

SENT VIA EMAIL ONLY

January 16, 2020

Dani Maxwell
Assistant News Director
WKOW
dmaxwell@wkow.com

Re: Request for Records, 20-PR-005

Dear Ms. Maxwell:

This letter is in response to your records request dated January 13, 2020. In that request, you ask for the Notice of Probable Cause and Surrender Agreement from the Department's investigation into Michael Garrow.

Names and other information that might identify pupils have been redacted pursuant to the Federal Education Rights and Privacy Act of 1974 (FERPA), which prohibits the disclosure of confidential pupil information without consent. In addition, the redacted information is appropriate to withhold pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. In performing the balancing test, I determined that the public's interest in keeping the identity of student victims private outweighs the interest of the public in disclosing this information. State and federal law express a strong public policy to keep the names of students confidential. See e.g., Wis. Stat. § 118.125; 20 U.S.C. § 1232g; and 34 CFR Part 99. Similarly, state law expresses a strong public policy to protect the privacy of victims. See, e.g., Wis. Stat. §§ 950.04(1v)(ag), (1v)(dr), and (2w)(dm).

Michael Garrow's home address has been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test because there is a public interest, as demonstrated by Wis. Stat. § 19.36(10)(a), in protecting that information. Pursuant to Wis. Stat. § 19.36(10)(a), information maintained, prepared or provided by an employer concerning the home address, home e-mail address, home telephone number, or social security number of an employee is exempt from disclosure by the public records statutes. The Department redacted this type of information from the requested records. Therefore, the Department has partially denied this public records request.

Attached are the responsive records, subject to the redactions described above. Under Wis. Stat. § 19.35(3)(e), the fee for this request has been waived.

Pursuant to Wis. Stat. § 19.35(4)(b), the decision to withhold or redact records is subject to review by mandamus under Wis. Stat. § 19.37(1), or upon application to the attorney general or a district attorney.

If you have any questions or concerns, please contact Media.Inquiries@dpi.wi.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Curnutt". The signature is written in a cursive style with a large initial "H" and a stylized "C".

Heather Curnutt
Attorney
Office of Legal Services

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF PUBLIC INSTRUCTION

| | | |
|--------------------|---|------------------|
| IN THE MATTER OF | : | NOTICE OF |
| THE LICENSE(S) OF | : | PROBABLE CAUSE |
| | : | AND |
| Michael S. Garrow, | : | INTENT TO REVOKE |
| RESPONDENT. | : | |

DPI Case No. 18-TL-95

Heather Curnutt, Attorney for the Department of Public Instruction (DPI), 125 S. Webster St., P.O. Box 7841, Madison, WI 53707-7841, upon information and belief, alleges that:

1. Respondent Michael S. Garrow (dob May 11, 1972) is a licensed educator in the State of Wisconsin, entity number 291405.
2. The most recent address on file with the DPI for Respondent is [REDACTED].
3. In the 2017-2018 school year, Respondent was employed as the District Administrator by the Fall River School District.
4. During the 2017-2018 school year, Respondent volunteered as a [REDACTED] and [REDACTED] coach at Jefferson High School in the School District of Jefferson.
5. During the 2017-2018 school year, [REDACTED] was a student in the 12th grade at Jefferson High School. [REDACTED] competed in both [REDACTED] and [REDACTED] and Respondent was her coach for both sports.
6. The [REDACTED] season is approximately November to March. The [REDACTED] season is approximately March to May.
7. All of the allegations described in Counts 1, 2 and 3 below occurred during the 2017-2018 school year.

COUNT 1: Immoral Conduct (Grooming of Pupil, [REDACTED])

8. Respondent spent more time helping [REDACTED] than other athletes.
9. Respondent bought coffee for [REDACTED].
10. Respondent engaged in private conversations via snapchat with [REDACTED].
11. Respondent used snapchat with [REDACTED] almost every day.

