



# SUPERINTENDENT OF PUBLIC INSTRUCTION

DR. TERRY BERGESON 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. D04-07-071

JOHN MOSER )  
Certificate No. 215076A )

AGREED ORDER )  
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 John Moser, that the Washington Education Certificate, No. 215076A, of John Moser, shall be suspended, based on the Findings of Fact and Conclusions of Law set forth below:

### FINDINGS OF FACT

1. John Moser was issued a Washington Education Certificate, No. 215076A, on March 19, 1976. That certificate currently remains valid.
2. John Moser was employed by the Everett Public Schools.

JOHN MOSER  
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3. On July 16, 2004, the Office of Professional Practices, within OSPI, received a complaint letter from the superintendent of the Everett Public Schools alleging a lack of good moral character or personal fitness, or a violation of the Code of Professional Conduct, Washington Administrative Code (WAC) 180-87, by John Moser. Mr. Moser has denied said allegations and has strenuously defended against the same.
  
4. On November 22, 2000, John Moser was issued a Letter of Warning (Letter of Direction) by Pat Sullivan, Everett High School Principal. The Letter of Warning (Letter of Direction) was for: leaving thirteen special education students with non-certificated school personnel; leaving left-over food in the classroom; and using a specific school room to cook food. Mr. Moser submitted a response to the Letter of Warning.
  
5. On December 17, 2001, Mr. Moser was issued a Letter of Reprimand for Improper Supervision of Students, which occurred on June 22, 2001, by Dr. Carol Whitehead, Superintendent of Everett Public Schools. The Letter of Reprimand stated that Mr. Moser failed to inform the proper authorities involving inappropriate touching among students.
  
6. In January of 2002, Mr. Moser received a Letter of Reprimand for Improper Supervision of Students from Dale Libkin, North Middle School Principal.
  
7. In March of 2003, a 14 year old, male special education student, D.N., transferred from Heatherwood Middle School to Mr. Moser's class at North Middle school after two incidents/allegations of inappropriate touchings of other students. The Safety Plan written at Heatherwood Middle School after the first incident stated that D.N.: will not be unsupervised

throughout the day; and that a paraeducator will be escorting D.N. during transition times. The Safety Plan also states that all responders, including substitutes, administrators, teacher, paraeducators, etc. are to be part of the communication plan. The second of the two Safety Plans was not completed at the time of transfer and was not sent to North Middle School.

8. In March of 2003, Mr. Moser attended two or three meetings regarding D.N.'s transfer to North Middle School, where Mr. Moser was employed. Allison Smith, North Middle School counselor, and Margy Ordell, D.N.'s teacher at Heatherwood Middle School were present at one or more meetings. At the transfer meetings, one of the two incidents was discussed and the Safety Plan written for the first incident was reviewed. The second incident was not discussed during the transfer meetings and the Safety Plan was not reviewed. Samples of D.N.'s work and his IEP were reviewed.

9. After D.N.'s transfer to Mr. Moser's classroom at North Middle School, Mr. Moser produced a Line of Sight Plan for D.N., at the direction of Dale Libkin, Principal at North Middle School. Portions of the Line of Sight Plan state that: 1) D.N. will be within eyesight of an adult teacher or ed assistant at all times throughout the day; 3) D.N.'s primary responsibility in this program is to keep his hands to himself at all times except to shake hands as a greeting.

10. After D.N.'s transfer, Mr. Moser told his educational assistant, Dawn Lindberg, that D.N. needed to have one-on-one supervision at all times when out of the classroom. OSPI maintains that Mr. Moser did not instruct Ms. Lindberg what acceptable or unacceptable touching was in regards to D.N.'s conduct with others.

11. During the remainder of the 2002-2003 school year, Mr. Moser did not provide a copy of D.N.'s Line of Sight Plan to Ms. Lindberg. Mr. Moser states that he conducted regular meetings with his para-educators, and at such meetings supervision parameters for D.N. were discussed.

12. During the 2003-2004 school year, Mr. Moser did not inform Ms. Prestebak and Ms. Johnstone of D.N.'s Line of Sight Plan and of the acceptable and unacceptable touching boundaries for D.N. Mr. Moser states that he conducted regular meetings with his para-educators, and at such meetings supervision parameters for D.N. were discussed.

13. On September 8, 2003, Ms. Prestebak observed D.N.'s hand near the abdomen of N.B., a female special education student. Ms. Prestebak separated D.N. and N.B. and informed Mr. Moser of the incident. Ms. Prestebak documented the incident and provided a copy of the documentation to Mr. Moser.

14. Mr. Moser, after being presented with documentation of the incident by Ms. Prestebak, held meetings with D.N. and his father. OSPI maintains that Mr. Moser did not inform Kelly Shephard, North Middle School Principal, of this incident. OSPI further maintains that Mr. Moser did not continuously separate D.N. and N.B. in classroom settings for the remainder of the first part of the 2003-2004 school year. Mr. Moser maintains that para-educators were instructed as to keeping D.N. and N.B. separated and that he took appropriate action to do so.

15. D.N. withdrew from North Middle School on December 18, 2003 and transferred to another state.

16. On April 22, 2004, it was reported that N.B. had disclosed that she had been touched inappropriately by D.N. while in Mr. Moser's classroom. Everett Police Department conducted an investigation and, after such, declined to pursue criminal charges against D.N.

17. On April 26, 2004, Mr. Moser was placed on administrative leave.

18. On June 30, 2004, Mr. Moser was issued a Notice of Probable Cause for Discharge from the Everett Public Schools.

19. On June 30, 2004, Mr. Moser filed a notice of appeal for the discharge.

20. On September 14, 2004, Mr. Moser signed a Settlement Agreement and Release with the Everett Public Schools.

21. 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 John Moser and over the subject matter of this action.
  
  2. OSPI has shown by clear and convincing evidence that the Washington Education Certificate, No. 215076A, of John Moser, should be suspended as provided for in WAC 180-86-070.
  
  3. John Moser has violated WAC 180-87-060, RCW 28A.410.090, WAC 180-86-013, and/or WAC 180 86-014.
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ORDER

THEREFORE, it is hereby ordered and agreed that the Washington Education Certificate, No. 215076A, of John Moser, be suspended for 30 days commencing October 15, 2005. The Washington Education Certificate of John Moser is reinstated effective November 15, 2005.

DATED This 18<sup>th</sup> day of October, 2005.

DR. TERRY BERGESON  
Superintendent of Public Instruction  
State of Washington

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Stipulated to and approved

For entry:

John A. Moser  
John Moser, Respondent

Marcia L. Riggers

Marcia L. Riggers  
Assistant Superintendent  
Student Support and Operations

Douglas Wartelle  
Douglas Wartelle, Attorney for Respondent