

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

In the Matter of the Certificates of:) **CASE NO. 21618**
)
) **JODY W. WEBB,**
) **ORDER GRANTING RECONSIDERATION**
) **OF FINAL ORDER OF THE HEARING**
) **PANEL**

Respondent.

For the reasons stated in the Motion to Reconsider the Panel’s Final Order and in light of Respondent Mr. Webb’s acquiescence in the Motion to Reconsider, the Motion to Reconsider is granted and the text of the Final Order of the Hearing Panel signed on November 28, 2016, and served on November 29, 2016, is modified as follows:

Beginning on page 5 of the Findings of Fact, Conclusions of Law, and Final Order of the Hearing Panel, the paragraph beginning with the words “We adopt the followign tight leash” is withdrawn and replaced by the following paragraph:

We adopt the following tight leash based upon the Motion to Reconsider and the agreement of the parties. We suspend Mr. Webb’s certificate for two months beginning on June 15, 2016. We impose the following condition on Mr. Webb’s certificate until August 31, 2020: (a) Mr. Webb must provide a copy of the original Final Order and this Order Granting Reconsideration of Final Order to the administration (any principal, assistant principal, and athletic director) of any school in which he serves as a teacher or a coach, and (b) if Mr. Webb submits a request for reimbursement to himself from public or school-related funds, he must certify to the school or entity providing the reimbursement that the reimbursement request is for expenditures from his personal funds.

ORDER ON RECONSIDERATION

IT IS THE ORDER of this Hearing Panel that the Chief Certification Officer’s Motion to Reconsider the Final Order be **GRANTED**.

IT IS THE FURTHER ORDER of this Hearing Panel that the Ordering Paragraphs on page six of the Final Order are withdrawn.

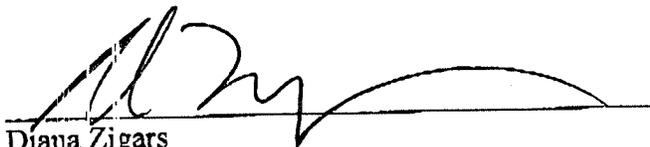
IT IS THE FURTHER ORDER of this Hearing Panel that the Certificate of Mr. Jody D. Webb be suspended for two months beginning June 15, 2016.

IT IS THE FURTHER ORDER of this Hearing Panel that until August 31, 2020:

(a) Mr. Webb must provide a copy of the original Final Order and this Order Granting Reconsideration of Final Order to the administration (any principal, assistant principal, and athletic director) of any school in which he serves as a teacher or a coach, and

(b) if Mr. Webb submits a request for reimbursement to himself from public or school-related funds, he must certify to the school or entity providing the reimbursement that the reimbursement request is for expenditures from his personal funds.

Dated this 21 of December, 2016.



Diana Zigars
Hearing Panel Chair

Judicial Review of Order Granting Reconsideration of Final Order

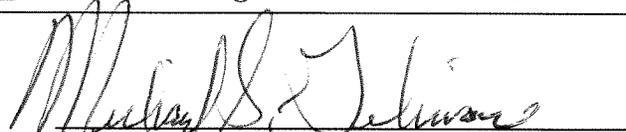
Pursuant to Idaho Code §§ 33-1209(8), 67-5270, and 67-5272, any party aggrieved by this Order Granting Reconsideration of a Final Order or by another Order previously entered in this Contested Case may obtain Judicial Review of this Order Granting Reconsideration of a Final Order and of all previously 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 Order Granting Reconsideration of a Final Order. See Idaho Code §§ 67-5246 and 67-5273.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of December, 2016, I caused to be served a true and correct copy of the preceding ORDER GRANTING RECONSIDERATION OF FINAL ORDER OF THE HEARING PANEL by the method(s) indicated below and addressed to the following:

