

I, Maggie Pagan, certify that on December 1 2006, I mailed a copy of this document, certified & postage prepaid, to all parties or their counsel of record. I certify under penalty of perjury, under the laws of the state of Washington, that the foregoing is true and correct.

IN THE MATTER OF THE EDUCATION)
CERTIFICATE OF)
GARY L. WALKUP)
CERTIFICATES NO. 230581A)
_____)

OPP No. D05-03-026
FINAL ORDER OF
SUSPENSION

COMES NOW Arlene Hett, Review Officer of the Office of Superintendent of Public Instruction (OSPI), having reviewed the files of the above-referenced case, and having considered the arguments of each party and the recommendation of the Admissions and Professional Conduct Advisory Committee, does hereby order that the Washington Education Certificates, No. 230581A, of Gary Walkup be suspended for sixty (60) days based on the Findings of Fact and Conclusions of Law set forth below:

FINDINGS OF FACT

1. Gary Walkup was issued a Washington Education Certificate, No. 230581A, on October 16, 1978. That certificate currently remains valid.
2. Gary Walkup is employed by the Orting School District.
3. On March 14, 2005, the Office of Professional Practices, within OSPI, received a complaint letter from the superintendent of the Orting 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) 180-87, by Gary Walkup.
4. In 1995 and 1996, Mr. Walkup received training in the area of sexual harassment and unlawful discrimination. Mr. Walkup was informed that telling or disseminating sexual jokes in

the work place could create a hostile work environment and that such jokes were forbidden at work.

5. Mr. Walkup was placed on an Improvement Plan for the 2000-2001 school year by Superintendent Sandra McCord. Under the Expected Performance for Section I.12, Mr. Walkup was expected to: meet with individual classes to discuss...appropriate language..., and no tolerance for sexual harassment. Under the Expected Performance for Section I.13, Mr. Walkup was expected to cover harassment behavior in every class and following up with teachers to assure a harassment free environment.

6. During the 2004-2005 school year, Mr. Walkup inappropriately used Orting School District computer equipment to send inappropriate photographs and text to other Orting School District employees.

7. From February 2003 to January 2005, Mr. Walkup used Orting School District computer equipment to send weekly e-mails to high school staff titled "Miyagi Minutes". Inappropriate sexually suggestive references and jokes were included in several "Miyagi Minutes".

8. Orting School District Policy # 2022, adopted July 1, 2004, for Acceptable Use for Electronic Information Systems: E-Mail, Networks and Internet states: (1.1) All use of the systems must be in support of education and research and consistent with the mission of the District; (1.4) Users are responsible for the appropriate use of the system; abusive, harassing, obscene, discriminatory, or pornographic material is prohibited.

9. Orting School District employees are provided copies of the Staff User Agreement for Electronic Information Systems. The Staff User Agreement for Electronic Information Systems

for the 2004-2005 school year stated that sending harassing or abusive e-mail messages to others and/or using vulgar or inappropriate language are examples of unacceptable use.

10. On February 8, 2005, Mr. Walkup was placed on administrative leave.

11. On March 4, 2005, Jeff Davis, Superintendent of the Orting School District, issued a Notice of Probable Cause for Discharge to Mr. Walkup.

12. On April 19, 2005, an Amended Notice of Probable Cause for Discharge was issued to Mr. Walkup.

13. On May 5, 2005, Mr. Walkup signed a settlement agreement with the Orting School District. In the settlement agreement, Mr. Walkup and the Orting School District agree to: dismiss the probable cause matter with prejudice; Mr. Walkup tenders his resignation, effective June 30, 2006; and that Mr. Walkup is to be paid his full salary and benefits through June 30, 2006.

14. Good moral character and personal fitness is a continuing requirement to maintain a Washington Education Certificate.

CONCLUSIONS OF LAW

1. OSPI has jurisdiction over Gary Walkup and over the subject matter of this action.
2. OSPI has shown by clear and convincing evidence that Washington Education Certificates, No. 230581A, of Gary Walkup, should be suspended as provided for in WAC 181-86-070.

3. Gary Walkup has violated WAC 181-87-060, RCW 28A.410.090, WAC 181-86-013, and/or WAC 181 86-014.

ORDER

THEREFORE, it is hereby ordered that the Washington Education Certificates, No. 230581A, of Gary Walkup, be suspended for sixty (60) days.

Reinstatement shall require submission of a new application, provided by OPP and having Gary Walkup's fingerprints be checked by both the Federal Bureau of Investigation (FBI) and the Washington State Patrol (WSP).

This Order will become final thirty (30) calendar days from the date of receipt of this order unless respondent files an appeal for a formal hearing before the Office of Administrative Hearings. Please direct the appeal and request for formal hearing to Office of Superintendent of Public Instruction, Administrative Law Office, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200.

DATED this 1st day of December, 2006.

DR. TERRY BERGESON
Superintendent of Public Instruction
State of Washington



DR. ARLENE HETT
Review Officer