12. Respondent always sat next to [REDACTED] at team dinners.
13. At one team dinner, Respondent ate off the same plate as [REDACTED].
14. At a [REDACTED] team dinner at a teammate's home, [REDACTED] sat down on the couch first and Respondent sat very close next to her.
15. Respondent rested his hand between his leg and [REDACTED]'s leg and touched [REDACTED]'s thigh with the back side of his hand.
16. When [REDACTED] got up for dinner, Respondent followed her and sat next to her at the dinner table.
17. After dinner, the [REDACTED] and coaches went back into the living room to watch a video and Respondent squeezed in next to [REDACTED].
18. Respondent again put the back of his hand against [REDACTED]'s thigh and was extremely close to her.
19. When [REDACTED] laughed, she leaned forward and Respondent grabbed both sides of her waist.
20. On Saturday, January 6, 2018, after a [REDACTED] [REDACTED], many of the team members went to Respondent's apartment for dinner.
21. Respondent sat next to [REDACTED] at dinner.
22. After dinner, [REDACTED] sat down on the floor with her back against a couch.
23. After [REDACTED] was already on the floor, Respondent sat down on the floor next to [REDACTED].
24. Respondent put the palm of his hand on his leg with the back of his hand touching [REDACTED]'s thigh.
25. Respondent's wife came and lay between Respondent's legs.
26. Respondent then put his hand back on his leg so that it touched [REDACTED]'s leg.
27. At a practice, Respondent commented about the size of [REDACTED]'s thighs and put his hands and fingers around [REDACTED]'s thighs about 6 inches from [REDACTED]'s groin.
28. On January 27, 2018, while riding on a bus after a [REDACTED] [REDACTED] Respondent asked to see a picture of [REDACTED] in a swimsuit that she was showing to a teammate. [REDACTED] said no but Respondent took the phone out of [REDACTED]'s hand and looked at the picture.
29. During practices, Respondent would pick up [REDACTED] and put her over his shoulder and not let her down until she insisted.

30. When Respondent s [REDACTED] [REDACTED], his hand was always near her bottom.
31. At a [REDACTED] practice, while [REDACTED] was waiting for Respondent to lift her up to the [REDACTED], Respondent grabbed [REDACTED] around her torso as if he was bear hugging her and pulled her down saying that it was a good way to crack her back. Respondent rubbed his arms across [REDACTED]'s chest while he pulled her down.
32. At a dinner with the team after the state [REDACTED] [REDACTED], as [REDACTED] was about to sit down, Respondent's wife referred to Respondent as [REDACTED]'s "puppy," telling [REDACTED] to make sure that there was room for her "puppy" to sit next to [REDACTED].
33. Frequently when Respondent was next to [REDACTED], he would touch [REDACTED] with an arm or leg or foot.
34. Respondent asked [REDACTED] to go to summer [REDACTED] camp to coach with him, telling her that Respondent's wife would not be coaching the camp.
35. Respondent discussed his marriage and marital difficulties with [REDACTED].
36. On April 27, 2018, while at a [REDACTED] [REDACTED], [REDACTED] was crying. Respondent guided her head into his chest and rubbed her back.
37. Respondent, during the 2017-2018 school year, while licensed by the DPI, engaged in grooming behavior with a pupil, [REDACTED], that was contrary to commonly accepted moral or ethical standards and endangered the health, safety, welfare or education of [REDACTED], constituting grounds for educator license revocation under Wis. Stat. § 115.31(1)(c) and (2).

COUNT 2: Immoral Conduct (Inappropriate Touching of Pupil, [REDACTED])

38. On Thursday, February 22, 2018, after the [REDACTED] [REDACTED] [REDACTED], the [REDACTED] team spent the night at Respondent's Sun Prairie home.
39. [REDACTED] sat on the far left of an L shaped couch while another student was on the other side of the couch.
40. [REDACTED] asked Respondent for a clean blanket she could use for the night.
41. Respondent gave [REDACTED] a blanket, and then Respondent sat down under the same blanket as [REDACTED].
42. Respondent initially sat approximately 6 inches away from [REDACTED] under the blanket but moved closer to [REDACTED] as they watched television.
43. Respondent rested his elbow and forearm on [REDACTED]'s leg and hip.
44. Because Respondent did not leave, [REDACTED] turned her entire body to the left into the corner of the couch and pretended to fall asleep in the hope that he would leave.

45. Within five minutes of [REDACTED] pretending to fall asleep, Respondent turned off the television and turned his body to the left into a spooning position.

46. Respondent touched [REDACTED]'s legs with his legs and put his hand on [REDACTED]'s hip.

47. Respondent rubbed his thumb on [REDACTED]'s hip and then moved his hand to [REDACTED]'s waist and rubbed his thumb on [REDACTED]'s waist.

48. Eventually, Respondent's hand moved underneath [REDACTED]'s shirt and he touched her bare skin.

49. [REDACTED] twitched her body so that Respondent would back off, but instead Respondent squeezed her side with his hand.

