

**BEFORE THE
TEACHER STANDARDS AND PRACTICES COMMISSION
STATE OF OREGON**

IN THE MATTER OF:

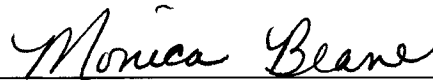
DENNIS E. JOHNSON
Respondent

) **FINAL ORDER ADOPTING**
) **PROPOSED ORDER**
) OAH Case No.: 1403653
)

This matter came before the Teacher Standards and Practices Commission during its public meeting of June 21, 2017 to consider the Proposed Order issued by Administrative Law Judge Dove L. Gutman on April 13, 2017. Respondent did not file exceptions to the Proposed Order.

The Commission hereby adopts the attached Proposed Order as the Final Order and hereby suspends Respondent's Initial Administrator license for 90 days effective the date this order is signed.

It is so Ordered this 27th day of June 2017.



Dr. Monica Beane, Executive Director,
Teacher Standards and Practices Commission

NOTICE: You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days of the service of this order. Judicial review is pursuant to the provision of ORS 183.482 to the Oregon Court of Appeals.

CERTIFICATE OF MAILING


On July 6, 2017, I mailed the foregoing Final Order Adopting Proposed Order in OAH Case No. 1403653 to:

By: U.S. First Class Mail and Certified Mail Return Receipt Requested 7016 0750 0000 2419 1768
Dennis Earl Johnson
PO Box 1391
Gold Beach, OR 97444-1391

By: U.S. First Class Mail
Rebekah Jacobson, Attorney at Law
Garrett, Hemann, Robertson, PC
Willamette Professional Center
1011 Commercial St NE
Salem, OR 97301

Hearings Coordinator
Office of Administrative Hearings
2510 Oakmont Way
Eugene, OR 97401

By: Shuttle
Raul Ramirez
Senior Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem OR 97301-4096


Patty Sheldon
Investigative Assistant

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
TEACHER STANDARDS AND PRACTICES COMMISSION**

IN THE MATTER OF:) **PROPOSED ORDER**
)
DENNIS E. JOHNSON) OAH Case No. 2016-ABC-00013
)

HISTORY OF THE CASE

On April 25, 2016, the Teacher Standards and Practices Commission (TSPC or Commission) issued a Notice of Opportunity for Hearing to Dennis E. Johnson (Respondent). On May 16, 2016, Dennis E Johnson requested a hearing.

On July 21, 2016, the Commission referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge (ALJ) Dove L. Gutman to preside at hearing.

On September 22, 2016, ALJ Gutman convened a prehearing telephone conference. Attorney Rebekah Jacobson represented Respondent. Senior Assistant Attorney General Raul Ramirez represented the Commission. Jeff Van Laanen appeared on behalf of the Commission. During the prehearing conference, ALJ Gutman scheduled the hearing for March 1 and 2, 2017. On September 23, 2016, ALJ Gutman issued a Pre-Hearing Order, setting forth the issues, burden of proof, and schedule for hearing.

On March 1 and 2, 2017, a hearing was held in Salem, Oregon. ALJ Gutman presided. Attorney J. Hank Stebbins represented Respondent. Mr. Ramirez represented the Commission. Mr. Van Laanen appeared on behalf of the Commission. The following individuals testified: Respondent, Burney Krauger, SP, CP, Officer Matt Smart, Dana Newdall, Dakota Hensley, and Greg Olson. The record closed on March 2, 2017.

ISSUES

1. Whether, in October 2014, Respondent engaged in gross neglect of duty. ORS 342.175(1)(b); OAR 584-020-0040(4)(n), (o).
2. If so, whether Respondent should receive a sanction of 90 days of suspension.

EVIDENTIARY RULING

The Commission's Exhibits A1 through A12 were admitted into the record without objection. Respondent's Exhibits R1 through R10 and R12 through R19 were admitted into the

record without objection. Respondent withdrew Exhibit R11.

CREDIBILITY DETERMINATION

A witness testifying under oath or affirmation is presumed to be truthful unless it can be demonstrated otherwise. ORS 44.370 provides, in relevant part:

A witness is presumed to speak the truth. This presumption, however, may be overcome by the manner in which the witness testified, by the character of the testimony of the witness, or by evidence affecting the character or motives of the witness, or by contradictory evidence.

