



Federal Way Public Schools

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Federal Way, WA 98003

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BOARD OF EDUCATION

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Thomas J. Vander Ark

December 20, 1994

Mr. Paul Jensen
2225 S. 287th Street
Federal Way, Washington 98003

RE: Reprimand

Dear Mr. Jensen:

As you know, the District has been investigating a complaint of sexual harassment filed by a campus security officer concerning your conduct. The complainant also expressed concerns about your physical interactions with, and comments to, female students which she observed. Most recently, two female students complained about touching and comments by you which made them feel uncomfortable. This letter is to advise you of the results of these investigations and to reprimand you for the conduct described below.

The District has investigated the campus security officer's complaint that you patted her buttocks on February 24, 1994, while she was standing in a hallway at Lakota Junior High. You specifically denied the conduct. You admitted that such conduct, if it occurred, was neither invited nor welcomed by the complainant, and that such conduct would not have been appropriate. You admitted that it was possible some incidental contact may have occurred in passing but, if so, you were unaware of any such contact.

Based on this investigation, I have determined the following: The evidence concerning the February 27, 1994 allegation is in direct contradiction and insufficient to make a definitive finding about whether the incident occurred or did not occur as alleged. Even if it occurred as alleged, submission to such conduct was not made either explicitly or implicitly a term or condition of the complainant's employment. Nor was submission to nor rejection of such conduct used as the basis of an employment decision affecting the complainant. Nor would a single incident of the nature alleged by the complainant, in and of itself, materially and unreasonably interfere with the complainant's performance nor create an unreasonably intimidating, hostile, or offensive working environment. Therefore, no corrective action is warranted.

The District has investigated the complaints concerning your physical interactions with, and comments to, female students. In the course of the investigations, we interviewed staff members (apart from the campus security officer) and administrators who expressed concern about your physical interactions with students and concerns that you were placing yourself in a vulnerable position.

You admitted that you are a touchy person and estimated that 75% of your physical contacts with students was student-initiated. You also admitted having touched students previously based on your role as a Natural Helper. However, based upon your discussions with your building principal, Dr. Karin Stevens, you believe that you are doing better about not touching. Based on the District's investigations, I have determined the following:

You have initiated physical contact with students by putting your hands on their shoulders and by putting your arm(s) around them. You have also held students' hands. Several students described massaging-type motions; and some described your fingers extending near their breast area while you were touching them. To the extent you acknowledge touching of students, you claim the contact was not sexually motivated, but rather an effort to show the students you were listening and/or to show support for the students. Several students (both those who complained and those who did not) felt uncomfortable as a result of your conduct. This discomfort affected students both in the classroom setting and with respect to the volleyball team which you coach. I believe the students were not unreasonable in perceiving this physical contact as inappropriate even though you did not intend it to be such. Such conduct is totally inappropriate as a way of communicating with students, regardless of your subjective intent. This conduct was not welcomed or invited by these students. Even if it were welcomed by a student, and your conduct was not concerning the two complaining and other students, it would still be inappropriate for you to engage in it.

You also admitted complimenting female students on their appearance ("You look nice today" or "That's a nice outfit.") You further admitted telling students that you loved them, but stated that it was not said in any serious and/or sexual manner. At least one of the students we interviewed expressed concerns about your addressing female students as "Sweetie." As with any physical contact, all of the foregoing comments are totally inappropriate as a way of communicating with students.

The conduct described above occurred over a period of at least the last school year and continued into the present school year, even after our first investigative conference with you on September 20, 1994. This conduct cannot be dismissed as only misguided efforts to provide support to students. Your conduct was reasonably interpreted by these students as inappropriate and had a direct, negative impact on their school environment. Your position as a teacher made it very difficult for the students in question to demonstrate more clearly to you that your conduct was unwelcome to them. The surrounding circumstances in which it occurred, particularly the age of the students and your authority to make decisions affecting them, both in the classroom and as a coach, all had the effect of intimidating the students from complaining about the conduct at the time it occurred and creating for them an unreasonably hostile school environment over time.

Although I do not believe that you were sexually motivated in engaging in the conduct described above, your failure to recognize the inappropriateness of it and the fact that you should have known reasonable female students would perceive it to be inappropriate is inexcusable. Your conduct created an unreasonably hostile and intimidating school environment for the complaining students and other female students. I do not believe that you deliberately withheld or awarded tangible academic or athletic benefits based on the willingness of students to tolerate your conduct, but at the same time your conduct made it understandable that some students would fear that was the case.

In considering what disciplinary action is appropriate for you, I have based my decision primarily upon my belief that you did not engage in the conduct with the deliberate purpose of your sexual gratification or to make students feel uncomfortable. Although these factors are irrelevant in the sexual harassment analysis, they are pertinent in deciding an appropriate punishment.

You are hereby reprimanded for your conduct and directed as follows:

1. You will not touch students in any form, including but not limited to putting your arms around any student, hugs of any kind, hand(s) on shoulder(s), or holding hands.
2. ~~You will not make comments about a student's appearance or make any personal comments relating to students.~~
3. You will refrain from using "Sweetie" or other such nicknames when addressing students. Such terms are sexist and demeaning, and do not contribute to a proper classroom atmosphere.

I believe that you can still effectively relate to students and show them you care through other more appropriate actions.

I am concerned about your ability to continue as the volleyball coach, but have not made a final decision in that regard. Assuming you comply with the above directives, and that we receive no further complaints concerning your conduct, it is my expectation that you will be allowed to continue as the coach. We will monitor your progress with respect to the above directives and notify you of the decision prior to the start of volleyball season.

This letter will be placed in your file as a formal reprimand.

Sincerely Yours,



Thomas R. Murphy, Assistant Superintendent
Secondary Programs

c: Personnel File