

17 October 2021

David Binetti
West Ada Parents Association
372 S. Eagle Rd. Suite 195
Eagle, ID 83616

Rusty Coffelt, Trustee
West Ada School District Board of Trustees
1303 E. Central Dr.
Meridian, ID 83642

RE: Second Ethical Violation of Board Trustee Amy Johnson

Trustee Coffelt,

I write to bring to your attention a serious matter regarding an apparent second ethical violation of Trustee Amy Johnson, this time of Section 201.1 of the West Ada School District Policy. Please consider this a formal complaint and request for review and adjudication, as detailed below.

Summary

Trustee Johnson is under active investigation for potential conflict of interest violations under Section 201.4 of the West Ada School District Policy Manual. This investigation commenced prior to the Special Board Meeting on 13 October 2021 and warranted recusal from matters related to the investigation pending its resolution.

However, in her opening remarks from the Chair, Trustee Johnson addressed her own investigation and justified her participation in the meeting citing an unspecified “independent third-party” who determined she was under no legal obligation to recuse herself. However, I have since learned that opinion came from the District’s legal representative, Ms. Amy White. Given that Ms. White solicited an opinion from the Attorney

General's Office at Trustee Johnson's direction that was subsequently leaked to the press by Trustee Johnson in an effort to avoid recusal, Ms. White was first-party by definition and far from independent. Moreover, although Ms. White appeared on the published agenda and was in attendance at the meeting she was never called to speak by Trustee Johnson to explain her decision, nor was Ms. White mentioned by name as the opinion's author.

This was more than a mere oversight. Trustee Johnson obscured the source of the opinion, misrepresented that source's independence, and absolved that source from being subject to Board questioning. Trustee Johnson misled the public during a Board Meeting — from the Chair no less — in a conscious and deliberate attempt to avoid public scrutiny on her non-recusal and subsequent participation in the discussion and vote concerning the very issue for which she was under active investigation.

This is a clear violation of Section 201.1 of the West Ada School District Policy Manual, Subsection 7, the relevant portion of which states:

"As a member of my local Board of Trustees, I will strive to improve public education, and to that end I will be open, fair, and honest; have no hidden agendas..."

Trustee Johnson's actions at the Special Board Meeting on 13 October utterly fail this obligation. When taken into consideration with the prior complaint, she has demonstrated a clear pattern of deception and political manipulation designed to misdirect the public generally and her fellow Trustees particularly, in both cases to push an agenda that bears no relevance to what should be her first and greatest concern, the educational welfare of the students. I see no other option that restores the Public Trust other than her resignation.

Trustee Coffelt, I request that you thoroughly and independently review this complaint for any contra-indications to the fact pattern I outline. However, barring any substantive revelations, I call upon Trustee Johnson to resign immediately and ask that you and your fellow Trustees do the same.

Background and Supporting Information

Trustee Johnson is currently under investigation for potential violations of the West Ada School District's Conflict of Interest Policy, Section 201.4, as announced by Trustee Johnson herself from the Chair at the Special Board Meeting on 13 October 2021. This policy is designed to preserve the Public Trust by avoiding the appearance of conflict of interest between a Trustee's employment and their first and greatest concern as Trustee, the educational welfare of the students.

This investigation stemmed from West Ada patrons' legitimate concerns about such appearances when her employer directly injected itself into the current educational policy debate by publicly outlining conditions to maintain in-person school, whereupon two days later Trustee Johnson promoted and eventually voted on an adjusted school policy that overturned the Superintendent's existing plans using language and logic markedly similar to her employer's. Section 201.4 is designed to address this precise situation, to wit:

"The [Conflict of Interest] policy is designed to prevent placing a Trustee in a position where the Trustee's interest in the public schools and interest in his/her place of employment (or other indirect interest) might conflict, and to avoid the appearance of a conflict of interest, even though such a conflict may not exist."

Once Blue Cross weighed in on the schools the appearance of conflict was unavoidable, and she should have disclosed the same and recused herself from the matter. Instead, Trustee Johnson invited two guests to speak at the meeting from St. Luke's Medical System, which itself has extensive financial relationships with Blue Cross.

These guests were ostensibly there to provide data on the internal operational challenges faced by St. Luke's, but were allowed by Trustee Johnson as Chair to comment for more than one hour and twenty three minutes on topics well beyond that scope, including making direct recommendations for school policy that was consistent with that of Blue Cross's public position. (For reference, patrons in the district are granted two minutes each.) She did not disclose her professional working relationship with either speaker, and no other speakers were invited to present on matters related to the educational welfare of the students.

The testimony of these guests, provided at the outset of the meeting, clearly influenced the eventual policy outcome as the subsequent discussion was completely dominated by epidemiological concerns. In fact, during the entire five and half hour meeting not a single question was asked on the potential educational impact of overruling Superintendent Bub's operational approach which was approved unanimously on 15 June 2021 and for which Dr. Bub had planned all Summer. Such is the power of framing the issue.

To ensure the integrity of the Board's future decisions, I organized a rally at the West Ada School District office on Monday 11 October to call for a full, fair, and independent investigation into this apparent conflict of interest and demand the Board call for Trustee Johnson's recusal until such an investigation could be completed.

However, immediately prior to speaking to the assembled crowd, I was approached by two reporters who asked for comment on a letter from Idaho Chief Deputy Attorney General Brian Kane, which contained an opinion that Trustee Johnson had not violated State conflict of interest law. I replied that I could not comment since I had not seen the letter, whereupon a reporter forwarded me a copy.