A determination of a witness' credibility can be based on a number of factors other than the manner of testifying, including the inherent probability of the evidence, internal inconsistencies, whether or not the evidence is corroborated, and whether human experience demonstrates that the evidence is logically incredible. *Tew v. DMV*, 179 Or App 443 (2002).

The evidence presented in the hearing is in dispute regarding the incident that took place between Assistant Coach Brown and CP during a football game on October 10, 2014. As such, a credibility determination is necessary.

Officer Matthew Smart. Officer Smart is employed by Reedsport Police Department. Officer Smart has been in law enforcement for 22 years. On October 10, 2014, Officer Smart was volunteering at the football game between Gold Beach High School and Reedsport High School. Officer Smart was on the visitor's (Gold Beach High School) side of the field. Officer Smart observed the incident between Gold Beach Assistant Coach Brown and student CP.

Officer Smart testified (by affirming his police report) to the following: Officer Smart observed Brown charge CP and strike CP's helmet with a closed fist. Officer Smart observed Brown grab CP by the face mask and start screaming at CP. Officer Smart observed that Brown was emotionally out of control. Officer Smart also observed that CP and others around the incident were shocked by Brown's behavior. Officer Smart told a referee that if Brown touched another player he would have Brown removed from the field. The following day Officer Smart reported the incident to the administrative assistant of the Reedsport School District, as well as his supervisors at the Reedsport Police Department.

Officer Smart's testimony was logical, consistent, and corroborated by his police report (Ex. A7 at 54), and the testimony of CP's father. Officer Smart's testimony was also unbiased.

I find that Officer Smart's testimony is supported by the reliable evidence in the record.

Dana Newdall. Dana Newdall is employed as a teacher at Gold Beach High School. Ms. Newdall has been a teacher for approximately 25 years. On October 10, 2014, Ms. Newdall was taking photographs at the football game and observed the incident between Assistant Coach Brown and student CP.

Ms. Newdall testified to the following: Assistant Coach Brown reached out towards CP and his hand glanced off CP's shoulder pad and unintentionally hit CP's helmet causing it to go up. Brown then grabbed CP's helmet and pulled it down. It was not a big deal.

A portion of Ms. Newdall's testimony (grabbing CP's helmet) is corroborated by Officer Smart's testimony and Brown's stipulation (Ex. A9). The remaining part of Ms. Newdall's testimony regarding the incident was inconsistent with the reliable evidence in the record and will be given no weight.

Dakota Hensley. Dakota Hensley was a student and football player at Gold Beach High School in 2014. Mr. Hensley observed the incident between Assistant Coach Brown and CP.

Mr. Hensley testified to the following: CP had an attitude towards Assistant Coach Brown. Brown brought CP in with the face mask and told him to play. Brown then shoved CP back onto the field. It seemed minor.

A portion of Mr. Hensley's testimony (pulling CP in with the face mask) is corroborated by Officer Smart's testimony and Brown's stipulation (Ex. A9). The remaining part of Mr. Hensley's testimony regarding the incident was inconsistent with the reliable evidence in the record and will be given no weight.

Therefore, the findings of fact regarding the incident between Brown and CP are made in reliance on Officer Smart's testimony and Brown's stipulation (Ex. A9).

FINDINGS OF FACT

Background

1. Dennis E. Johnson (Respondent) holds an Initial Administrator License with the Commission. The license is valid through April 23, 2018. (Ex. A1.)
2. During the period of July 1, 2013 through July 1, 2015, Respondent was employed by the Central Curry School District (CCSD) as Superintendent of CCSD and Principal of Gold Beach High School (GBHS) in Gold Beach, Oregon.¹ (Test. of Johnson; Ex. A7 at 4.)
3. Respondent supervised approximately 10 teachers at GBHS, including Gregory Brown (Brown), special education and lower level math teacher. Respondent's duties covered school sponsored activities, including GBHS football games. (Test. of Johnson; Ex. A9.)

