

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

LISA COLÓN DURHAM, Chief Certification)	Case No. 21627
Officer, Complainant,)	
vs.)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW, AND FINAL ORDER OF THE
<u>LESTER WRIGHT MCCORMICK, Respondent.</u>)	HEARING PANEL

The Chief Certification Officer Lisa Colón Durham (CCO) filed an Administrative Complaint against the Certificates of Lester Wright McCormick for conduct in another State that would be grounds for discipline if done in Idaho. Mr. McCormick answered and requested a hearing. A Hearing Panel of the Professional Standards Commission held a hearing as noticed beginning at 10:00 a.m. on Tuesday, May 9, 2017, in the American Legion Hall, 2046 Hwy 95, Council, Idaho. Bonnie Gallant chaired the Hearing Panel. Josh Middleton and Jim Foudy were the other members of the Hearing Panel. Michael S. Gilmore, Deputy Attorney General, advised the Hearing Panel. Brian V. Church, Deputy Attorney General, represented the CCO. David Leroy, Boise, Idaho, represented the Respondent Mr. McCormick. This written decision of the Hearing Panel reviews the proceedings before the Panel, makes Findings of Fact and Conclusions of Law, and enters a Final Order imposing no discipline against Mr. McCormick's existing certificates, but preventing him from obtaining any administrative certificate as a superintendent (including an alternative or a provisional certification) unless he has completed a fully accredited program for a superintendency approved by the State Department of Education.

I. SUMMARY OF THE PROCEEDINGS

The Administrative Complaint was based upon Mr. McCormick's conduct in Montana. According to the Findings of Fact, Conclusions of Law, and Order of the Montana Board of Public Education, Mr. McCormick submitted a forged document in support of his application for "a Class 5 certificate for superintendent endorsement," for which Montana revoked his Class 1 and Class 3 Educator Certificates issued by the Montana Superintendent of Public Instruction. CCO Exhibit 4. The CCO's Administrative Complaint contended that this conduct in Montana and Montana's revocation of Mr. McCormick's Montana Certificates were grounds for discipline

against his Idaho Certificates under Idaho Code § 33-1208, subsection 1.e, because that conduct would violate subsection 1.d of that section and subsection 1.j¹ taken in conjunction with Idaho State Board of Education Uniformity Rule 76.05, IDAPA 08.02.02.76.05.²

Mr. McCormick holds an Idaho Administrator's Certificate, School Principal Pre-K-12, and a Standard Secondary Teaching Certificate with four subject area endorsements. CCO Exhibit 1. He does not hold a Superintendent's credential. The hearing on Mr. McCormick's certificates focused on two things: what happened in Montana and Mr. McCormick's honesty and integrity. If we were to view the evidence in the light most favorable to Mr. McCormick, it would be along the following line:

Mr. McCormick began taking graduate classes at Lewis & Clark College in Portland, Oregon, in 2000. As he approached completion of his classes to qualify to be certified for a school district superintendency, he became aware that Lewis & Clark did not consider him to be enrolled in or accepted by its program and considered him a "guest student" who would not re-

¹ Idaho Code § 33-1208, subsections 1.d, 1.e, and 1.j provide:

§ 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:

...

d. Making any material statement of fact in the application for a certificate, which the applicant knows to be false;

e. Revocation, suspension, denial or surrender of a certificate in another state for any reason constituting grounds for revocation in this state;

...

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

....

² Idaho State Board of Education Uniformity Rule 76.05, IDAPA 08.02.02.76.05, provides:

05. Principle IV - Professional Integrity. 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;

....

ceive official certification for completing the program. In the meantime, Mr. McCormick moved to Alaska, where he first became a principal and later rose to be a superintendent, because Alaska law allowed him to be a superintendent without certification of the kind he had pursued at Lewis & Clark. After a number of Alaska winters, Mr. McCormick returned to the lower 48 States, where he took a job as superintendent at a Tribal school. He still did not have documentation that he had completed the superintendent's program at Lewis & Clark, which he attributed to a clerical error by the school not showing he had been accepted and enrolled in its program.

