

File Memo

September 13, 2005

RE: CURTIS JOHN BERGER

On August 3-5, 2005, the Commission adopted this settlement agreement regarding Curtis John Berger.

The resolutions adopted by the Commission were:

RESOLVED, that the Commission finds insufficient cause to justify holding a hearing pursuant to ORS 342.177 and will take no further action on the report from Hermiston School District regarding Curtis John Berger.

RESOLVED FURTHER, that the Commission approve the attached Settlement Agreement.

RESOLVED FURTHER, that the Commission shall inform the Hermiston School District of this action.

(in Executive Session)

Moved by Pierce on behalf of the Discipline Committee / Carried
Absent / Bell

ANY QUESTIONS ABOUT THIS MATTER SHOULD BE REFERRED TO JOE MCKEEVER, SENIOR ASSISTANT ATTORNEY GENERAL.

NOT ENTERED IN NASDTEC

DO NOT ADD TO ANNUAL DISCIPLINE LIST FOR 2005

A handwritten signature in black ink, appearing to be 'Mel' with a large, stylized flourish at the end.

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

3 In the Matter of:

4 CURTIS JOHN BERGER

Office of Administrative Hearings Case No.
121389

SETTLEMENT AGREEMENT

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6 **SETTLEMENT AGREEMENT**

7 The parties in this matter, the Teacher Standards and Practices Commission, and Curtis J.
8 Berger, hereby agree to resolve this dispute without the need for a contested case hearing. By
9 entering into this Agreement, Mr. Berger does not admit to any wrongdoing or the facts that gave
rise to this dispute.

10 1. On October 27, 2004, the Teacher Standards and Practices Commission
11 (Commission), issued a Notice of Opportunity For Hearing based on its finding that Curtis John
12 Berger had violated certain Administrative Rules relating to his duties as coach of Hermiston
13 High School's wrestling team during the 2003-2004 school year.

14 2. The Commission alleges that Mr. Berger violated Oregon Administrative Rules
15 (OAR), 584-020-0040(4)(d) and/or OAR 584-020-0040(4)(n) as it incorporates OAR 584-020-
16 0010(1), OAR 584-020-0010(5) and OAR 584-020-0030(2)(b).

17 3. This action was taken pursuant to the Commission's authority at a duly noticed
18 meeting of Commission members.

19 4. Following a referral of this case to the Office of Administrative Hearings (OAH), for a
20 contested case hearing, the parties agreed to enter into mediation with Administrative Law Judge
21 (ALJ) Peter Rader that was conducted on July 18, 2005 in Beaverton, Oregon.

22 5. Present at the mediation were ALJ Rader, the Commission's Executive Director,
23 Victoria Chamberlain, Senior Assistant Attorney General Joe Gordon McKeever, Curtis John
24 Berger and his attorney, John S. Bishop.

25 6. The Commission and Mr. Berger agree to resolve this matter in accordance with ORS
26 183.415(5).

1 7. In consideration for a full and complete dismissal of all allegations against him arising
2 from this proceeding, Mr. Berger hereby agrees to the following:

3 (a) A letter written by Hermiston High School's Athletic Director Mike Kay, or another
4 appropriate person in the administration, will be sent to the parents of students [REDACTED]
5 [REDACTED], and [REDACTED], offering to have Mr.
6 Berger meet with them, either individually or as a group, to address any concerns they
7 may have arising from the 2003 -04 school year. The Athletic Director, or the person
8 who writes the letter, will attend the meeting(s). Upon completion of the meeting(s)
9 with the parents, or the opportunity to attend, he or she will send verification of this
10 fact to the Commission.

11 (b) Mr. Berger agrees that he will refrain from name-calling or directing profanity
12 towards any student.

13 (c) Mr. Berger agrees that he will limit his physical contact, meaning demonstration of
14 wrestling moves, with 1st year athletes in practices to reduce the potential or
15 perception of physical harm.

16 (d) The Executive Director shall recommend in good faith to the Commission at its
17 August meeting that this matter be dismissed and that it approve the dismissal of the action
18 subject to proof satisfactory to the Executive Director that the meeting(s) referred to paragraph
19 7(a) occurred or that the parents failed to appear after being duly noticed of the opportunity.

20 8. Mr. Berger understands and accepts that if he refuses to meet with the parents as
21 agreed, that this settlement agreement may constitute grounds for disciplinary action.


22 9. Mr. Berger waives all rights to a contested case hearing on this matter, to be
23 represented by legal counsel at such hearing.

24 10. The parties understand and accept that neither Ms. Chamberlain nor Mr. McKeever
25 have authority to bind the Commission to the foregoing terms and that the terms of this
26 agreement are subject to final approval of the Commission at its next regularly scheduled

1 meeting. Ms. Chamberlain and Mr. McKeever agree in good faith to recommend to the
2 Commission acceptance and ratification of this agreement without change at such meeting.

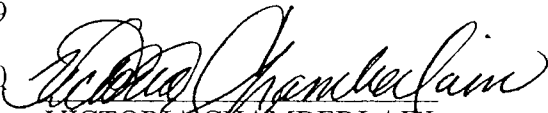
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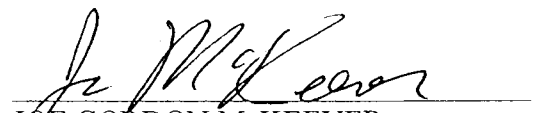

CURTIS JOHN BERGER


JOHN S. BISHOP,
Counsel for Curtis J. Berger

DATED: 7-18-05

DATED: 7-18-05


VICTORIA CHAMBERLAIN
Executive Director, Teacher
Standards and Practices Commission


JOE GORDON McKEEVER,
Senior Assistant Attorney General for the
Teacher Standards and Practices
Commission

DATED: 7-18-05

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