Incident during football game

4. During the 2014 to 2015 school year, CP was a student at GBHS and a player on the

¹ Respondent moved from New York to Oregon in 2013 to take the position of Superintendent. (Test. of Johnson; Ex. A7 at 4.)

GBHS football team. CP played the positions of running back and safety. Justin Storns (Storns) was the head coach of the GBHS football team. Storns was not a licensed teacher, nor was he a licensed administrator. Brown was the defensive coordinator and an assistant coach of the GBHS football team. (Test. of CP, Johnson; Exs. A3, A7, A9.)

5. On Friday, October 10, 2014, the GBHS football team had an away game at the Reedsport High School in Reedsport, Oregon. CP was playing in the game.

During the third quarter of the game, Coach Storns called for a time out to change formations.² CP was on the sideline taking ibuprofen for a groin injury he had sustained earlier in the season. CP had taken his helmet off in order to take the medication with water.³ Storns called out for CP, wanting to put CP back into the game. Assistant Coach Brown yelled at CP to get his helmet on. CP put his helmet back on but did not fasten the chin strap. Brown then physically struck CP on his helmet near the facemask, forcibly pushing CP's unsnapped helmet back along his head. Brown then grabbed CP's facemask and used it to pull CP closer to him while continuing to yell at CP.

Coach Storns and a referee intervened and physically separated Brown from CP. Brown then walked down the sideline away from the players. CP was not injured by Brown's actions. Storns spoke with CP and sent him back into the game. CP subsequently scored a touchdown.⁴

CP's mother, MP, was a few feet from the incident and observed it when it occurred. CP's father, SP, was in the stands across the field and witnessed the interaction between Brown and his son. SP was furious. SP ran to the other side of the field and confronted Brown, telling Brown if he ever touched CP again SP would roll Brown up on that field.

Respondent was at the football game and saw a "commotion." Respondent did not see the details of the incident. GBHS teacher Dana Newdall (Newdall) was at the game taking photographs. Respondent asked Newdall what the commotion was about. Newdall said Brown and CP "got into it." Respondent knew Brown was a teacher and CP was a student. Respondent did not speak to Brown, CP, or CP's parents about the incident that evening.

Officer Matt Smart, with the Reedsport Police Department, was at the football game volunteering on the visitor's side of the field. Officer Smart observed the incident when it occurred. Officer Smart observed Brown charge CP and strike CP's helmet with a closed fist. Officer Smart observed Brown grab CP by the face mask and start screaming at CP. Officer Smart observed that Brown was emotionally out of control. Officer Smart also observed that CP and others around the incident were shocked by Brown's behavior. Officer Smart told a referee

² The score at that time was GBHS 8 and Reedsport 6. (Ex. A7 at 20.)

³ Players on the GBHS football team were required to have their helmets on even when they were on the sidelines for their own safety. (Ex. A7 at 20.)

⁴ After scoring the touchdown, CP came off the field and hugged Brown, who apologized for his behavior. (Ex. A7 at 9, 12, 17.)

that if Brown touched another player he would have Brown removed from the field.

After the game was over, CP's parents spoke with Coach Storns regarding the incident.⁵ CP's parents told Storns that they were not okay with Brown hitting their son. Storns told CP's parents that he would report what happened to Respondent and GBHS Athletic Director Kevin Swift (Swift).

In the locker room following the game, Brown apologized to the football team regarding his behavior. Brown also apologized to CP in the parking lot as he was leaving. (Test. of Smart, Johnson, Newdall; Exs. A3 at 1-3, A7 at 6, 9, 10, 11, 12, 17, 20, 54, A9 at 1-2.)

The investigation

6. On October 11, 2014, Officer Smart reported the incident between Brown and CP to the administrative assistant of the Reedsport School District, as well as his supervisors at the Reedsport Police Department. (Test. of Smart.)