While he was in Montana, Mr. McCormick's brother came to visit. Mr. McCormick's brother had a history of mental illness and/or substance abuse. Nevertheless, Mr. McCormick entrusted his brother with many of his personal records regarding Lewis & Clark on his brother's promise to deliver them in person to Lewis & Clark in Portland to help set the record straight. Some months later Mr. McCormick received a package post-marked from Oklahoma (where his brother lived), which contained an envelope with documents purportedly from Lewis & Clark. Mr. McCormick took that envelope to the Montana accreditation office, where he handed it to an employee to open. She opened the envelope, which contained a forged recommendation from Lewis & Clark. Mr. McCormick said that he immediately flagged the document as suspicious and told the woman who opened it that it must be checked out. It was checked out.

Montana revoked Mr. McCormick's education credentials because he "submitted false credentials ... to apply for a ... certificate" that contained a forged signature and a forged college seal. CCO Exhibit 4, Conclusion of Law 5. Mr. McCormick submitted an affidavit from his brother in the Montana proceeding that the brother had created the forged document as a joke. Exhibit D. He repeated similar testimony in our hearing and said that he had tried to persuade his brother to testify by telephone at our hearing, but his brother refused to do so without being paid \$5,000. In addition to his own testimony and exhibits, Mr. McCormick called six character witnesses: Council School Board Member Jodi Cook, Council School Board Member Shawn Stanford, Adams County Sheriff Ryan Zollman, Council School Board Chairman Bob Grossen, retired Alaska educator Scott Butterfield, and Council School Board Vice-Chairman Melissa

Roundtree. Their testimony complimented Mr. McCormick's ethics, honesty, and integrity. Several of them also complimented his ability to get out in front of problems and tackle them head on.

II. OUR EVALUATION OF THE EVIDENCE AND APPLICATION OF THE LAW TO THE FACTS OF THIS CASE

Mr. McCormick's story is implausible. No careful person would have entrusted original documents to be delivered in person to a college hundreds of miles away to someone with a history like that of Mr. McCormick's brother. At every step of his story, Mr. McCormick has an excuse: He has no records of being accepted in the Lewis & Clark program, but that is an error on the college's part. The forged document delivered to Montana was his brother's fault and his brother's "joke", even though it was Mr. McCormick who delivered it to Montana authorities. He has known about possible disciplinary proceedings against his Idaho certificates since early in the 2016-2017 school year, but did not inform the Council School Board about them because he said that what happened in Montana would not affect his Idaho certificates. Mr. McCormick testified that he changed jobs on a regular basis to take on new challenges. However, frequent job changes can also be a result of problems that come to light and force a person move on. That is the case here.

Mr. McCormick's character witnesses did not help his case. They testified that they had just learned that Mr. McCormick's lack of an Idaho superintendent's credential may jeopardize the Council School District's ability to be reimbursed for his position under the State Foundation Program's Staff Allowance. The testimony of CCO Lisa Colón Durham disclosed that Mr. McCormick knew or should have known about this potential since at least January of this year.³ The character witnesses' opinions that Mr. McCormick gets ahead of problems was misplaced.

We find that Mr. McCormick submitted forged documents to Montana accrediting authorities. That is a violation of the Idaho Code subsections and the State Board of Education Rules set forth in footnotes 1 and 2. That brings us to the question of what an appropriate disci-

³ Mr. McCormick testified in this Montana hearing that "Idaho allows me to be a superintendent." Exhibit A, transcript of Montana Hearing, page 14, lines 7-8. Mr. McCormick was mistaken.

pline should be. This is how we analyze Mr. McCormick's situation.

Mr. McCormick currently has Idaho credentials to be a principal and a teacher, but no credentials to be a superintendent. He has played fast and loose with attempts to gain the latter in Montana and has ignored options available to him to be certified as a superintendent in Idaho. We do not impose any discipline against his Idaho principal's or teacher's credentials because they are not the source of the problem. Under Idaho Code § 33-1209⁴ we have authority to place the following reasonable conditions on any superintendent's certificate that may be "issued or authorized" to Mr. McCormick in lieu of suspending or revoking Mr. McCormick's principal's and teacher's certificates: Mr. McCormick shall not be eligible for any certificate as a superintendent (including an alternative or a provisional certification) unless he has completed a fully

⁴ Idaho Code § 33-1209 provides:

§ 33-1209. Proceedings to revoke, suspend, deny or place reasonable conditions on a certificate — Letters of reprimand — ... — Hearing. —

(2) Proceedings to revoke or suspend any certificate issued under section 33-1201, Idaho Code, or to issue a letter of reprimand or place reasonable conditions on the certificate shall be commenced by a written complaint against the holder thereof ... made by the chief certification officer

....

