

**BEFORE THE PROFESSIONAL STANDARDS COMMISSION
OF THE STATE OF IDAHO**

In the matter of the certificates of:

JAMES R. BROWN,

Respondent.

Case No. 22410

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND FINAL ORDER**

On April 25, 2025, this matter came before a hearing panel of the Professional Standards Commission of the State of Idaho (“Hearing Panel”) for an administrative hearing. The hearing was conducted to consider the allegations outlined in the Administrative Complaint filed against James R. Brown (“Respondent”) by Cina Lackey, Chief Certification Officer for the State of Idaho, Department of Education (“Complainant”).

Based upon the findings of fact and conclusions of law set forth herein, this Hearing Panel voted as follows:

1. Respondent’s Motion to Dismiss filed on March 10, 2025, is hereby denied, and
2. A letter of reprimand is to be issued to Respondent which shall state that Respondent is required to complete two (2) Professional Standard Commission- (“PSC-”) approved ethics courses.

This written Final Order serves to memorialize the Hearing Panel’s decisions.

PROCEDURAL HISTORY

1. On July 22, 2024, Complainant filed and served an Administrative Complaint against Respondent seeking a letter of reprimand be placed in Respondent’s certification file along with the condition of completing an approved ethics course.

2. A hearing date was initially considered for February 25, 2025.

3. On January 22, 2025, Respondent’s counsel filed a Notice of Appearance.

4. On January 22, 2025, the PSC issued a Notice of Appointment of Presiding Officer.
5. On January 24, 2025, the PSC issued a Notice of Hearing scheduling this matter for an administrative hearing on April 25, 2025.
6. On February 3, 2025, Respondent's attorney filed a Notice of Disqualification without Cause to disqualify Clara Allred as Chair.
7. On February 11, 2025, the PSC issued an Amended Notice of Hearing replacing Clara Allred with Anne Ritter as Chair.
8. On March 10, 2025, Respondent's attorney filed a Motion to Dismiss the Administrative Complaint along with a Memorandum in Support of Motion to Dismiss.
9. On March 26, 2025, Complainant's attorney filed an Opposition to Respondent's Motion to Dismiss.
10. On April 2, 2025, Respondent's attorney filed a Reply to Complainant's Response to Motion to Dismiss.
11. On April 3, 2025, Respondent's attorney filed a Motion to Continue the Evidentiary Hearing and Deadlines in the Scheduling Order.
12. On April 4, 2025, Respondent's attorney filed First Set of Requests for Production of Documents.
13. On April 9, 2025, Respondent's attorney filed a Motion to Compel Discovery.
14. On April 9, 2025, the Presiding Officer held a status conference. During the status conference, the Presiding Officer denied Respondent's Motion to Dismiss, in part, and Motion to Continue the Evidentiary Hearing and Deadlines. Written orders followed.
15. On April 11, 2025, Respondent's attorney filed a Motion for Reconsideration.

16. On April 16, 2025, Complainant's attorney filed an Opposition to Respondent's Motion to Compel Discovery.

17. On April 16, 2025, the Presiding Officer held a status conference. During the status conference, the Presiding Officer denied Respondent's Motion to Compel and Motion for Reconsideration. Written orders followed.

18. On April 18, 2025, Respondent's attorney filed a Statement of Proposed Witnesses and Exhibits.

19. On April 18, 2025, Complainant's attorney filed a Statement of Proposed Witnesses and Exhibits.

20. On April 22, 2025, Respondent's attorney filed an Amended Statement of Proposed Witnesses and Exhibits.

21. On April 23, 2025, Complainant's attorney filed an Opposition to Respondent's Statement of Witnesses and Exhibits.

22. On April 23, 2025, Respondent's attorney filed Objections to Complainant's Proposed Witnesses and Exhibits.

23. On April 25, 2025, an administrative hearing in this matter was conducted before the Hearing Panel at the City of Council Chambers room – 160 S. 3rd E. Street, Mountain Home, Idaho. During the hearing, Deputy Attorney General Kyle Grigsby represented the Complainant and attorney Edit Szanto represented the Respondent. Anne Ritter served as Chair for the Hearing Panel. Jeff Blaser and Lisa Roberts served as the other members of the Hearing Panel. Karen Sheehan, Deputy Attorney General, served as legal counsel for the Hearing Panel.

24. Prior to the start of the hearing on April 25, 2025, the Hearing Panel heard oral argument regarding Respondent's Motion to Dismiss. The Hearing Panel then deliberated stating

they had questions regarding the allegations in the Administrative Complaint and wanted to hear the facts. A motion was made by the Hearing Panel to deny Respondent's Motion to Dismiss, which was seconded and then unanimously approved. The hearing proceeded.