7. On the morning of October 11, 2014, CP's parents attended a youth football game at GBHS. CP's parents spoke with Storns and Swift, who were present at the game. CP's parents stated that they were still angry about the prior evening and something needed to be done. CP's parents stated that they expected the school to handle the matter and follow proper procedure. Swift told CP's parents that he was the right person to tell and it was his job to take care of it. (Ex. A3 at 2.) Brown was at the game and apologized to CP's parents for his behavior. CP's parents left it up to the school and Respondent to handle the incident. (*Id.*)

8. On October 11, 2014, Respondent met with Storns and Brown at GBHS.⁶ During the meeting, the participants discussed the incident involving Brown and CP.⁷ Storns and Brown reported that Brown had attempted to grab CP's face mask during a time out, that there had been no punch thrown, and that Brown had apologized to the team after the game. Storns and Brown also reported that they had spoken with CP's parents that morning and the issue was resolved between all parties.⁸ (Test. of Johnson; Ex. A4 at 7, 13.)

9. During the week of October 13, 2014, Storns and Brown reviewed the game films and found no video evidence of the incident.⁹ (Ex. A4 at 7.)

10. During the week of October 13, 2014, Respondent spoke with Swift, who confirmed

⁵ After the game, Brown also approached SP, but SP did not want to talk to Brown. (Ex. A7 at 9.)

⁶ The meeting was prearranged (before the incident took place). Respondent could not recall if Swift was also present in the meeting. (Test. of Johnson.)

⁷ Respondent was unaware that he should not interview witnesses together. (Test. of Johnson.)

⁸ Respondent left it up to the coaches to resolve the matter. (Test. of Johnson.)

⁹ The video footage of the game only showed the actual plays during the game. There is no footage of the time between plays, time outs, half time, or after the end of the game. (Ex. A7 at 8.)

that he had spoken with Storns and Brown and that the matter was resolved between the parties. (Ex. A4 at 7.)

11. On October 15, 2014, Respondent issued an email to Brown that stated, in part:

I am [writing] this letter to you in reference to the incident that occurred at Reedsport on Friday night, October 10th. During this game you wanted to get the attention of a player during a hotly contested game. In my day, this was called “rattling the cage” and it was a game honored practice. Even today, it is used quite often, as it has been at Gold Beach, but this incident and how it was perceived caused some concern from the parents. In the future you need to be more careful in getting player’s attention.

From what I gathered, you reached for the player’s face mask (which wasn’t fastened) and during this move his helmet was pushed back. Some people witnessed this and conclude that you stuck [sic] the students [sic]. There is no evidence to support this claim. You spoke with a parent during the game and afterwards and from what I have been told everything has been resolved. I also spoke with the player [CP] and he agrees.¹⁰ We also spoke on Saturday, October 11th regarding this matter.

I recognize that you are a very passionate teacher and coach and I do not want you to lose your enthusiasm and passion for the profession. This was an unfortunate incident and it has been resolved. Keep up the good work!

(Test. of Johnson; Ex. A4 at 12-13.) Brown considered the email a “Letter of Counsel” from Respondent regarding the incident with CP. (Ex. A7 at 11.)

12. Prior to issuing the email to Brown, Respondent did not interview CP, CP’s parents, or any other witnesses to the incident except Storns, Brown, and Newdall.¹¹ Prior to issuing the email to Brown, Respondent did not try to determine if there were other witnesses that could provide information regarding the incident. Respondent believed the matter was resolved. (Test. of Johnson, SP; Exs. A3 at 1, A4 at 7.)

13. Prior to issuing the email to Brown, Respondent did not confirm with CP’s parents

¹⁰ Respondent testified that during the week of October 13, 2014, he approached CP in the school hallway and spoke to him for one or two minutes. Respondent testified that he asked CP how he was doing, and that CP confirmed the issue was resolved. (Test. of Johnson.) CP testified that Respondent did not talk to him regarding the incident. (Test. of CP.)

¹¹ Newdall told Respondent that there was no punch thrown, and that Brown made contact with CP in the shoulder pad/facemask area. (Ex. A4 at 8.)

that the matter was resolved. (Exs. A3 at 1, A4 at 7.)

14. During the period of October 12 to October 20, 2014, CP's parents heard nothing from Respondent regarding the incident involving Brown and their son.¹² (Test. of SP.)

15. On October 20, 2014, at 8:15 a.m., GBHS teacher Corrine McGinnis sent an email to GBHS counselor Holly Stephens, indicating that she had received information that student CP had been punched by Coach Brown during an away game. In the email, McGinnis requested that Stephens, in her neutral position, interview CP regarding the incident.