David P. Claiborne SAWTOOTH LAW OFFICES, PLLC Golden Eagle Building 1101 River Street, Ste. 110 P.O. Box 7985 Boise, ID 83707	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: david@swtoothlaw.com <input type="checkbox"/> Facsimile: (208) 629-7559
Brian Church, Deputy Attorney General Office of the Attorney General Statehouse Boise, ID 83720-0010	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: brian.church@ag.idaho.gov <input type="checkbox"/> Facsimile:
Dr. Don Coberly, Superintendent Jennette Clark, Clerk of the Board Boise School District 8169 W. Victory Rd Boise, ID 83709	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: Don.Coberly@boiseschools.org <input checked="" type="checkbox"/> E-mail: Jennette.Clark@boiseschools.org
Dr. Charles J. Shackett, Superintendent Mary Hansen, Clerk of the Board Bonneville Joint School District No. 93 3497 N Ammon Road Idaho Falls, ID 83401	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: cshackett@d93.k12.id.us <input checked="" type="checkbox"/> E-mail: HansenM@d93.k12.id.us



 Michael S. Gilmore
 Deputy Attorney General

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

In the Matter of the Certificates of:)	Case No. 21618
)	
JODY W. WEBB,)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW AND FINAL ORDER OF THE
<u>Respondent.</u>)	HEARING PANEL

The Chief Certification Officer Lisa Colón (CCO) filed an Administrative Complaint against Respondent Jody W. Webb regarding his requests for and handling of public and school-related moneys. Mr. Webb asked for a hearing on the Administrative Complaint. A Hearing Panel of the Professional Standards Commission was convened and held a hearing as noticed beginning at 10:00 a.m. on Monday, November 14, 2016, in Conference Room B-09, Len B. Jordan Building, 650 West State Street, Boise, Idaho. Diana Zigars chaired the Hearing Panel. Ashley Green and Alex Jensen were the other members of the Hearing Panel. Michael S. Gilmore, Deputy Attorney General, advised the Hearing Panel. Brian Church, Deputy Attorney General, represented the CCO. David P. Claiborne, Sawtooth Law Offices, PLLC, Boise, Idaho, represented Mr. Webb. This written decision of the Hearing Panel reviews the proceedings, makes Findings of Fact and Conclusions of Law, and enters a Final Order making Mr. Webb’s teaching certificate subject to suspension under certain conditions.

I. SUMMARY OF THE PROCEEDINGS

The CCO’s Administrative Complaint alleged, Mr. Webb’s Answer and Demand for Hearing admitted, and the evidence at hearing¹ established that Mr. Webb was employed by the Independent School District of Boise City (the Boise District) as an elementary school physical education teacher and as the Capital High School Wrestling coach and that he was also involved with a separate, private organization known as the Capital City Outlaws Wrestling Club (the Out-

¹ Seven witnesses testified: PSC Program Specialist Annette Schwab; Boise Public Schools Education Foundation, Inc., Director Jennifer Henderson; former Capital High School Principal and current Athletics, Activities and PE Supervisor for the Boise District Jon Ruzicka; Respondent Jody Webb; Capital High School Athletic Director Steve Sosnowski; Outlaws Treasurer Kary Ferguson; and parent Jeff Conner. In the end there was no conflicting testimony about the facts regarding the payments at issue, so we do not individually review each witness’s testimony to resolve differences in the testimony.

laws). Complaint, ¶¶ 4-7; Answer, ¶ 3. This case revolves around requests for reimbursement of expenses that Mr. Webb submitted to the Boise Public Schools Education Foundation, Inc. (BPSEF), a public charitable foundation established to assist Boise District students and their education,² and to Capital High School's Associated Student Body (CHS ASB). It was uncontested that some of the expenditures for which Mr. Webb requested reimbursement and for which payment was made to him had not been made from his personal funds and had been made from the Outlaws' account. See, e.g., Ex. CCO-30 (payment from BPSEF funds), CCO-31 (same), CCO-40 (payment from CHS ASB funds), CCO-41 (same), CCO-44 (same), CCO-45 (same), CCO-46 (same), CCO-47 (same), and CCO-50 (summarizing several transactions).