25. The parties offered documentary evidence in the form of Complainant's Exhibits 1 through 4 and Respondent's Exhibits A through YY. Complainant did not object to any of Respondent's exhibits or witnesses. Respondent objected to Complainant's Exhibit 3 and all of Complainant's witnesses. The Hearing Panel overruled Respondent's objection to Exhibit 3. All exhibits were then admitted into evidence. Further, the Hearing Panel overruled Respondent's blanket objections to all of Complainant's witnesses stating objections could be raised to specific questions during testimony. The Hearing Panel required that minor children's names be redacted from the official record and initials be used during testimony.

26. The Hearing Panel excluded all witnesses until after they had testified.

27. The Hearing Panel received verbal testimony from the following witnesses:

- Complainant's witnesses: Leslie Priebe; Tonya Watkins; Natasha Rowley; Daniel Knapp; and Jessica Nelson (appeared virtually).
- Respondent's witnesses: Dr. Wiley Dobbs; William Hicks; Dr. Greg Wiles; Bryan Whitmarsh; Gary Carlson; Shelly Regnier; Karen Suzanne Heller; William Mostoller; Christopher Frampton; Chelsea Johnson; and Respondent.

28. The Hearing Panel deliberated after exhibits were submitted and testimony was completed.

FINDINGS OF FACT

29. Respondent was employed by the Hagerman School District ("District") as a Superintendent during to the 2023-2024 school year.

30. The Hearing Panel received testimony from Leslie Priebe, a teacher at the District, of 26 years. She testified that one of her students approached her about seeing Respondent naked in the shower and locker room. She testified that it was disturbing to the student, and that the student immediately stopped an after-school activity to avoid having to use the locker room. Ms. Priebe testified that there was another shower available to educators in the Special Education Department, which was a separate room with a lock.

31. The Hearing Panel received testimony from Complainant's witnesses, Natasha Rowley, Tonya Watkins and Daniel Knapp, in relation to their children seeing Respondent using the school shower and locker room. They further testified to their children's emotional and behavioral reactions. They gave testimony to the parental expectations for a superintendent and educators related to using the school shower and locker room along with testimony on how the District responded to the parents' concerns. The Hearing Panel heard testimony about how this has extremely upset the community.

32. In turn, the Hearing Panel received testimony from Respondent's witnesses surrounding the allegations. Testimony given by current and former Superintendents and current and former teachers provided their personal observations to the Hearing Panel of Respondent's professional relationship with students as a superintendent and educator.

33. The former chair of the Hagerman School District Board, Bryan Whitmarsh, provided testimony that there were no prior complaints from parents or students about Respondent and that the Board found Respondent was not in violation of any District policies.

34. The Hearing Panel also received testimony from Respondent about the allegations. Respondent testified that the first time he heard of the complaints was when he received the letter from the PSC dated March 26, 2024. He testified that he provided a position statement and

attachments to the PSC dated April 23, 2024. Respondent further testified that the school gym and locker room were open to the community. He immediately stopped using the school gym and locker room after he learned of the complaint. The Hagerman School Board adopted a new policy for the use of the school gym and locker room which limited open hours for the locker room and who can use the school gym/locker room. Respondent testified to the layout of the shower and locker room. He testified that that there could have been someone in the locker room while he was showering but he never saw anyone or had any conversations with students while in the shower or locker room. Respondent testified the Gooding County Sherriff conducted an investigation and no criminal charges were filed against him. He was not given the opportunity to rebut the allegations. When asked by the Hearing Panel if the school board did an investigation regarding the allegations, Respondent testified, no. Respondent continuously testified that working out in the school gym and using the locker room and shower was outside the scope of his superintendent duties.

CONCLUSIONS OF LAW

31. This Hearing Panel has authority under Idaho Code § 33-1208 to hear this contested case initiated by Complainant against Respondent.

32. The Hearing Panel has authority under Idaho Code § 33-1209 to revoke, suspend, issue a letter of reprimand, or place reasonable conditions on any certificate for violations of the statutes and rules governing Idaho professional educators.

33. In accordance with Idaho Code §§ 33-1208 and 33-1209, the Hearing Panel determined that a letter of reprimand should be issued by the PSC to Respondent and that the letter should include the requirement that Respondent complete two (2) Professional Standard Commission approved ethics courses.