At or around 2:00 p.m., Stephens spoke with CP regarding the incident. CP confirmed that Brown hit him on the face mask of his helmet. Stephens immediately contacted MP regarding the incident. MP told Stephens that she was standing on the sidelines and saw the entire incident occur. MP said she saw Brown punch CP on the helmet and then shake his face mask. MP said the punch was a full-on man punch. MP said that after Brown punched CP, Coach Sterns pushed Brown off of CP. MP told Stephens that she felt conflicted about the situation because CP did not want her or his father to do anything and because Brown had been repeatedly apologetic. MP said that she was leaving it in the school's hands. MP said she did not want Brown fired but maybe mandated to take some anger management classes. (Exs. A4 at 11, A7 at 15, 28-29, 41.)

16. On October 21, 2014, at 7:45 a.m., Stephens and McGinnis attempted to report the information they had obtained regarding the incident to Respondent, but he was not in his office.

At 8:00 a.m., Stephens and McGinnis filed a report with the Department of Human Services, Child Protective Services (CPS).

At 8:10 a.m., Stephens and McGinnis met with Respondent and advised him of the information they had obtained and what they had reported to CPS. Respondent told Stephens and McGinnis that the incident had been handled; that it was just the culture of football and being out in full football gear was different than being in the classroom; that Brown had just smacked CP's face mask; that he (Respondent) could not control the blame that might come back from the community to them, CP, and Swift; and that it would just be best to ignore the situation. Respondent also told Stephens and McGinnis that he was planning on calling CP to his office so he could talk with him about the incident.

Stephens subsequently contacted CP's parents and notified them of Respondent's intention to speak with CP. Stephens also notified CP's parents that the school was making the incident out as a slap (or smack) rather than a punch.

At or around 10:00 a.m., SP arrived at the school to speak with Respondent. Respondent met with SP for less than five minutes. Respondent told SP that he had talked to all the parties involved and that the report was filed as a smack/slap to the helmet. SP told Respondent several

¹² CP told the Commission's investigator that a week or so after the incident, Athletic Director Swift called CP out of his class to discuss the incident involving Brown. CP told the investigator that he felt that Swift was trying to get him to say that Brown did not hit him. (Ex. A7 at 18.)

times that it was a punch, not a smack/slap. Respondent told SP that he had not discovered any evidence to support the claim of a punch. Respondent told SP that he had conducted an investigation but would continue the investigation further. SP told Respondent that he expected Respondent to do his job. SP also told Respondent that whether or not he fired Brown, Respondent had rules he had to follow. Respondent told SP that he could speak with a few more witnesses. Respondent did not arrange to interview SP (witness), CP (alleged victim), or MP (witness) at that time.

Respondent then notified Brown and Swift that he was conducting further investigation into the incident. Respondent asked Brown (the alleged perpetrator) and Swift if they had anyone else who had witnessed the incident. (Test. of SP, CP, Johnson; Exs. A3, A4 at 7, 11, A7 at 15-16, 28-29.)

17. During the period of October 21 through October 24, 2014, Brown and/or Swift located two additional witnesses to confirm that there was no punch. One of the witnesses was a trainer on the football team. The other witness was a parent, who admitted his view was partially obstructed by Coach Storns. (Ex. A4 at 4, 7-8.)

18. During the period of October 21 through October 24, 2014, Respondent did not interview CP or CP's parents regarding the incident. (Test. of Johnson.)

19. During the period of October 21 through October 24, 2014, Respondent contacted the Oregon State Bar Association (OSBA) and spoke with attorney Jackie Marks, who told Respondent that since there was no evidence to support the claim (intent to hit or punch a student), a TSPC notice was not required. (Test. of Johnson; Ex. A4 at 8.)

20. On or about October 23, 2014, Respondent told Stephens that he would not have reported the incident to Child Protective Services. (Ex. A7 at 16.)

21. On October 24, 2014, McGinnis filed a complaint against Brown with the Commission, asserting, among other things, that Brown had physically assaulted a student athlete during a high school football game. (Ex. A7 at 1-2, 26.)

