

April 17, 2014

Dear Mr. Harris:

The Wisconsin Department of Public Instruction completed its investigation into allegations that you engaged in "immoral conduct," as defined by Wis. Stat. § 115.31(1)(c), which could result in the revocation of your professional licenses. In completing its investigation, the Department reviewed the entire record of this matter, including: the school district's investigation; the arbitration hearing transcript and exhibits; and the circuit court, Court of Appeals, and Supreme Court briefs and decisions. The Department also asked the district to provide any additional information it had that might have a bearing on the Department's investigation.

The conduct at issue occurred in 2008 and 2009. As a result, the Department is required to apply the definition of immoral conduct contained in the 2008-09 Wisconsin Statutes. This definition was amended by 2011 Wisconsin Act 84 to include "the intentional use of an educational agency's equipment to download, view, solicit, seek, display, or distribute pornographic material." The Wisconsin Supreme Court has repeatedly held that new laws cannot be retroactively applied unless the Legislature explicitly expresses its intent to do so, which did not occur here. See Snopek v. Lakeland Med. Ctr., 223 Wis. 2d 288, 293, 588 N.W.2d 19, 22 (1999). Because 2011 Act 84 became effective after your conduct occurred, the Department is legally prohibited from retroactively applying it to your case. While your conduct certainly was highly inappropriate for an educator, it does not meet the legal definition of immoral conduct contained in the 2008-09 law. Specifically, the Department's investigation confirmed the school district's public statements that your conduct did not involve children in any manner. Therefore, there is no probable cause that you violated the 2008-09 law, and the Department cannot pursue revocation of your licenses at this time.

In accordance with Wis. Stat. § 115.51(6)(c), a record of this investigation and its outcome will be maintained by the Department. If the Department receives new, credible evidence that your conduct endangered the health, education, safety, or welfare of any pupil, the Department will determine whether license revocation proceedings are warranted.

Sincerely,



Tammy G. Huth, PhD

Director - Teacher Education, Professional Development and Licensing

Cc: Don Johnson, Middleton-Cross Plains Area School District