The Chief Certification Officer contends that Mr. Webb's requests for reimbursement for expenditures of funds that were not his personal funds (they were the Outlaws' funds) violated the Idaho Code³ and the State Board of Education's Ethics Rules.⁴ Mr. Webb was forthright at

² BPSEF's Executive Director testified in general terms about BPSEF's operations. Her description paraphrased above is not intended to be a legal description of its purposes or operations.

³ The provision of the Idaho Code at issue is subsection 1.j of section 33-1208:

§ 33-1208. Revocation, suspension, denial, or place reasonable conditions on certificate — Grounds. — 1. The professional standards commission may deny, revoke, suspend, or place reasonable conditions on any certificate issued or authorized under the provisions of section 33-1201, Idaho Code, upon any of the following grounds:

...

j. Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education;

...

⁴ The provisions of the State Board of Education Rules at issue are Rules Governing Uniformity 76.05 and 76.05, IDAPA 08.02.02.076.05 and -.06 (2015):

076. CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).

....

05. Principle IV. A professional educator exemplifies honesty and integrity in the course of professional practice. Unethical conduct includes, but is not limited to:

- a. Fraudulently altering or preparing materials for licensure or employment;
- b. Falsifying or deliberately misrepresenting professional qualifications, degrees, academic awards, and related employment history when applying for employment or licensure;
- c. Failure to notify the state at the time of application for licensure of past revocations or suspensions of a certificate or license from another state;

hearing about what had happened. He had raised and/or donated funds for the Mountain View Elementary School, the Capital High School, and the Capital High School Wrestling accounts at BPSEF; he had also raised and/or donated funds for the Capital High School Wrestling Fundraising account at CHS ASB. As shown by the CCO Exhibits listed in the previous paragraph, Mr. Webb had requested reimbursement from all three of these BPSEF accounts and from the CHS ASB accounts for athletics and wrestling for expenditures made from the Outlaws' funds.

Mr. Webb candidly testified that he did not distinguish between his personal funds and the Outlaws' funds when he made expenditures for which he sought reimbursement; from the face of the exhibits, it does not appear that he distinguished among the accounts from which he sought reimbursement, either.⁵ Instead, Mr. Webb treated the BPSEF's, CHS ASB's, and Out-

d. Failure to notify the state of past criminal convictions at the time of application for licensure;

e. Falsifying, deliberately misrepresenting, or deliberately omitting information regarding the evaluation of students or personnel, including improper administration of any standardized tests (changing test answers; copying or teaching identified test items; unauthorized reading of the test to students, etc.);

f. Falsifying, deliberately misrepresenting, or deliberately omitting reasons for absences or leaves;

g. Falsifying, deliberately misrepresenting, or deliberately omitting information submitted in the course of an official inquiry or investigation; and,

h. Falsifying, deliberately misrepresenting, or deliberately omitting material information on an official evaluation of colleagues.

06. Principle V. A professional educator entrusted with public funds and property honors that trust with a high level of honesty, accuracy, and responsibility. Unethical conduct includes, but is not limited to:

a. Misuse, or unauthorized use, of public or school-related funds or property;

b. Failure to account for funds collected from students or parents;

c. Submission of fraudulent requests for reimbursement of expenses or for pay;

d. Co-mingling of public or school-related funds in personal bank account(s);

e. Use of school computers for a private business;

f. Use of school computers to deliberately view or print pornography; and,

g. Deliberate use of poor budgeting or accounting practices.

⁵ For example, Exhibit CCO-30 shows that Mr. Webb requested money from BPSEF's Mountain View Elementary account for reimbursement for the Outlaws' purchase of two IPADs, which he testified were primarily used for benefit of the Capital High Wrestling team. The use of an elementary school's account as a source of funds for IPADs for the high school wrestling team was apparently approved by the elementary school principal and by BPSEF. We do not know why.

laws' accounts as his own money to move back and forth as he pleased. They were not!