22. On November 3, 2014, CP's parents filed a complaint against Respondent with the Commission, asserting, among other things, that Respondent's handling of the incident between Brown and CP was improper, that Respondent's report regarding the incident was erroneous, and that Respondent had never even spoken with them or CP regarding the incident. (Ex. A3.)

23. On November 17, 2014, SP went to GBHS and asked Respondent to be placed on the agenda of the upcoming School Board meeting. Respondent did not arrange to interview SP, CP, or MP at that time. (Test. of Johnson, SP, CP; Exs. A3, A4 at 8.)

24. On November 21, 2014, Respondent issued a written reprimand to Brown that stated, in part:

This correspondence is to memorialize the conversations we have

had around the incident that occurred at Reedsport on October 10th at a football game.

As you are aware [SP] came into my office on October 21 to discuss this football issue and I assured him that I would look into this incident further. I spoke with the head FB coach, Justin Storms, and he informed me that there was no punch thrown at [CP]. I also spoke with a student trainer [(in the presence of the A.D. in my office) who was present in the area and witnessed the incident. She also indicated that no punch was thrown, but it was rather an attempt by you to grab the attention of the student by grabbing at the face mask. Since the face mask with an attached face shield was not strapped and your hand made contact with the shield causing the helmet to go back, this may have given the impression that a punch was thrown. This evidence also supports my findings referenced on my previous email to you on Oct. 15th. I have one other account that there was a hit from the back but this cannot be corroborated by any evidence and is unfounded. Therefore I have also come to the conclusion that there was no punch thrown at the student. From my conversation with [C]oach Storms this incident was resolved by your apology to the team and the student and parents. I also spoke with the school attorney and shared this information and she provided counsel that since there was no intent on your part to throw or land [] a punch a TSPC notification was not warranted.

This week the parent came into my office and indicated that he may want to speak at the next board meeting during "Privilege of the Floor" regarding this incident. I informed him that he had this right but I advised him that if he spoke there could be no mention of specific individuals, but rather a general comment. As I referenced in my previous correspondence to you, "I recognize that you are a very passionate teacher and coach and I do not want you to lose your enthusiasm and passion for the profession. This was an unfortunate incident and it has been resolved."

This letter will be placed in your personnel file per CBA Article #13.

(Ex. A4 at 14.) Prior to issuing the written reprimand to Brown, Respondent did not interview CP or CP's parents regarding the incident. (Test. of SP, CP; Ex. A3.)

25. On November 24, 2014, SP attended the School Board meeting. During the open forum, SP notified the Board that his son had been assaulted by an assistant football coach, and that he wanted the Board to take action regarding this unacceptable behavior. SP also notified the Board that he had filed a complaint with the Commission and he had retained an attorney.

Respondent was present and responded to SP's statements. Respondent informed SP that the superintendent does the fact-finding for all staff conduct cases, that personnel issues could not be discussed in the forum, and that the issue was handled administratively. (Ex. R5.)

26. On or about November 24, 2014, following the School Board meeting, Respondent contacted the OSBA, spoke with an attorney, and obtained an OSBA investigation template to utilize in his investigation. (Test. of Johnson; Ex. A4 at 3-6.) The OSBA investigation template outlined the appropriate steps to take and/or questions to ask when conducting an investigation, as follows:

1. Interview the alleged victim (allowing his parent to be present)
 - a. Ask for every reason why he believes a school rule was violated? (After each answer, ask the witness "are there any other reasons" to ensure that we exhaust his reasons and he cannot claim that we did not take all of his reasons into account.)
 - b. Ask how he was harmed by the alleged rule violations? (After each answer, ask the witness "is there any other harm you believe to have suffered?")
 - c. Ask the victim about what he believes was the alleged harasser/bully's motivation?
 - d. Ask victim to identify all witnesses.
2. Interview the witnesses to learn their version of the facts.
 - a. Ask for any information they have regarding the facts in question.
 - b. Ask each witness whether they have reason to believe a school rule was violated, and if so, every reason why?
 - c. Do you know of any other witnesses to this incident.
3. Interview the alleged rule violator.
 - a. Ask for their version of the facts.
 - b. Ask him to articulate the decision they actually made and the basis/motivation for the decision.
4. Draft a chronological explanation of the facts.
 - a. To draft a concise chronology, credibility determinations must be made. It is not necessary to articulate why one witness's version of the facts is believed rather than another's version, but the determination should be reasonable.
5. Brainstorm/implement the "appropriate" response.

