

Paul J. Stark, ISB #5919  
IDAHO EDUCATION ASSOCIATION  
P.O. Box 2638  
Boise, Idaho 83701  
Telephone.: (208) 333-8560  
Fax: (208) 344-1606  
Email: [pstark@idahoea.org](mailto:pstark@idahoea.org)

James Piotrowski, ISB # 5911  
PIOTROWSKI DURAND, PLLC  
1020 Main St., Suite 440  
P.O. Box 2864  
Boise, ID 83701  
Telephone: (208) 331-9200  
Facsimile: (208) 331-9201  
[james@idunionlaw.com](mailto:james@idunionlaw.com)

*Attorneys for Defendant West Ada Education Association*

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

ROY RATLIFF and K.S., M.A., P.P., and A.R., )  
individually and as parents and next friends of )  
their minor children, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
WEST ADA EDUCATION ASSOCIATION, )  
INCORPORATED, )  
 )  
Defendant. )  
\_\_\_\_\_ )

Case No. CV01-20-17078  
AFFIDAVIT OF ERIC THIES

STATE OF IDAHO )  
 ) ss.  
County of Ada )

I, Eric Thies, being first duly sworn upon oath, depose and say as follows:

1. I am the current President of the West Ada Education Association (“WAEA). I was first elected in 2017 and my term expires June 2021. I have been a teacher in the West Ada School District since August 2008 and I teach primarily physics and sciences.
2. During the summer of 2020, the West Ada School District (“School District”) issued standard teacher contracts pursuant to Idaho Code section 33-513, *et seq.*
3. The Standard Teacher Contracts approved by the state superintendent of public instruction incorporates by reference the policies of the Board of Trustees for the school district. See Exhibit A, paragraph 4.
4. Pursuant to Idaho Code 33-513, all teacher contracts must be signed and returned to the school district a maximum of 21 days from offering. An offer for a category 2, 3 and renewable teacher contract must be made by July 1<sup>st</sup> of every year. *Id.*
5. The School District Board of Trustees had adopted by policy a reopening plan for the School District provided for remote learning if the school was placed in the “red” category. (<https://www.westada.org/Page/82329>.)
6. The School District’s “Decision Making Framework” was described as “Our framework, aligns with the Idaho Back to School Framework and Central District Health Levels of Community Spread, and helps West Ada to define the criteria that we will use to make decisions.” *Id.*
7. Most teachers, including myself, understood that this reopening plan adopted by the School District Trustees was, pursuant to the standard teacher contract paragraph 4, incorporated into the individual contracts.

8. According to the State of Idaho's Reopening Back to School Framework, there are 3 categories of transmission levels: Category 1, or green, which allows for full in-person learning; Category 2, or yellow, that allows for a mixed in-person and remote learning, and Category 3, or red, which allows for only remote learning. (See <https://www.sde.idaho.gov/re-opening/files/Idaho-Back-to-School-Framework-2020.pdf>.)
9. On or about September 8, 2020, the Central District Health Department (CDH) changed the School District's designation from "Red" to "Yellow," which allowed the School District, pursuant to the adopted reopening plan, to provide mixed in-person and remote learning. (<https://www.idahoednews.org/news/for-west-ada-and-boise-schools-yellow-means-go-slowly/>).
10. According to the School District's website dated September 1, 2020, "Preschool and kindergarten classes will go back to school in-person full time when West Ada School District is operating in the yellow category of the reopening plan. The Board of Trustees approved this recommendation and authorized the superintendent or designee to gradually bring elementary school grade levels back in-person full time during yellow operations."  
  
(<https://www.westada.org/site/default.aspx?PageType=3&DomainID=4&ModuleInstanceID=63&ViewID=6446EE88-D30C-497E-9316-3F8874B3E108&RenderLoc=0&FlexDataID=293568&PageID=1>)
11. On or about October 13, 2020, CDH moved the School District's designation from yellow to red, due to the spiking number of Covid-19 cases in the community.

12. Most teachers, both members of WAEA and those that are not members of WAEA, including myself, relied upon the School District to abide by its adopted reopening plan and move to remote learning once the School District was categorized in the “Red” category.
13. The School District Board of Trustees did not consult with WAEA when it made the decision, nor with any teacher to my knowledge.
14. Numerous members of the WAEA, as well as numerous non-members, talked with me of their fear with continuing teaching while the rate of COVID-19 infections were spiking and of the great desperation that they felt. I also consulted with teachers that had fragile health conditions or had loved ones at home that had fragile health conditions.
15. Most teachers that spoke to me about the above events expressed a feeling of total desperation, and an inability to do anything to protect themselves and their loved ones.
16. I am aware from teachers that I have worked with in the past that if a teacher leaves their employment mid-contract, the School District may report such teacher to the Idaho Professional Standards Commission. I am further aware that upon a finding that a teacher left his or her contract mid-term, the Professional Standards Commission typically suspends a teacher’s teaching certificate for a year.
17. Infection rates within the School District continue to climb according to the School District’s dashboard. (see <https://www.westada.org/domain/11387>.)
18. Infection rates in Idaho, and Ada County are now at an all-time high (<https://coronavirus.jhu.edu/us-map>.)