II. ANALYSIS OF THE LAW AND FACTS

When Mr. Webb raised or donated money to the BPSEF, the CHS ASB, or the Outlaws, his ownership rights in the moneys ended, and they became the charitable foundation's funds, public funds, or the wrestling club's funds, respectively; they were not his "slush fund" to use as he pleased or directed, no matter how good his intentions. Mr. Webb did not realize that at the time; it was by no means apparent that he yet realizes the significance of his use of these funds as though they were his own money. The Outlaws' lack of controls over his use of the club's funds and the Outlaws' Treasurer's indifference to how he used the club's funds is not a defense.

We have no difficulty finding that Mr. Webb's use of the Outlaws' funds to purchase goods or services for which he in return sought reimbursement for himself from BPSEF or CHS ASB funds violated Principle V as "Misuse, or unauthorized use, of public or school-related funds," "Submission of fraudulent requests for reimbursement of expenses," and "Deliberate use of poor ... accounting practices," which constitute a "professional educator [being] entrusted with public funds" and not "honor[ing] that trust with a high level of honesty, accuracy, and responsibility." State Board Rule 76.06, -.a, -.c, & -.g; IDAPA 08.02.02.076.06, -.a, -.c, & -.g, quoted in footnote 4.⁶ We also find that Mr. Webb willfully violated these State Board of Education Rules for standards of ethics or conduct.⁷

That brings us to the question of what is appropriate discipline. Mr. Webb was acting in a very lax manner in a very lax system that approved reimbursement of expenditures made without prior approval and apparently did not require documentation that purchases were used exclusively for the benefit of students or teachers or programs of the Boise District. Perhaps funds raised

⁶ The CCO also wanted to hold Mr. Webb in violation of Principle IV. Having decided that Mr. Webb violated Principle V, we do not need to address Principle IV.

⁷ The standards of the criminal law do not apply here, but they are instructive because they contain a higher standard than required for civil law or for regulatory law. In the criminal law an act is willful if it is done with a purpose or willingness to do the act itself without regard to whether there was any intent to violate the law. Idaho Code § 18-101, subsection 1. Mr. Webb willfully sought reimbursement for himself for expenditures made from the Outlaws' account.

by Mr. Webb were also considered “his funds” by those approving the requests. We do not know. We do know, however, that Mr. Webb lost his job and was the subject of a criminal investigation. We are unsure if he has completely learned his lesson because at times during the hearing he tried to put his treatment by the Boise District and by his former principal “on trial”. That is why he needs to be on a “tight leash” during the term of his current certificate, which expires, according to Exhibit 1, on August 31, 2020. But, having suffered very adverse consequences for his violation of the State Board Rules, he does not need to lose his certificate.

We adopt the following tight leash. For the remainder of Mr. Webb’s current certificate, *i.e.*, until August 31, 2020, his license will be subject to suspension by letter of the Chief Certification Officer if the following happens: If it is shown to the CCO’s satisfaction that Mr. Webb has in the future requested public or school-related funds for reimbursement to himself when he did not make the expenditures from his own funds (or funds in accounts that he shares with others, such as his wife or other family members), his certificate shall be suspended fourteen days after the CCO has notified him in writing of her determination. The purpose of the fourteen days is to permit Mr. Webb to rebut her determination if he so desires. The suspension will take effect at the end of the fourteen-day period unless the CCO agrees with Mr. Webb’s rebuttal materials. No formal hearings will be held. Mr. Webb is in effect “on probation” and the CCO is his “probation officer” from which he has no formal rights of appeal.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact

1. Respondent Jody W. Webb holds an Idaho Standard Secondary 7511 – P.E. K/12 and 7520 — Health 6/12 Certificate. Exhibit CCO-1

2. As shown in more detail in the CCO Exhibits referred to in the body of this document, Mr. Webb requested and received reimbursement of funds from the Boise Public Schools Education Foundation, Inc. (BPSEF) and the Independent School District of Boise City Capital High School Associated Student Body (CHS ASB) for expenditures that he did not make, but which were made by the Capital City Outlaws Wrestling Club, for which he was a principal.