- a. "Appropriate" means action reasonably calculated to stop or prevent future rule violations (e.g. termination of employment or expulsion of student; counseling for the victim; training of staff; revamp policies).
- b. If no rule violation occurred, then the "appropriate" response may be simply reaffirming the district's commitment to investigating complaints.

(Test. of Johnson; Exs. A4 at 3-6.)

27. After receiving the OSBA template, Respondent made three attempts in early December 2014 to meet with CP's parents. (Exs. A4 at 8-9, A7 at 47.) By the time Respondent reached out to CP's parents, they were represented by counsel and were done talking with the school district and Respondent. (Test. of SP; Ex. A4 at 9.)

28. Between December 1 and December 12, 2014, Respondent filled out the OSBA template by interviewing witnesses to the incident and taking down their statements. (Test. of Johnson; Ex. A4 at 3-6.)

29. On or about December 12, 2014, Respondent typed up a chronological order of events based on his notes¹³ and his memory. (Test. of Johnson; Exs. A4 at 7-9.)

30. On December 12, 2014, Respondent issued a letter to the Coos Curry Board of Education that stated, in part:

This letter is to summarize my investigation of the complaint that was filed by [SP] on Monday, November 24, 2014. This complaint was filed at the board meeting that was held that evening.

I made several attempts to have the [P's] come into school so that I could interview them and their son [CP]. These attempts include a phone contact with [MP] early in the week of December 1, a letter sent by the main office on Friday, December 5th, and a subsequent phone call by Mrs. Theresa Hendrix on December 10th. On the last phone contact, December 10th, [SP] informed Mrs. Hendrix that I would be hearing from their attorney on this matter. As a result of not having the ability to interview the [P's], I have concluded my investigation of their complaint.

Over the course of the past two weeks I have interviewed Central Curry School employees, several non-school individuals and 3 students who were in attendance at the game and in the vicinity of the incident referenced in the complaint.

¹³ During the investigation, Respondent reportedly entered notes in his Google calendar. Respondent did not keep copies of those notes for review. (Test. of Johnson.)

The school employees include Justin Storns – Head Football Coach, Mr. Mike Becker – JV Head Coach, and Dana Newdall – high school teacher, Beau Hanson – Assistant Football Coach, Kevin Swift – Athletic Director and Coach Greg Brown Assistant Football Coach. In addition to these employees I interviewed two other adults who regularly go to games and three student athletes.

From these interviews there was a consistent response which described that [CP] did not have his helmet on when Coach Storns called him back into the game. This was during a transition after a turnover in the game. Since [CP] did not have his helmet on Coach Storns had to call a time out. Coach Brown was telling [CP] that the team rule is to have your helmet on when you are on the sidelines and [CP] was telling Mr. Brown that he had gone to the sidelines for some Tylenol or other pain medication since he had a headache. This verbal exchange could be described as yelling between both and some swearing words were most likely used by both the coach and player.

From the testimony provided by the witnesses they portrayed Coach Brown[’s] actions as initiating a hand motion as “reaching motion toward the should pad/face shield area”, “making contact with his facemask”, “grabbing the facemask”, “grabbing the facemask”, “pushed him above the facemask”, and “thrusting his open hand toward his helmet.” One witness testified that [MP] said several times, “Did he just push my son.” This witness observed the entire incident from start to finish. No testimony was provided that Coach Brown hit the student with a closed fist or a “man punch” that has been described by the father.

The witnesses also shared with me that some felt a school rule was violated by making contact with a student, he may have overacted by his actions, and that in the game of football this type of physical contact is used to redirect the attention of the athlete in practice and games. The videos of the game that we have in our possession have been reviewed two times and we have contacted the Reedsport Athletic Director to see if they have any videos of this incident. He has indicated that they do not have any video of this incident.

