

THE  
**HUNGERFORD LAW FIRM**  
ATTORNEYS AT LAW

Date: Nov. 29, 2017

To: Board Chair and Superintendent, Roseburg School District

From: Nancy Hungerford

Re: Summary Report regarding investigation procedures into student/parent complaints

The Hungerford Law Firm retained Tim Keeley, retired school administrator and university professor of school law, on or about Oct. 12, 2017, to assist the Roseburg School District in responding to a complaint by six female student-athletes. The six students, who had resigned from the Roseburg High School varsity volleyball team, and their parent/guardians alleged that the coaches had harassed, bullied, and verbally abused the six young women and that parental authority had been usurped by the varsity coaches. Parent/guardians felt that the coaches were bullying the players when they required them to make immediate decisions regarding their status with the team.

Because an internal investigation of the volleyball concerns had already been completed by the high school principal and athletic director, the Board of Directors determined that the District should hire an outside analyst to review the policies, procedures and process of the investigation and make recommendations for improvements, but directed that the outsider should not conduct a new investigation. Mr. Keeley agreed to provide the review for the Hungerford Law Firm rather than an investigation.

Briefly, there had been rumors that some of the varsity players did not want to go to the volleyball tournament in Bend, Oregon on September 29, 2017 because four of the team members were elected as members of the homecoming court and a homecoming event was occurring during the football game on that Friday night, September 29, 2017, when the players were to be traveling to Bend. A contentious team meeting occurred, initially with the coaches and then without them, when a player requested a "players only" meeting on the late afternoon of Wednesday, September 27, 2017. The "players only" meeting lasted approximately 15 to 20 minutes. Then the two coaches returned to the meeting and required that all team members decide in front of all of their peers what individual team members were going to do regarding the volleyball tournament and the team. A player asked for additional time so that she could consult with her parents, but the head coach said no and said that decisions needed to be made immediately. The three choices provided by the coaches for the players were to leave for a volleyball tournament at 4 pm on Friday, September 29, 2017, as planned, and skip all homecoming events; to resign from the team; or for those team members who wished to do so, participate in or observe the homecoming events Friday night, and come to the volleyball tournament after the events, but before the volleyball tournament was to begin in Bend, Oregon,

on Saturday. The result of the “public declaration” was that 6 of the 14 members resigned from the team. The young women who left the team and their parent/guardians, met with the superintendent the afternoon of September 29, 2017, and the superintendent directed high school administration to conduct an investigation regarding their allegations against the varsity volleyball coaches.

During the September 29<sup>th</sup> meeting with the superintendent the six young women and their parent/guardians shared numerous concerns that they had with their volleyball coaches and they indicated, among other things, that they wanted to be reinstated to the team and they wanted their coaches suspended, pending further investigation of players’ allegations. The superintendent met again with the young women and their parent/guardians on October 4, 2017, and informed them that an investigation had been conducted and that they would not be reinstated to the team and the current coaches were going to continue running the varsity volleyball program. Then, late on October 4, 2017, the six team members and some of their parent/guardians filed two written complaints against the coaches.

## **DOCUMENTS AND METHODOLOGY**

HR Director Robert Freeman provided for Mr. Keeley’s use documents related to volleyball controversy and the students/guardians’ complaints, including applicable policies and administrative rules.

Mr. Keeley reviewed the materials and interviewed parent/guardians of all six of the young women by telephone; interviewed, in person, on November 13, 2017, the high school principal, the athletic director, the Uniserv consultant, the high school athletic trainer, a senior volleyball player who stayed on the team and the superintendent; and met on November 16, 2017, with the group of six young women who had resigned from the team. Mr. Keeley considered the documents received and information garnered through interviews and analyzed the process, materials and policies and procedures utilized by the school district during its investigation.

## **APPLICABLE POLICIES, RULES AND PROCEDURES AND OTHER DOCUMENTS REVIEWED**

**Grievance Procedure GBM**

**Hazing/Harassment/Intimidation/Bullying/Menacing-Staff GBNA and AR**

**Cyberbullying GBNA**

**Student Complaints JFH**

**Interscholastic Athletics IGDJ**

**Public Complaints KL and AR**

Roseburg School District Athletic Guidelines Handbook

Roseburg School District Co-Curricular Code of Conduct

Dr. Bruce Brown’s Proactive Coaching

## FINDINGS

Mr. Keeley found that no district policies, rules or procedures were violated in the investigation conducted by the high school administration regarding the volleyball program with the exception of **Public Complaints policy KL-AR**, Item 3 of the public complaint procedure, which states, “If the complainant deems it desirable to carry the complaint beyond the decision reached by the principal, he/she may, within five working days, file the complaint with the superintendent or his/her designee. The superintendent or his/her designee shall evaluate the evidence and render a decision within five working days after receiving the appeal;” In the present situation, the superintendent received and discussed concerns from the families and students before the principal had completed her investigation. This could be considered a violation of the timelines described in the administrative rule.

