



# 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	)	OPP No. D10-08-052
	)	
Kim Emert	)	AGREED ORDER
Certificate No. 334618F	)	OF SUSPENSION
	)	
	)	

COMES NOW the Office of Superintendent of Public Instruction, under the authority granted by the laws of the state of Washington, having reviewed the file of the above-referenced case, and having considered the entire evidence contained therein, does hereby stipulate by and between the Office of Professional Practices (OPP), Office of Superintendent of Public Instruction (OSPI), and Kim Emert, that the Washington Education Certificate, No. 334618F, of Kim Emert, shall be suspended, based on the Findings of Fact and Conclusions of Law set forth below:

## FINDING OF FACTS

1. Kim Emert was issued a Washington Education Certificate, No. 334618F, on November 18, 1994. That certificate currently remains valid.
2. Kim Emert was employed by the Kelso School District.

KIM EMERT  
 AGREED ORDER OF SUSPENSION



3. On August 16, 2010, the Office of Professional Practices, within OSPI, received a complaint letter from the superintendent of the Kelso School District 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 Kim Emert.

4. Kim Emert was assigned to the Kelso School District special education pre-school program for the 2009-2010 school year. Prior to this, Kim Emert had worked as a special education resource room teacher.

5. In August of 2009, Kim Emert attended Right Response Training. This training was not specific to pre-school students.

6. In October of 2009, Kim Emert used a restraint technique on a pre-school student where she sat behind a student, holding the student's arms and crossing her legs over the student's legs. This restraint technique is not approved for use with pre-school students by either the Kelso School District or Right Response. On October 9, 2009, Kim Emert received a Letter of Instruction from her principal, Don Iverson.

7. On October 13, 2009, Kim Emert received additional Right Response training that was specific to approved restraint techniques for use with pre-school students.

8. On November 17, 2009, Kim Emert was placed on a Plan of Assistance.

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9. On January 13, 2010, Kim Emert successfully met the goals of the Plan and was removed from the Plan of Assistance.

10. From March 17, 2010, Kim Emert placed a 4 year old Down's Syndrome pre-school student: into time-out situations when such a situation was not appropriate and for time periods that were excessive for the student's condition and age; into unattended situations; and postponed food from the student in attempts to give the student time to comply with instructions.

11. On March 23, 2010, Kim Emert received a Letter of Reprimand from Mr. Iverson for: withholding food in an attempt to modify behavior; excessively lengthy time-outs on two (2) occasions; using or causing instructional aides to use physical restraints not Right Response approved; using or causing to be used physical restraint on students whose IEP's did not include an aversive therapy plan allowing such restraints.

12. On April 21, 2010, Kim Emert received a Letter of Reprimand for making changes to an adaptive goal on an amendment to a student's IEP without parental knowledge and signature. Ms. Emert contends that the parents were aware of the change.

13. On May 20, 2010, a 3 year old Down's Syndrome pre-school student was observed by Linda Pavon, bi-lingual interpreter and instructional aide, with an unknown object in his mouth. Ms. Pavon, former nurse, informed Kim Emert two or three times about the unknown object in the student's mouth. The student had the object in his mouth for about thirty (30) to forty-five (45) minutes before Kim Emert removed the item, a cotton ball, from his mouth.

14. On May 25, 2010, the Kelso School District received multiple letters of rebuttal from Kim Emert.

15. On August 12, 2010, Kim Emert received a Letter of Reprimand for failing to take prompt action in removing an unknown object from the student's mouth.

21. On January 12, 2011, Kim Emert was placed on a Plan of Improvement and was placed on a 60-day probationary period

25. On April 28, 2011, Don Iverson sent a letter to Dr. Hill recommending that Kim Emert's contract for the 2011-2012 school not be renewed pursuant to RCW 28A.205.210..

26. On May 12, 2011, Kim Emert signed a Settlement Agreement with the Kelso School District; resigning her employment effective August 31, 2011.

27. On December 5, 2011, Kim Emert participated in an interview with an OPP investigator. In February 2012, OPP received Kim Emert's signed statement.

28. 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 Kim Emert and over the subject matter of this action.
  
2. OSPI has shown by clear and convincing evidence that Washington Education Certificate, No. 334618F, of Kim Emert, 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 181-86-013; WAC 181-86-014.

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**ORDER**

THEREFORE, it is hereby ordered and agreed that the Washington Education Certificate, No. 334618F, of Kim Emert, be suspended for two (2) months from the date of entry of this Order.

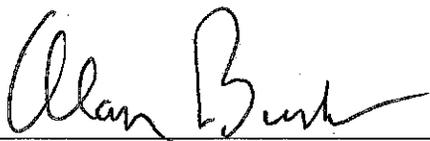
REINSTATEMENT shall require submission of a new application, including Character and Fitness Supplement, provided by OPP and having Kim Emert's fingerprints be checked by both the Federal Bureau of Investigation (FBI) and the Washington State Patrol (WSP). Reinstatement shall also be contingent upon Kim Emert's fingerprint background check returning with no criminal convictions that are listed in WAC 181-86-013, RCW 28A.410.090, and/or any felony convictions

DATED This ~~21<sup>st</sup>~~ 30<sup>th</sup> day of <sup>ab</sup> May, 2012.

RANDY I. DORN  
Superintendent of Public Instruction  
State of Washington

Stipulated to and approved  
For entry:

  
\_\_\_\_\_  
Kim Emert, Respondent

  
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Alan Burke, Ed. D.  
Deputy Superintendent  
K-12 Education