50. Respondent continued to rub [REDACTED]'s side and back and put his finger under the waistband of her pants.

51. When Respondent heard a noise, he moved over and stopped touching [REDACTED].

52. Respondent, during the 2017-2018 school year, while licensed by the DPI, engaged in inappropriate touching of a pupil, [REDACTED], that was contrary to commonly accepted moral or ethical standards and endangered the health, safety, welfare or education of [REDACTED], constituting grounds for educator license revocation under Wis. Stat. § 115.31(1)(c) and (2).

COUNT 3: Immoral Conduct (Inappropriate Communication with Pupil, [REDACTED])

53. One day, [REDACTED] and other [REDACTED] team members complimented the abdominal muscles of the boys on the wrestling team and Respondent said that he could beat the boys in a flex off.

54. The next day, Respondent sent [REDACTED] a photograph of his abdominal muscles over snapchat.

55. The photo showed Respondent lying in bed and showed his bare chest and abdomen area.

56. The caption of the photograph said, "good night."

57. Later, Respondent asked [REDACTED] to delete the photograph.

58. Respondent, during the 2017-2018 school year, while licensed by the DPI, engaged in inappropriate communication with a pupil, [REDACTED], that was contrary to commonly accepted moral or ethical standards and endangered the health, safety, welfare or education of [REDACTED], constituting grounds for educator license revocation under Wis. Stat. § 115.31(1)(c) and (2).

COUNT 4: False Statement on Application to the DPI

59. On or about May 2, 2018, after hearing the allegations described above, School District of Jefferson Superintendent Mark Rollefson removed Respondent from his volunteer coaching duties through a direct phone call to Respondent.

60. Dr. Rollefson told Respondent that there was an allegation about him that was related to a student and that the allegation required an investigation.

61. The allegation that Dr. Rollefson referred to was the allegations described in Counts 1 through 3 above, and were therefore allegations of immoral conduct.

62. Dr. Rollefson told Respondent that he was no longer to coach any athletes for the School District of Jefferson until further notice; he was to have no contact with any School District of Jefferson students other than his own step-daughter until further notice; he was not to communicate with the School District of Jefferson over any electronic medium other than with his own step-daughter until further notice; and that he could attend School District of Jefferson events in which his step-daughter was involved as a spectator but was expected to avoid interaction with other School District of Jefferson students.

63. Respondent told Dr. Rollefson that he understood.

64. Four days later, Respondent told Dr. Rollefson that he would not do any more coaching for School District of Jefferson schools.

65. On April 11, 2019, Respondent submitted an application for an Administrator license to the DPI. As part of the application, Respondent submitted a Conduct and Competency Response to the Department in which he answered "No" to the following question:

3. Have you ever resigned, retired, been disciplined, been dismissed or been non-renewed from any teaching or other school position, in part, for alleged "immoral conduct"?

66. Respondent attested to the following statement by electronically signing his name at the end of the Conduct and Competency Response:

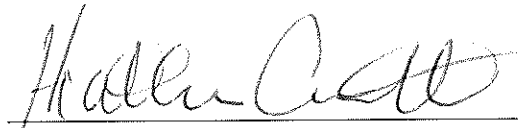
I AFFIRM that all of my responses to the Conduct and Competency questions and all additional information in this license application and the accompanying documentation are true to the best of my knowledge. I understand that any false statements or assertions that I make may result in denial, revocation or suspension of my license.

67. Respondent made a false statement on a license application to the DPI, which constitutes grounds for license revocation as agreed to by Respondent in signing the affirmation submitted with his Conduct and Competency Response.

CONCLUSION

68. Based on Counts 1 through 3, Respondent engaged in immoral conduct as defined in Wis. Stat. § 115.31(1)(c), which is grounds for license revocation pursuant to Wis. Stat. § 115.31(2) and Wis. Admin. Code § PI 34.098(1)(a). Based on Count 4, Respondent made a false statement on a license application to the DPI, which constitutes grounds for license revocation based on the affirmation signed by Respondent. Therefore, based on Counts 1 through 4, either standing alone or in combination, the State Superintendent, intends to revoke all licenses issued to Respondent by the Department. "Revoke" means to terminate all rights and privileges associated with a license. Wis. Admin. Code § PI 34.097(8).

Dated this 19th day of August 2019



Heather Curnutt
Attorney
Office of Legal Services
WI State Bar No. 1052284

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(608) 266-8762

NOTICE OF APPEAL RIGHTS

Service of this Notice of Probable Cause and Intent to Revoke is complete upon mailing. Receipt of this Notice of Probable Cause and Intent to Revoke is presumed to be on the third day following service, unless this presumption is rebutted by a preponderance of the evidence.