**The policies and rules that were and are in place are more than adequate to address the “volleyball concerns” and allegations facing the school district.** However, the two ongoing challenges that we anticipate for the district moving forward are to allow the investigation at the building to be completed before the superintendent is involved, and to find the correct formula for determining when investigations can and should be conducted internally by those close to the situation (building administrators) and when investigations should be completed by outside independent investigators. In this case, the District should have considered an independent investigator to look into the charges because families perceived that the principal and athletic director would not be objective. An independent investigation would also have avoided due process concerns in any related personnel action.

## RECOMMENDATIONS

1. The current complaint procedure administrative rule under **GBNA AR, Hazing/Harassment/Intimidation/Bullying/Menacing Complaint Procedures-Staff** states, “Principals and the superintendent have responsibility for investigations concerning hazing, harassment, intimidation, bullying and acts of cyberbullying or menacing. The investigator(s) shall be a neutral party having had no involvement in the complaint presented.”

The Roseburg School District should consider adjusting the complaint procedure administrative rule to attempt to assure an objective investigation of all complaints. The parent/guardians and young women involved in the volleyball dispute do not believe that either the principal or athletic director was in fact, “a neutral party having no involvement in the complaint presented.” The complaining parties quickly went to the superintendent, in part, because they did not believe that they would receive an unbiased investigation from the high school administrators.

The current policy allows the appointment of internal investigators who were not involved in the complaint, including administrators from other buildings and/or programs who have no acquaintance with the complainants or connection with involved school personnel.

The Board should consider the following adjustment to the current **GBNA-AR Hazing/Harassment/Intimidation/ Bullying/Menacing Complaint Procedures-Staff:**

“Principals and the superintendent have responsibility for investigations concerning hazing, harassment, intimidation, bullying and acts of cyberbullying or menacing. The investigator(s) shall be a neutral party having had no involvement in the complaint presented. When the Superintendent or designee concludes that there is a potential perception by either the complaining party or the accused party of a bias or conflict of interest by building or program administrative staff in the situation that is the subject of the complaint, then the Superintendent may appoint an independent investigator (who is not an employee of the District) to complete the investigation.”

2. Administrators should be sure to personally contact parent/guardians of students affected, within 24 hours if at all possible, when major conflicts occur in school district programs. In this case, parent/guardians were very offended that they had to reach out to the principal and athletic director rather than have the principal or athletic director contact them regarding the difficult team meeting on September 27th.
3. We recommend that the superintendent delay involvement in future disputes until such time as they have progressed up the complaint procedure and problem-solving ladder. Delaying will allow for complainants to work through district processes without “jumping steps” and possibly adding intensity and uncertainty into the conflicts. We recognize how difficult this can be for superintendents given that in this instance the community was alleging that any investigation by building administrators would be inappropriate because parent/guardians believed that the high school administrators lacked objectivity. Superintendents have a difficult balancing act when trying to meet the needs of the community while attempting to show confidence in their administrators. Perhaps, as stated previously, when such circumstances present themselves then it is appropriate to utilize the services of an uninvolved District administrator or an independent outside investigator.
4. Consider “a progression of communication” when problems in athletics (or any school related matter) arise to resemble the following: if the coach (teacher or employee) recognizes the possibility of difficulties with the student or family then the coach (employee) informs the supervisor. The supervisor determines the seriousness of the situation and informs the AD (appropriate administrator). The AD informs the principal of the potential issue and the principal informs the appropriate central office administrator so that the central office administrator can decide if the superintendent needs to be informed. If the superintendent determines that is it necessary, then the district’s board chair and perhaps the district’s liability carrier/legal counsel, should be informed of the potential concern. This “progression of communication” relies on the notion that employees will recognize when issues have the potential for becoming major concerns, and as a result, they will inform their supervisors.
5. Finally, we recommend that the school district be careful to fully communicate to parent/guardians and athletes the tenets of the Bruce Brown Proactive Coaching philosophy. We understand how and why, during this volleyball program concern, students believed that they were not to communicate volleyball conflicts to their parents.

In the future, the District and its supervisors (in this case, the athletic director and coaches) should communicate fully and specifically to all parent/guardians and all players regarding what kind of information should “stay within the team” and what information can be shared at home.

The District should not be restricting the ability of minor students to share all information with their parent/guardians, but parent/guardians should not necessarily be able to inject their thoughts on all matters with the coaches and the athletic director. It is challenging for high school athletic departments to attempt to “contain” those parent/guardians who might attempt to influence the decisions of coaches, but that is simply part of the athletics landscape in public schools in 2017, and administrators need to accept that parent/guardians are often going to advocate, sometimes quite vociferously, for their children. The Bruce Brown’s Proactive Coaching model encourages parent/guardians to distance themselves from sports programs and allow coaches to work with student athletes without parent/guardians being overly involved. The desire for parent/guardians to distance themselves is understandable, but it is difficult to mandate. When concerns arise, it is generally appropriate for AD’s to require parent/guardians to work through coaches on philosophies and playing time concerns, but matters of illegal discrimination, harassment, intimidation and bullying, etc., need to be recognized as serious charges and must be dealt with sensitivity, carefully, and legally, even when doing so slows down the response time to complainants. It is far better to have an accurate and legal response rather than a quick one.