After this incident [CP] immediately returned to play and several plays later he scored a touchdown. After this touchdown Coach Brown and [CP] spoke on the sidelines and hugged each other (which I observed) and exchanged apologies per Mr. Brown testimony. Subsequent to this incident [CP] scored two more

touchdowns and the team won a very important and emotional game.

After the game, Coach Storns spoke with the parents and they indicated that they appreciated the way he handled the incident and Mr. Brown apologized to the team for his actions. The following day both coaches spoke with the [P's] and they informed me that this incident had been settled by all parties. As a result of my subsequent conversations with both coaches on Saturday, October 11th, I concluded that there was no need for me to intervene on this issue since it was mutually resolved. Our practice is to encourage having issues resolved at the lowest level and by the coaches actions this was achieved. During the following week I spoke with [CP] [and] he also indicated that this issue had been resolved. I also spoke with Coach Brown that in the future he needed to use more caution when directing students in practice and games and greater caution should be used when touching students.

My conclusions are that Coach Brown reacted in a state of high emotions but there was no intent or testimony evidence that he hit the student with a closed fist. With the helmet not being fastened and when contact was made, the helmet was pushed back giving the appearance of a greater impact than it was. I have counseled Coach Brown as above[.] I conclude no further action is required.

(Ex. A4 at 15-16.)

31. On December 12, 2014, Respondent issued a letter to CP's parents, notifying them of his conclusion regarding their complaint with the School Board, and enclosing a copy of the letter he had sent to the School Board. (Exs. A4 at 17, R8.)

32. On December 17, 2014, Burney Krauger, investigator with the Commission, spoke with Respondent regarding the incident and subsequent investigation. Mr. Krauger also issued a Subpoena Duces Tecum to Respondent, requesting copies of all complaints, investigations, reports, notes, recordings, working files, and any other related documents pertaining to Brown. (Test. of Krauger; Ex. A7 at 4-5.)

33. On January 9, 2015, Respondent issued a letter to the Commission regarding his investigation of Brown that stated, in part:

The above named individual has served as a teacher and athletic coach of Central Curry School District #1 during this current school year. It was brought to my attention on October 10, 2014 that Mr. Greg Brown made physical contact with a student-athlete at a football game at Reedsport, Oregon on October 10, 2014.

I spoke with Mr. Brown on the following day October 11th, along with the head coach Mr. Justin Storns regarding this incident. I was informed that this contact was an attempt to make sure that his helmet was fastened and to refocus his attention back to the game. There was no intent to discipline or physically injure the student. It was an attempt to make sure that his helmet was strapped and to refocus. On the following day, October 11th, both coaches spoke with the parents and this matter was resolved between all parties. I subsequently spoke with both coaches later that day and was informed that this incident was resolved. Since I was assured that this was effectively addressed and the parents did not contact me I completed my initial investigation by speaking with both coaches and the athletic director. I also spoke with the student the following week and he said that the matter was over. After this incident I cautioned the coach on using this type of action and sent him a notice via email. I also contacted OSBA to seek counsel on this matter and my contact. Ms. Jackie Marks informed me that I had addressed this in an appropriate manner.

Later in November, the student's father spoke with me and wanted to know what had happened. I informed him that this incident had been handled administratively. He requested to be placed on the next board agenda on November 24. I informed him that he would have the opportunity to speak at the November board meeting, which he did. At that meeting he again requested to know what had happened with the coach. In public session I assured him that it had been investigated and handled administratively and I could not go into further details since it was a personnel matter. After this meeting I once again contacted OSBA and spoke with a different counsel (since Jackie no longer worked for OSBA). They provided me an investigation template to work from. I followed this template and spoke with 6 adults; 4 who worked for the school, 2 who regularly attend our games, and 3 student-athletes and Mr. Brown. All of these people were in close proximity to the incident. I also had the athletic director speak with the Reedsport athletic director and reviewed the game films. I also reached out 3 times (2 by phone and one by mail) to have the parents come in and they refused to meet with me regarding this incident.

After speaking with the above witnesses, reviewing videos of the game, making contact with people from Reedsport I completed this investigation and finalized my report. This report was shared with the board of education and a copy was sent to the parents.

Attached are the documents related to the incident based upon my investigation along with other documents requested in the