19. The WAEA attempted to discuss these matters with the School District but was not invited to meet with the School District until, on the evening of Sunday, October 18, 2020, was allowed to meet with the School District on Monday, October 19, 2020.
20. After the School District Board of Trustees violated its own reopening plan, discussed above, I was approached by numerous teachers, both members of the WAEA and not, indicating their intent to call in sick to work on Thursday and Friday, October 15 and 16, 2020, out of fear and frustration with the actions of the School District Trustees. I learned about this through many communications and a meeting on the afternoon of Wednesday, October 14, 2020.
21. WAEA did not originate the notion of calling in sick the week of October 15 and 16, 2020, but was told that this was going to happen by multiple teachers. WAEA actively began to encourage teachers that desired to take sick leave to do so on October 19 and 20, 2020, rather than the 15<sup>th</sup> and 16<sup>th</sup>, so as to provide additional time for parents that would need to make arrangements for their students.
22. I, personally, did not call in sick on October 19 or 20, 2020.
23. Upon being told that a large number of teachers were planning on calling in sick the week of October 19, 2020, WAEA thereafter actively supported those teachers in their efforts to take sick leave, as there appeared to be little other option.
24. There was nothing mandatory in WAEA's communications with teachers compelling teachers to take sick leave the week of October 19, 2020, and each teacher could, and did, decide for themselves whether to request a sick day or not.

25. Several teachers communicated with me that they did not want to call in sick, and I encouraged them not to do so. I ensured them that taking sick leave was an individual decision, and that they would still have my respect and support if they choose not to request a sick day.
26. Each request for sick leave was made individually.
27. On or about October 19, 2020, the first day teachers took sick leave, I saw a posting on Facebook from Idaho Freedom Foundation Vice-President Dustin Hurst, soliciting plaintiffs against WAEA. The posting states:


Good afternoon! I serve as vice president of the Idaho Freedom Foundation here in Boise. We are looking to file suit against the teachers union over the sick-out. We need a plaintiff family for the challenge, though. If you are interested in helping out, please email at [dustin@idahofreedom.org](mailto:dustin@idahofreedom.org) or call my cell at 208-505-1185!

This posting was made public on October 19, 2020. It appears to have now been taken down from Mr. Hurst's Facebook page. Attached as Exhibit B is a true and correct copy of said Facebook posting.



28. The WAEA's decision to support teachers that wished to take a sick leave under Board policy was not under the advice of counsel. I did not speak with legal counsel prior to actively supporting the teachers taking sick leave and did not understand that criteria for a common law prohibition against public sector strikes. My focus at the time was supporting the many teachers that were continuously contacting me about their frustration and fears with an unsafe working environment.
29. As President of WAEA I have since consulted with legal counsel and now understand that public sector labor strikes may be illegal in Idaho under the common law.

30. WAEA has no intention to call for, or compel if possible, any form of illegal strike in the future. If, in the future, West Ada School District teachers continue to feel that the School District is violating their contracts and putting their health and safety at risk by not following their own policies, the WAEA has and will utilize other methods to support and advance their concerns. Our goal was to bring attention to what we believed was unlawful conduct by the Board of Trustees, we realize that goal cannot be effectively achieved by unlawful means. While we cannot control what individual teachers do, WAEA does not intend to organize or encourage sickouts or work stoppages that violate existing law.
31. I have personal knowledge of the foregoing matters and, if called as a witness, could and would competently testify to such matters.

EXECUTED this 26<sup>th</sup> day of October , 2020, in the City of Boise, County of Ada, State of Idaho.

By:   
ERIC THIES

SUBSCRIBED AND SWORN To before me this 26<sup>th</sup> day of October, 2020, in the County of Ada, State of Idaho.

  
  
Notary Public for Idaho  
Residing at Boise, ID  
My Commission expires: 10/14/2021





# STATE OF IDAHO: RENEWABLE CERTIFIED PERSONNEL CONTRACT

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_ year of \_\_\_\_\_, by and between \_\_\_\_\_ School District No. \_\_\_\_\_, Idaho ("the District"), and \_\_\_\_\_ ("the Certified Personnel").

