



SUPERINTENDENT OF PUBLIC INSTRUCTION

Chris Reykdal Old Capitol Building · PO BOX 47200 · Olympia, WA 98504-7200 · <http://www.k12.wa.us>

RE: John Lobbestael
OSPI Case Number: D17-01-002
Document: Suspension

Regarding your request for information about the above-named educator; attached is a true and correct copy of the document on file with the State of Washington, Office of Superintendent of Public Instruction, Office of Professional Practices. These records are considered certified by the Office of Superintendent of Public Instruction.

Certain information may have been redacted pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **None**

If you have any questions or need additional information regarding the information that was redacted, if any, please contact:

OSPI Public Records Office
P.O. Box 47200
Olympia, WA 98504-7200
Phone: (360) 725-6372
Email: PublicRecordsRequest@k12.wa.us

You may appeal the decision to withhold or redact any information by writing to the Superintendent of Public Instruction, OSPI P.O. Box 47200, Olympia, WA 98504-7200.



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IN THE MATTER OF THE EDUCATION)
CERTIFICATE OF)

OPP No. D17-01-002

JOHN LOBBESTAEL)
Certificate No. 467398D)
_____)

AGREED ORDER
OF SUSPENSION

After receiving and investigating a complaint from Sunnyside School District regarding the above referenced educator, and based upon the facts available as of the date of this Agreed Order, the Superintendent of Public Instruction, through his undersigned designee, does hereby stipulate, by and between the Office of Superintendent of Public Instruction, the Office of Professional Practices and JOHN LOBBESTAEL (“the Educator”), that the Washington Education Certificate No. 467398D, shall be suspended for not less than thirty (30) days with conditions enumerated below, based on the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. On November 23, 2009, the Educator was issued an Intern Substitute Teacher Certificate, No. 467398D. On March 8, 2010, the Educator was issued a Residency Teacher Certificate. The Educator’s certificate will expire on June 30, 2018.

2. During the 2016–2017 school year, the Educator was employed by the Sunnyside School District at Sunnyside High School as a math teacher.

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JOHN LOBBESTAEL
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3. The Educator has had no previous disciplinary action through the Office of Professional Practices (“OPP”).

4. On or about January 11, 2017, OPP within the Office of Superintendent of Public Instruction (“OSPI”), received a complaint letter from the Superintendent of Sunnyside School District, alleging the Educator engaged in inappropriate conduct by accessing pornographic materials on a school district computer.

5. Sunnyside School District policy 2022, Electronic Communication Systems and Internet Safety, states in part that:

The superintendent or designee is authorized to develop procedures and acceptable use guidelines for staff and students as to use of district electronic resources, including those that access Internet and social media, and to regulate use of personal electronic resources on district property and related district activities.

From this policy, Sunnyside School District created the Network Use Guidelines, which states, in part:

Use of the District’s electronic communications system and Internet by staff of Sunnyside School District shall be in support of education, the mission of the District, or school related business and operations. Network use is limited to staff who have returned signed network contracts. Use will be in accordance with District’s Policy 2022 [...] Unacceptable network use by district students and staff includes but is not limited to: [...] 9. Accessing, uploading, downloading, storage and distribution of obscene, pornographic or sexually explicit material.

6. Sunnyside School District policy 5281, Disciplinary Action, states in part that:

Staff who fail to fulfill their job responsibilities or follow the reasonable directions of their administrators or who conduct themselves on or off the job in ways that affect their effectiveness on the job may be subject to disciplinary action or discharge may include but is not limited to: [...] W. Use of district supplies and equipment for personal betterment or financial gain or other improper purposes.

7. The Educator signed the Network Use Guidelines acknowledgement form on January 14, 2015.

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8. On or about December 12, 2016, Sunnyside School District canceled classes due to inclement weather. The Educator was in his classroom at the high school that morning.

9. The Assistant Principal of Sunnyside High School, was attending a meeting at Sunnyside High School on December 12th. He received a phone call from the Network Services Manager. The Network Services Manager told the Assistant Principal that there was inappropriate activity occurring on a teacher's computer. The Assistant Principal walked to the classroom with the computer identified by the Network Services Manager. The classroom was empty. The Assistant Principal noticed the Educator coming back from the restroom. The Assistant Principal told the Educator that there was someone accessing inappropriate material on the Educator's computer. The Assistant Principal returned to his meeting.