HEARING PANEL ANALYSIS

The Hearing Panel's deliberations were based on several factors. They determined the threshold question was whether Respondent was acting within the scope and course of his employment when he was using the locker room and shower. The Hearing Panel discussed that a superintendent's job is "24/7", the duties are all hours of the day and night — not just during school hours, on school grounds and during school activities. Due to the dynamics of Respondent's position, he was seen as a person of authority at all times. The Hearing Panel found this threshold question was met

The Hearing Panel then discussed whether Respondent's conduct breached the code of ethics. The Hearing Panel started by stating it is dealing with two things: the community split over the events; and the behavior of Respondent. The Hearing Panel further stated that its decision is limited to discussing Respondent's behavior, not the community.

The Hearing Panel discussed that although using the school shower and locker room was not prohibited by policy and was an accepted practice, there was an appearance of impropriety, comingling of adults and juveniles in shared spaces. There was the risk of someone seeing Respondent in the shower or locker room. Respondent did not use his best judgment when he decided to use the shared facilities as Respondent had other options.

The Hearing Panel discussed whether Respondent considered what was best for the children or whether it was just convenient at the time. The Hearing Panel believes adults and children should not share a school shower or locker room; that is not an accepted practice these days. Shared facilities are not appropriate for nonfamily members such as officials, coaches and especially superintendents.

The Hearing Panel would have liked to see the results of an internal investigation. The Hearing Panel further discussed that, from testimony presented, Respondent had done a wonderful job as superintendent. This has been a tragic event that split the community. The Hearing Panel doesn't know if Respondent's actions were detrimental but there was the possibility that his actions could be determinantal. The Hearing Panel was not clear from the evidence what the students saw; but the risk was enough. The Hearing Panel understands Respondent did not breach a District policy.

The Hearing Panel discussed what "willful" means in Idaho Code § 33-1208(1). They determined it means don't put self in a situation where students are negatively impacted. Here, there is no dispute Respondent showered in the school locker room. There was a pattern. Respondent knew or should have known, doing this caused a risk students would see him.

The Hearing Panel concluded that Respondent's conduct, or course of conduct, did willfully breach Principle II of the Code of Ethics (IDAPA 08.02.02.076.03). The Hearing Panel entertained a motion, which was seconded and unanimously decided to have the PSC issue a letter of reprimand to Respondent which will include the requirements that Respondent complete two (2) PSC-approved ethics courses.

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FINAL ORDER

IT IS THE FINAL ORDER of this Hearing Panel, based upon the findings of facts and conclusions of law set forth herein, that (1) Respondent's Motion to Dismiss is denied, and (2) that the PSC issue a letter of reprimand to Respondent's file and that the letter include the requirement that Respondent take two (2) PSC-approved ethics courses.

Dated this 23rd day of May, 2025.



ANNE RITTER
Hearing Panel Chair

REVIEW OF FINAL ORDER

THIS IS A FINAL ORDER OF THE HEARING PANEL. Any party may file a Petition for Reconsideration of this Final Order within fourteen (14) days of its service date. The Hearing Panel is required by law to dispose of a Petition for Reconsideration within twenty-one (21) days of its filing or the Petition for Reconsideration will be considered to be denied by operation of law. *See Idaho Code §§ 67-5243(3) and 67-5246.*

Petitions for Reconsideration of this Final Order may be filed by mail addressed to the Professional Standards Commission, Department of Education, Statehouse, Boise, ID 83720-0027, or may be delivered to the Department of Education, Len B. Jordan Building, Room 200, 650 West State Street, Boise, Idaho, and must be received within fourteen (14) days of the service date of this Final Order.

Judicial Review

Pursuant to Idaho Code §§ 33-1209(8), 67-5270 through 67-5279, any party aggrieved by this Final Order or by another Order previously entered in this Contested Case may obtain Judicial Review of this Final Order and of all previously issued Orders in this Contested Case by filing a Petition for Judicial Review in the District Court as provided by those sections.

A Petition for Judicial Review must be filed within twenty-eight (28) days of the service date of this Final Order, or, if a Petition for Reconsideration is timely filed, within twenty-eight (28) days of the service date of a final order on the Petition for Reconsideration or denial of the Petition for Reconsideration by operation of law. *See Idaho Code § 67-5273.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 23, 2025, I caused to be served a true and correct copy of the foregoing by the following method to:

Edit Szanto
Blue Lakes Law, PLLC
P. O. Box 5126
Twin Falls, ID 83301
Counsel for Respondent

☐ U.S. Mail
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☒ Email: edit.szanto@bluelakeslaw.com

Kyle Grigsby
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P. O. Box 83720
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Chief Certification Officer*

☐ U.S. Mail
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Idaho State Department of Education
Professional Standards Commission
Attn: Annette Schwab
P. O. Box 83720
Boise, ID 83720-0027

☐ U.S. Mail
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☐ Overnight Mail
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☒ Email: aschwab@sde.idaho.gov

/s/ Karen Sheehan

KAREN SHEEHAN
Presiding Officer