe Group's investigator.
19. After reviewing the findings of Investigator Connolly and the Dan Beebe Group's final report, OPP determined that the Educator engaged in acts of unprofessional conduct including WAC 181-87-060 and issued a Proposed Order of Suspension.
20. The Educator filed an appeal.

II. CONCLUSIONS OF LAW

1. The Legislature delegated the authority to develop and enforce regulations determining initial and continuing eligibility for and certification of personnel employed in the common schools of the State of Washington to the Professional Educator Standards Board (PESB). RCW 28A.410.010(1)(a). An educator certificate issued by the PESB under ch. 28A.410 RCW, ch. 28A.405 RCW, or rules adopted pursuant to those statutes, may be revoked or suspended if a complaint has been filed alleging that the certificate holder either lacks good moral character or personal fitness, or has engaged in unprofessional conduct, or both. RCW 28A.410.090(1)(a).

2. OSPI acts as the administrator of RCW 28A.410 and regulations adopted pursuant to that chapter. RCW 28A.410.010(2). The PESB has adopted rules concerning acts of unprofessional conduct, ch. 181-87 WAC, pursuant to RCW 28A.410.010 and 28A.410.090.
3. As the Educator possesses an educator's certificate issued by the PESB, and is alleged to have engaged in unprofessional conduct pursuant to WAC 181-87-060(1), OSPI has jurisdiction over both the Educator and the subject matter of this action.
4. "In a suspension or revocation proceeding, the [S]uperintendent of [P]ublic [I]nstruction must prove by clear and convincing evidence that the education practitioner...has committed an act of unprofessional conduct." WAC 181-86-170(2). "Clear and convincing evidence' 'is a quantum of proof that is more than a preponderance of the evidence, but less than what is needed to establish proof beyond a reasonable doubt.'" *State v. T.J.S.-M.*, 193 Wn.2d 450, 463-64, 411 P.3d 1181 (2019) (Yu, J., concurring) (citation omitted). "Clear and convincing evidence exists 'when the evidence shows the ultimate fact at issue to be highly probable.'" *Capital One Bank (USA), N.A. v. Koplitz*, No. 72764-8-I, 2015 WL 893221, at *3 (Wash. Ct. App. March 2, 2015) (unpublished) (*quoting In re Dependency of K.S.C.*, 137 Wn.2d 918, 925, 976 P.2d 113 (1999)).
5. In determining whether a certificated educator's conduct constitutes unprofessional conduct, the OSPI is guided, in part, by WAC 181-87-010, which identifies the three public policy goals of ch. 181-87 WAC. These goals include "protect[ing] the health, safety, and general welfare of students within the [S]tate of Washington," and "assur[ing] the citizens of the [S]tate of Washington that education practitioners are accountable for acts of unprofessional conduct." WAC 181-87-010(1), (2). Additionally, the "OSPI may establish generally

recognized professional standards under WAC 181-87-060 using the testimony of educators, administrators, and others with specific knowledge of the standards observed by the professional education community.” *Len v. Off. of the Superintendent of Pub. Instruction*, No. 45534-0-II, 2015 WL 4094079, at *6 (Wash. Ct. App. July 7, 2015) (unpublished).

6. That OPP has, by clear and convincing evidence, demonstrated that the Educator, while he was employed by the District as Head Football Coach, engaged in acts of unprofessional conduct to include WAC 181-87-060(1) by, among other conduct and behaviors, appearing in a complete state of undress in front of his students in the locker room, and appearing in a complete state of undress in front of his students after having previously been admonished by his supervisor to not do so.
7. “Before issuing any disciplinary order under [WAC 181-86,] the [S]uperintendent of [P]ublic [I]nstruction or [their] designee shall consider, at a minimum” eleven factors when determining “the appropriate level and range of discipline.” WAC 181-86-080. Those eleven factors are:
 - (1) The seriousness of the act(s) and the actual or potential harm to persons or property;
 - (2) The person’s criminal history including the seriousness and amount of activity;
 - (3) The age and maturity level of participant(s) at the time of the activity;
 - (4) The proximity or remoteness of time in which the acts occurred;
 - (5) Any activity that demonstrates a disregard for health, safety or welfare;
 - (6) Any activity that demonstrates a behavioral problem;
 - (7) Any activity that demonstrates a lack of fitness;
 - (8) Any information submitted regarding discipline imposed by any governmental or private entity as a result of acts or omissions;

- (9) Any information submitted that demonstrates aggravating or mitigating circumstances;
- (10) Any information submitted to support character and fitness; and
- (11) Any other relevant information submitted.

WAC 181-86-080.

- 8. Based on the foregoing findings of fact, the APCAC members were unanimous in both their assessment that the Educator had engaged in acts of unprofessional conduct, and in their recommendation to the Review Officer that the Educator's certificate should be suspended for a period of 180 days.
- 9. After having considered the foregoing findings of fact and conclusions of law in light of the eleven disciplinary factors, as required by WAC 181-86-080, and having considered the unanimous recommendation of the APCAC, that the Educator's Washington Education Certificate, No. 427053D, should be suspended for having engage in acts of unprofessional conduct to include WAC 181-87-060(1).

III. ORDER

THEREFORE, it is hereby ordered that:

- 1. The Washington Education Certificate No. 427053D, of Richard Clark is **SUSPENDED** for a period of 180 days.
- 2. REINSTATEMENT of Richard Clark's education certificate shall require that, pursuant to WAC 181-86-070(1)(b), that he fulfill the following conditions:
 - i. In addition to any mandatory continuing education, Richard Clark must successfully complete a BOUNDARIES course, preapproved by OSPI. Richard Clark will provide OSPI proof of completion of the course prior to requesting reinstatement.

- ii. Richard Clark must submit a new application, including Character and Fitness Supplement, provided by OPP; AND
- iii. Richard Clark must complete a fingerprint-based criminal background check through both the Federal Bureau of Investigation and the Washington State Patrol;
- iv. Richard Clark's fingerprint background check must return with no criminal convictions, occurring after the date of issuance of a Final Order of Suspension, that are listed in WAC 181-86-013, RCW 28A.410.090, or any felony convictions; AND
- v. Richard Clark shall assume all costs of complying with the requirements of this Order.

IV. RIGHT OF APPEAL

This order becomes final thirty calendar days following the date of its postmarked mailing from the section of the Office of Superintendent of Public Instruction responsible for certification of the decision or order unless OSPI actually receives the certificate holder's written notice of appeal during office hours within that thirty calendar day period. WAC 181-86-150(1). A written notice of appeal may be addressed to:

Office of Superintendent of Public Instruction
Legal Affairs Division
PO Box 47200
Olympia, WA 98504

DATED this 23rd day of May 2024.

CHRIS REYKDAL
Superintendent of Public Instruction
State of Washington



Mark Anderson
Review Officer

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