## WITNESSETH:

1. The District hereby employs the Certified Personnel pursuant to Section 33-515, Idaho Code, for the duration of the \_\_\_\_\_ school year, consisting of a period of \_\_\_\_\_ days, and agrees to pay the Certified Personnel for said services a sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), of which \_\_\_\_\_ shall be payable on the \_\_\_\_\_ day(s) of the months \_\_\_\_\_, year of \_\_\_\_\_ to \_\_\_\_\_ year of \_\_\_\_\_, inclusive, and such other monetary benefits as accorded to its certificated employees by the District.
2. Assignment(s): \_\_\_\_\_ and such other duties as may be assigned by the District for which the Certified Personnel is properly certified and endorsed.
3. The Certified Personnel agrees to perform all assignments made by the District in accordance with the highest professional standards and to have and maintain the legal qualifications required for certification or to teach in the aforesaid grades or subjects during all times that performance is required hereunder.
4. It is understood and agreed between the parties that this Contract is subject to the applicable laws of the State of Idaho, the duly adopted rules of the State Board of Education and the policies of the District which are, by reference, incorporated herein and made a part of this Contract the same as if fully set forth herein.
5. Any material false statement knowingly made in the written application for a position with the District shall constitute sufficient ground for voiding this Contract.
6. The District Board of Trustees may terminate or reduce the full-time equivalency status of this contract upon conclusion of the school year stated in Section 1 of this contract, without owing any further compensation, in the event that the Board institutes a reduction in force pursuant to Section 33-522A, Idaho Code, resulting in the termination or reduction of the employment relationship between the District and the Certified Personnel.
7. It is mutually understood and agreed by and between the parties that nothing herein contained shall operate or be construed as a waiver of any of the rights, powers, privileges, or duties of either party hereto, by and under the laws of the State of Idaho, except as expressly stated in this Contract.
8. The terms of this Contract shall be subject to amendment and adjustment to conform to the terms of a Master Contract, if any, applicable for the same school year as this Contract, including, but not limited to, amendments or modifications made pursuant to Section 33-522, Idaho Code.

IN WITNESS WHEREOF the District has caused this Contract to be executed in its name by its proper officials and the Certified Personnel has executed the same all on the date first above written.

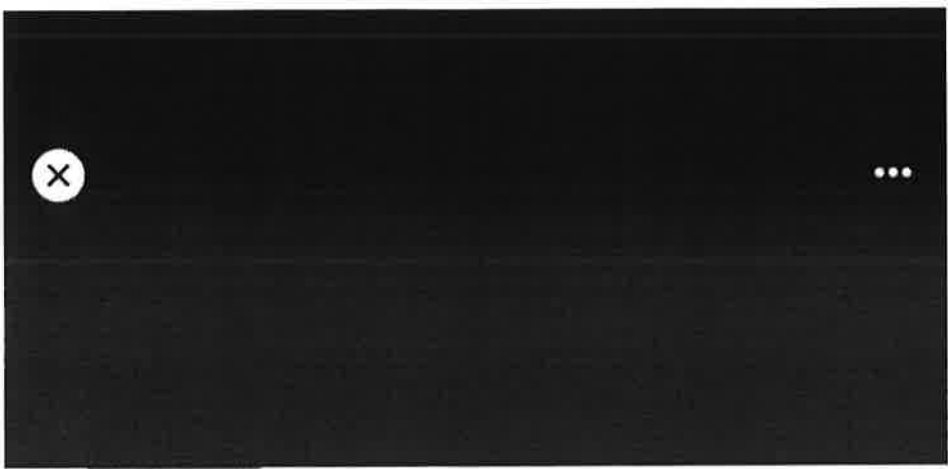
\_\_\_\_\_ SCHOOL DISTRICT NO. \_\_\_\_\_ in \_\_\_\_\_ COUNTY(IES), STATE OF IDAHO

\_\_\_\_\_ CERTIFIED PERSONNEL

\_\_\_\_\_ CHAIRMAN, BOARD OF TRUSTEES

Attest: \_\_\_\_\_ SUPERINTENDENT OR CLERK

*Exhibit "A"*



**Dustin Hurst** ▶ **Rally to** ...  
**open west ada schools**

27 mins • 🗨️

Good afternoon! I serve as vice president of the Idaho Freedom Foundation here in Boise. We are looking to file suit against the teachers union over the sick-out. We need a plaintiff family for the challenge, though. If you are interested in helping out, please email at [dustin@idahofreedom.org](mailto:dustin@idahofreedom.org) or call my cell at 208-505-1185!

**SOS: Save Our Students, Save Our Staff, Save Our Society**

Yesterday at 9:20 PM · 🌐

PSA: the Idaho Freedom Foundation is recruiting families t...



10 Comments



Like



Comment



Share

Exhibit "B"