



# West Ada

## SCHOOL DISTRICT

November 11, 2021

David Binetti  
West Ada Parents Association  
372 S. Eagle Rd Suite 195  
Eagle, ID 83616

Dear Mr. Binetti:

The board is in receipt of a written complaint dated October 10, 2021 (received by email on October 9, 2021), and your written complaint dated October 17, 2021. There is currently no policy outlining the process to be followed when a complaint is received regarding a trustee. Therefore, these complaints are being treated as "grievances" pursuant to the District's policy 203.3 (a copy of this policy is attached). These complaints were reviewed by the board and legal counsel in executive session on October 25, 2021, with the absence of Chairperson Johnson.

As a foundation for this response to your complaints it is important to point out that as elected officials, trustees serve at the pleasure of the patrons that elected them and that they represent. As a board, and as individual trustees, there is no statutory authority and/or policy that provides authority to the board to require or force a trustee to resign a board position, recuse themselves from a vote, or to resign as a trustee. Under Idaho law and the Idaho Constitution there are other ways that citizens can seek to change the people that have been elected to serve.

As a matter of clarification, the board would like to address a few allegations and/or assumptions stated in your complaints that are factually incorrect.

### **October 10 Complaint:**

As identified in policy 203.3, a grievance must be filed within forty-five (45) days of the event or incident giving rise to the grievance. This grievance is regarding events that occurred on August 24, 2021. Thus, this written grievance was filed forty-six (46) days after the event at issue and thus is not timely filed.

Even though your grievance was not timely filed, the Board wishes to address a number of the matters raised in your complaint.

- In your complaint you assert improper activities on behalf of Chairperson Johnson with regards to personnel from St. Luke's Health System participating in the board meeting on August 24, 2021.
  - It is your assumption that as Board Chairperson, Trustee Johnson, "sets the agenda, invites guests and directs the meeting" as well as the assumption that St. Luke's personnel were "her invited guests". These assumptions are factually incorrect. The Superintendent and Board Chairperson jointly prepare agendas. An agenda review meeting includes the Board Chairperson, Vice-Chairperson, Superintendent, Deputy Superintendent and Board Clerk. Additionally, if two (2) trustees make a request, an item is included on the agenda. In the situation you raise issue, this is exactly what occurred. The personnel from St. Luke's were invited to speak to the board of trustees on August 24, 2021 at the request of Trustee Klopfenstein and Trustee Buffi. This request was properly placed on the agenda at the request of these two (2) trustees.
- The Conflict of Interest Policy – 201.4 – In our review of this policy and discussion with the committee who assisted in the writing of this policy, this policy is entirely directed at pecuniary interests, which is akin with the opinion of the Idaho Attorney General, received by Amy White on behalf of several Idaho School District's.
  - A "trustee' interest in the public schools" as stated in an undefined manner is a requirement that the trustee act consistent with their oath of office, requiring compliance with the U.S. and Idaho Constitution and State law. One would be hard pressed to read District Policy 201.4 inconsistently with the State's Attorney General opinion. Further, in the broad manner in which you are interpreting a subjective "perceived" conflict, would prevent every board member with any level of knowledge or expertise on any issue from voting on a matter for which they have knowledge or expertise.
  - We do understand that a subjective reading of this policy can create confusion and we have requested that this policy be put in line for review and consideration by our District policy committee.

### **October 17 Complaint:**

This complaint appears to be a continuation of the October 10 complaint with an additional reference to a violation of West Ada Policy No. 201.1, Item 7 in regards to statements that Chairperson Johnson said during the board meeting of October 13, 2021. This



complaint also centers around the Idaho Attorney General opinion that was written to Amy White on October 8, 2021.

Ultimately, it seems that this complaint centers around the decision as to whether the Board Chairperson should or should not recuse herself based upon her employment at Blue Cross.

Our research has uncovered the following:

- Prior to the complaint, Chairperson Johnson contacted the District's legal representative, Amy White, to determine if her employment at Blue Cross could be a conflict. Individual board members have no authority to direct legal counsel, so Ms. White reached out to Superintendent Bub for direction. Ultimately it was decided that Ms. White should submit the request on behalf of the District. Upon receipt of the AG's Opinion, Ms. White forwarded such to Superintendent Bub. The opinion was thereafter provided to the entire board by email on October 8, 2021.
- Given the complaint, Chairperson Johnson asked Superintendent Bub and Vice-Chairperson Ozuna for her participation options for the meeting on October 13, 2021. Superintendent Bub conferred with legal counsel and was given multiple options. All of these options were presented to Chairperson Johnson, one of which was full participation in the meeting.
- Chairperson Johnson did not receive legal advice/direction directly from the school district's attorney Amy White. Furthermore, there was no communication between Amy White and Chairperson Johnson following the initial phone call described in the first bullet above.
- The presence and placement on the agenda of Amy White at the October 13, 2021 board meeting was at the invitation of Dr. Bub. Ms. White was asked to the meeting to address any legal issues regarding the Covid protocols that may arise. Ms. White's presence was unrelated to these complaints.

### **Final Analysis:**

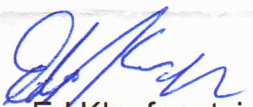
Our research has not confirmed a policy or code of ethics violation.

The issue regarding disclosure of a conflict of interest is the responsibility of each individual board member at the time that a vote is taken if the board member believes a conflict exists. Policy 201.4 describes relationships where a conflict may exist and financial ownership situations where a conflict may exist. It goes on to provide instructions regarding the steps that must be taken if a "remote interest" exists. The policy does not

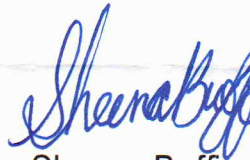
provide any remedies that allow the board to remove an individual trustee from their position on the board or as a trustee. Policy 201.1 – Code of Ethics for School Board Members also does not contain any remedies that allow the board to remove an individual trustee from their position on the board or as a trustee.

In both complaints, it appears you are asking for the Board of Trustees to direct Trustee Johnson to resign as Chairperson, recuse herself on all public health matters, or resign her position. As outlined above, the Board of Trustees does not have any statutory and/or policy authority to take any of these actions.

Sincerely,



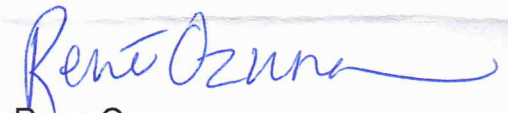
Ed Klopfenstein  
Zone 1 Trustee



Sheena Buffi  
Zone 3 Trustee



Rusty Coffelt  
Zone 4 Trustee



Rene Ozuna  
Zone 5 Trustee