If you wish to contest this action, you may request a hearing by submitting a written request to the Department of Public Instruction, Office of Legal Services, Post Office Box 7841, Madison, Wisconsin 53707-7841. **Your request must be postmarked within 30 days after receipt of this Notice of Probable Cause and Intent to Revoke.** If you do not request a hearing within that 30-day period, the State Superintendent shall revoke your license without a hearing, based on the charges stated above.

If you do request a hearing, you must file a written answer with the Office of Legal Services within 10 days of your request for a hearing. Your answer must comply with all of the following:

- State in short and plain terms the defenses to each cause for revocation asserted.
- Set forth affirmatively any matter constituting an affirmative defense.
- Admit or deny each allegation upon which the notice relies. If you are without knowledge or information sufficient to form a belief as to the truth of an allegation, you must so state and this will have the effect of a denial. If you intend in good faith to deny only a part of an allegation, you must specify what part of the allegation is true and material and deny only the remainder. Allegations contained in this Notice of Probable Cause and Intent to Revoke will be deemed admitted if not specifically denied.

Strict compliance with Wis. Admin. Code § PI 34.102 is required.

If you timely request a hearing and timely file a written answer, the State Superintendent shall schedule a public hearing not later than 90 days after receipt of your request and shall provide you with at least 20 days written notice of that hearing.

STATE OF WISCONSIN
DEPARTMENT OF PUBLIC INSTRUCTION

IN THE MATTER OF :
THE TEACHING LICENSE OF :
Michael S. Garrow, Entity No. 291405 : Agreement to Surrender License
RESPONDENT. :

DPI Case No. 18-TL-95

Respondent Michael S. Garrow and the Department of Public Instruction (DPI) agree to the following:

1. This agreement is effective on the date it is signed on behalf of the DPI.
2. Respondent is a licensed educator in the State of Wisconsin.
3. Respondent continues to deny all allegations and asserts that all of his statements are true. Respondent was not employed by and was not evaluated by the school district where the allegations occurred.
4. For health and financial reasons, Respondent is unable to pursue this matter further at this time. Therefore, Respondent agrees to surrender all licenses and permits issued by the DPI to Respondent.
5. Respondent may not apply for or seek reinstatement of a license or permit issued by the DPI. If Respondent applies for or seeks reinstatement of a license or permit issued by the DPI, the DPI may use this agreement as the sole basis to deny the application or reinstatement. Respondent expressly waives all appeal or other rights Respondent may have, including those under Wis. Stat. ch. 227 and Wis. Admin. Code ch. PI 34, to challenge such a denial.
6. The DPI shall, as soon as practicable, update Respondent's status on the Wisconsin Educator License Lookup website and the National Association of State Directors of Teacher Education and Certification Clearinghouse database to reflect that Respondent surrendered the license.
7. This agreement renders unnecessary a hearing in DHA Case No. DPI-19-0023. The parties agree that the appeal filed by Respondent in DHA Case No. DPI-19-0023 should be dismissed.

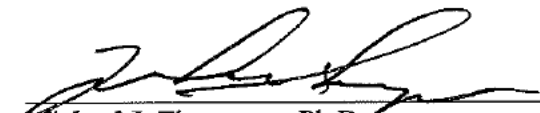
8. The DPI will comply with all applicable laws in responding to any public records requests for information relating to this matter. Respondent will be contacted before the DPI releases any information relating to this matter pursuant to a public records request.
9. This agreement resulted from negotiations between the parties. The parties had equal opportunity to review, revise, and negotiate the terms of this agreement. The parties acknowledge that they have read this agreement and have had the opportunity to consult with their respective attorneys concerning its contents and legal consequences. The parties further acknowledge they have entered into this agreement knowingly and voluntarily, fully understanding its terms.
10. This agreement is the entire, final, and complete agreement of the parties relating to the subject of this agreement, and supersedes and replaces all prior or existing written and oral agreements between the parties or their representatives relating thereto. No amendment or modification of this agreement shall be effective unless in a writing executed by all parties whose interests are affected by the modification.
11. In the event a court of competent jurisdiction determines that any portion of this agreement is impermissible or cannot be enforced for any reason, the parties shall be restored to the rights they had on the date immediately preceding the effective date of this agreement.


Michael S. Garrow, Respondent



Entity no. 291405

1 / 8 / 20
Date


Michael J. Thompson, Ph.D.
Deputy State Superintendent
Department of Public Instruction

1 / 8 / 2020
Date