(4) Any such hearing shall be conducted by three (3) or more panel members appointed by the chairman of the professional standards commission, a majority of whom shall hold a position of employment the same as the person complained against.

....

(6) ... The hearing panel may determine to suspend or revoke the certificate, or the panel may order that reasonable conditions be placed on the certificate or a letter of reprimand be sent to the certificate holder, or if there are not sufficient grounds, the allegation against the certificate holder is dismissed and is so recorded.

....

(11) For the purposes of this section, the term "teacher" shall include any individual required to hold a certificate pursuant to section 33-1201, Idaho Code.

Idaho Code § 33-1201 includes administrator's certificates within its scope. "Every person who is employed to serve in any elementary or secondary school in the capacity of teacher, supervisor, administrator, education specialist, school nurse or school librarian shall be required to have and to hold a certificate issued under authority of the state board of education" By State Board Rule, a superintendent's certificate is an administrative certificate.

03. Administrator Certificate. Every person who serves as a superintendent, a secondary school principal, or principal of an elementary school with eight (8) or more teachers (including the principal), or is assigned administrative duties over and above those commonly assigned to teachers, is required to hold an Administrator Certificate. ...

Uniformity Rule 15.03, IDAPA 08.02.02.15.03 (2017).

accredited program for a superintendency approved by the State Department of Education.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact

1. Respondent Lester Wright McCormick holds administrative and secondary teaching certificates in Idaho. CCO Exhibit 1.

2. On August 10, 2016, the Executive Director of the Montana Board of Public Education issued an Order revoking Mr. McCormick's Class 1 and Class 3 certificates for submitting a forged letter of recommendation in support of his application for a superintendent's credential. CCO Exhibit 4.

3. Mr. McCormick did in fact submit a forged document in support of his application for superintendent's certificate in Montana.

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. McCormick.

2. This Hearing Panel has authority under Idaho Code § 33-1208, subsections 1.d, 1.e, and 1.j, Idaho Code § 33-1209, and State Board of Education Uniformity Rule 76.05, IDAPA 08.02.02.76.05, to place reasonable conditions upon "any certificate issued or authorized under the provisions of section 33-1201, Idaho Code."

3. A superintendent's certificate is certificate issued or authorized under the provisions of Idaho Code § 33-1201. See Uniformity Rule 15.03, IDAPA 08.02.02.15.03.

4. In lieu of suspending or revoking Mr. McCormick's existing principal's and teacher's certificates, it is reasonable to place a condition upon Mr. McCormick's future certificates that he not be issued a certificate as a superintendent (including an alternative or a provisional certification) unless he has completed a fully accredited program for a superintendency approved by the State Department of Education.

FINAL ORDER

IT IS THE FINAL ORDER of this Hearing Panel that the principal's and teacher's certificates of Respondent Lester Wright McCormick not be suspended or revoked.

IT IS THE FURTHER ORDER of this Hearing Panel that in lieu of suspending or revoking Mr. McCormick's principal's and teacher's certificates that the following reasonable condition be placed upon Mr. McCormick's future certificates: Mr. McCormick will not be issued a certificate as a superintendent (including an alternative or a provisional certification) unless he has completed a fully accredited program for a superintendency approved by the State Department of Education.

Dated this 18th of May, 2017.



Dr. Bonnie Gallant
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

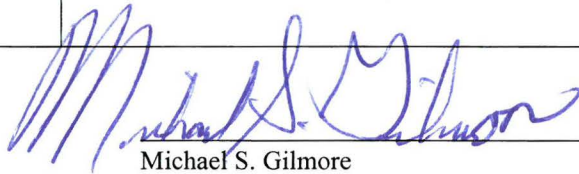
Pursuant to Idaho Code §§ 33-1209(8), 67-5270, and 67-5272, any party aggrieved by this Final Order or by another Order previously entered in this Contested Case may obtain Judicial Review of this Final Order and of all previously issued Orders in this Contested Case by filing a Petition for Judicial 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 19th day of May, 2017, I caused to be served a true and correct copy of the preceding FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER OF THE HEARING PANEL by the method(s) indicated below and addressed to the following:

David H. Leroy 802 West Bannock Street,, Suite 201 Boise, Idaho 83702	<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: dave@dleroy.com
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
Council School District No. 13 Mrs. Lakey, District Clerk 101 East Blecker Street PO Box 468 Council, ID 83612	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested



Michael S. Gilmore
Deputy Attorney General