3. Mr. Webb willfully requested the reimbursements described in Finding of Fact 2.

B. Conclusions of Law

1. This Hearing Panel has authority under Idaho Code § 33-1208 and § 33-1209 to hear this contested case initiated by the Chief Certification Officer’s Administrative Complaint against Mr. Webb.

2. This Hearing Panel has authority under Idaho Code § 33-1208 and § 33-1209, and in particular subsection 1.j of § 33-1208, to revoke, suspend, or place reasonable conditions upon Mr. Webb’s teaching certificate if it finds he has willfully violated any professional code or standard of ethics or conduct adopted by the State Board of Education.

3. The reimbursements that Mr. Webb received that are described in Finding of Fact 2 constitute willful violations of the State Board of Education’s professional code or standards of ethics or conduct, namely Principle V, IDAPA 08.02.02.076.06, -.a, -.c, & -.g.

4. The suspension of Mr. Webb’s certificate for the remainder of its term if it is shown to the Chief Certification Officer’s satisfaction that Mr. Webb has in the future requested public or school-related funds for reimbursement to himself when he did not make the expenditures from his own funds is a reasonable condition to place on his certificate.

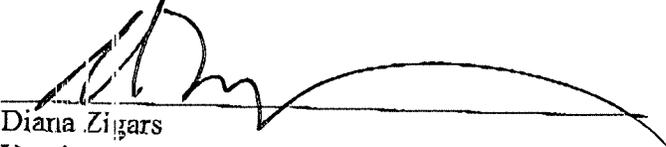
FINAL ORDER

IT IS THE FINAL ORDER of this Hearing Panel that the certificate of Jody W. Webb is subject to the following condition:

Mr. Webb’s certificate will be suspended for the remainder of its term if it is shown to the Chief Certification Officer’s satisfaction that Mr. Webb has in the future requested public or school-related funds for reimbursement to himself when he did not make the expenditures from his own funds. The mechanics for such a suspension are set forth in the body of this document.

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Dated this 28th of November, 2016.


Diana Zigars
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).

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

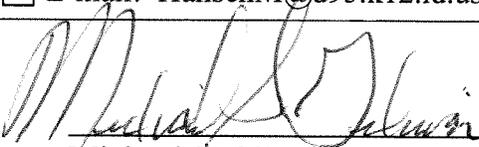
Pursuant to Idaho Code §§ 33-1209(8), 67-5270, and 67-5272, any party aggrieved by this Final Order or by another Order previously entered in this Contested Case may obtain Judicial Review of this Final Order and of all previously issued Orders in this Contested Case by filing a Petition for Judicial 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 decision on the Petition for Reconsideration or denial of the Petition for Reconsideration by operation of law. See Idaho Code §§ 67-5246 and 67-5283.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of November, 2016, I caused to be served a true and correct copy of the preceding FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER OF HEARING PANEL by the method(s) indicated below and addressed to the following:

David P. Claiborne SAWTOOTH LAW OFFICES, PLLC Golden Eagle Building 1101 .River Street, Ste. 110 P.O. Box 7985 Boise, ID 83707	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: david@swtoothlaw.com <input type="checkbox"/> Facsimile: (208) 629-7559
Brian Church, Deputy Attorney General Office of the Attorney General Statehouse Boise, ID 83720-0010	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: brian.church@ag.idaho.gov <input type="checkbox"/> Facsimile:
Dr. Don Coberly, Superintendent Jennette Clark, Clerk of the Board Boise School District 8169 W. Victory Rd Boise, ID 83709	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: Don.Coberly@boiseschools.org <input checked="" type="checkbox"/> E-mail: Jennette.Clark@boiseschools.org
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 Michael S. Gilmore
 Deputy Attorney General