10. A short time later, the Educator went to the room in which the Assistant Principal was having his meeting and motioned for him to come out and speak with the Educator. The Educator told the Assistant Principal that he was accessing inappropriate content on his district issued computer. The Assistant Principal advised the Educator that this information could potentially result in disciplinary action, and he asked the Educator if he would like to speak to a union representative before giving him any more information. The Educator declined union action.

11. The Educator was verbally placed on administrative leave on or about December 12, 2016, by the Sunnyside Human Resources Director.

12. In and around the month of December, Sunnyside School District contracted with Global CompuSearch to complete a forensic search of the Educator's district computer. A Forensic Examiner used a software program titled "Internet Evidence Finder" to analyze the internet activity on the Educator's district computer. The Forensic Examiner discovered inappropriate material on the Educator's district computer.

13. On or about January 6, 2017, the Educator was given notice that Sunnyside School District found probable cause for disciplinary action. The Educator was suspended for five (5) working days without pay. In addition, the Educator was directed to actively participate in therapeutic counseling, and his access to and use of school district computers was limited.

14. The Educator attended three therapy sessions with a licensed mental health counselor, chosen by the school district. The Mental Health Counselor wrote in his opinion letter addressed to the school district,

It was clear to me that [the Educator] feels remorseful for his actions and is determined to not let it happen again. It is my opinion that this behavior is not representative of a mental illness or a character defect, but rather the result of brain chemistry and circumstance. I do not believe that [the Educator] represents a risk to any of the students at Sunnyside High School.

15. As of the date of this order, the Educator remains employed with the Sunnyside School District as a high school math teacher.

II. CONCLUSIONS OF LAW

1. Chapter 28A.410 RCW gives the Professional Educator Standards Board the authority to develop regulations determining eligibility for and certification of personnel employed in the common schools of the state of Washington. OSPI acts as the administrator of those statutes and regulations and has the authority to issue, reprimand, suspend, and revoke education certificates. RCW 28A.410.090, RCW 28A.410.010, and WAC 181-86 and WAC 181-87 further implement OPSI's authority.

2. OSPI has jurisdiction over the Educator and the subject matter of this action.

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3. The Educator committed acts of unprofessional conduct pursuant to RCW 28A.410.090(5)(a) and WAC 181-87-060(3) when he accessed pornographic material on his district issued computer.

4. There is clear and convincing evidence that the Educator committed acts of unprofessional conduct pursuant to WAC 181-86-170.

5. Pursuant to WAC 181-86-080, eleven factors, at a minimum, are to be considered to determine the appropriate level and range of educator discipline:

- (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.

6. Based on the foregoing facts and considering them in light of the eleven factors enumerated in WAC 181-86-080, and in light of RCW 28A.410.090(5)(a), WAC 181-86-070, and WAC 181-87-060(3), the Educator's education certificate should be suspended for unprofessional conduct.

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III. ORDER

THEREFORE, it is hereby ordered that the Washington Education Certificate, No. 467398D, of JOHN LOBBESTAEL is **SUSPENDED**. The Educator may not request reinstatement of his education certificate for at least thirty (30) days from the effective date of this ORDER.

REINSTATEMENT of John Lobbestael's education certificate shall require:

- (1) In addition to any mandatory continuing education, the Educator must submit a new application, including a Character and Fitness Supplement, provided by OPP;
- (2) The Educator must complete a fingerprint-based criminal background check through both the Federal Bureau of Investigation (FBI) and the Washington State Patrol (WSP);
- (3) The Educator's fingerprint background check must return with no criminal convictions, occurring after the date of issuance of a Final Order or Suspension, that are listed in WAC 181-86-013, RCW 28A.410.090, or any felony convictions; and
- (4) The Educator shall assume all costs of complying with the requirements of this Order.

DATED this 27th day of June, 2017.

CHRIS REYKDAL
Superintendent of Public Instruction
State of Washington

Stipulated to and approved
For entry:

Dierk Meierbachtol
Chief Legal Officer
Office of Superintendent of Public Instruction

John Lobbestael, Respondent