As I read the letter and subsequently made inquiries, I discovered the following:

- The letter was received on Friday 8 October 2021, two days before the original complaint, which means by definition it couldn't have addressed the complaint itself and was solicited under a different pretext.
- Trustee Johnson deliberately held the letter until just a few hours before the scheduled public demonstration on Monday 11 October, and then leaked it to the press with the comment, "the highest legal office in the State of Idaho [confirmed] no conflict of interest exists."
- The letter itself referenced Idaho State Law, rather than West Ada School District Policy, and as such did not address the issue at hand. Trustee Johnson was well aware of this, yet presented the opinion as if the matter had been resolved.
- She did all the aforementioned without the knowledge or consent of her fellow Board Trustees, but did forward the opinion to them afterward.

- As a result, Board Trustees dutifully referenced the Attorney General's opinion as justification for not calling for Trustee Johnson's recusal. For instance, Trustee Klopfenstein responded to a patron's demand for recusal stating, "It's my understanding that the Attorney General of Idaho has ruled that he doesn't see a conflict of interest in Amy's job with Blue Cross. With that ruling, this concern is not an issue for me."
- The Attorney General letter itself was addressed to and presumably solicited by Amy G. White, a Partner of Anderson, Julian & Hull, LLP, who serves as the District's legal representative. The salience of this fact to my complaint will be apparent shortly.

None of this reflects well on the District. It was a transparently political manipulation orchestrated by Trustee Johnson to avoid public scrutiny on the matter, which worked up to a point (as evidenced by Trustee Klopfenstein's response.) However, when it became clear the Attorney General's opinion was not germane to the West Ada Code of Ethics, an official investigation was opened which necessitated a more direct answer to the question of recusal.

Accordingly, Trustee Johnson prefaced her participation at the Special Board Meeting on 13 October 2021 with the following remarks:

First of all, I think there's been a couple questions around where my vote stands tonight. And so what I did today was ask that Superintendent Bub and Vice-Chair Ozuna actually check with the independent third-party who is doing the investigation into a complaint filed against me. And the question was, do I have a legal responsibility to recuse myself based on the complaint being filed and the complaint that was filed? And the response we got was that, no, I do not have a legal responsibility to recuse myself.

But critically, the unnamed "independent third party who is doing the investigation" and who provided the opinion that Trustee Johnson "[does] not have a legal responsibility to recuse [herself]", is Amy White — the same Amy White to whom the leaked letter was addressed and *ipso facto* a first-party to Trustee Johnson's efforts to preemptively clear herself of any potential wrongdoing. And Ms. White remained unnamed despite the fact that she was seated less than fifteen feet from Trustee Johnson the entire time she was speaking.

In other words, Trustee Johnson misled the Patrons of the West Ada School District from the Chair to justify her participation and vote on the very issue for which she was under active investigation, despite a clear and obvious opportunity to be open, fair and honest.

This wasn't a casual mistake. Ms. White was on the agenda to speak and by not mentioning her name Trustee Johnson obviated any opportunity for Board Trustees to question Ms. White on the justification for her legal opinion or self-evident lack of independence. In effect, Trustee Johnson once again attempted to clear herself preemptively and avoid public scrutiny — this time on the topic of recusal.

This fact pattern alone is troubling, but is compounded by the following:

- Ms. White is the District's legal representative, yet the original complaint is directed *against* Trustee Johnson for potential violation of District policy. This puts Trustee Johnson and the District in opposition on this matter; as such, Ms. White can not represent both Trustee Johnson's interests and the District's interests simultaneously. Any legal opinion on recusal lacks independence *prima facie*.
- Ms. White's opinion was provided verbally, which prevents any *post hoc* review and allows the vagaries of memory to cloud any recollection of what was said, to whom, and when.
- As the Board representative tasked with managing the original complaint, Trustee Ozuna should never have permitted Trustee Johnson to comment on her own recusal from the Chair — particularly with Ms. White in attendance and able to speak directly on the matter. Instead, Trustee Johnson was allowed to effectively direct her own recusal, which is particularly absurd considering the complaint itself concerns conflict of interest.
- I asked Trustee Ozuna for details on how exactly Trustee Johnson managed to arrange legal support for her own recusal, but Trustee Ozuna refused to answer, stating, "I cannot comment further until the investigation is complete", even though my questions regarded the recusal opinion, not the investigation itself.

Ms. White's involvement in the recusal prompts still more questions to which maintaining the Public Trust demands answers:

- On what topic was Ms. White originally going to address the Board? Why was she never called by Trustee Johnson? Why did Trustee Johnson avoid naming Ms. White as the source of the recusal opinion when Trustee Johnson was literally looking at Ms. White sitting in the room, on the agenda, and prepared to speak?
- In the Idaho Education News article, Trustee Johnson states, “We asked for this opinion from an unbiased 3rd party”. Who, exactly, is the “we” besides Trustee Johnson? Please note that this opinion was solicited prior to my complaint addressed to Trustee Ozuna.
- To what extent was Trustee Johnson involved with Ms. White in clearing herself from any legal obligation to recuse? By her own admission Trustee Johnson initiated this process; what was the context of this request? Was it verbal or written? If written, the actual request itself should be made public.
- While I’m aware the recusal opinion was offered verbally, to whom was it offered and how did that eventually reach Trustee Johnson? What assurances do we have that said opinion was conveyed accurately to Trustee Johnson?
- Given the gravity of the recusal decision, coming ahead of discussion on the very issue for which Trustee Johnson was under active investigation, why was a verbal opinion acceptable at all? If there were insufficient time to produce a written opinion, then no opinion should have been proffered.
- While orthogonal to this complaint, does the Board consider it appropriate for Trustee Johnson to leak a letter to the press without their knowledge or consent, despite the fact that letter was addressed to the District’s official legal representative?

Trustee Coffelt, I’m directing this complaint to you because I do not believe Trustee Ozuna can provide independent answers to questions concerning her own involvement in this matter. And candidly, I’m starting to become concerned that the longstanding relationships present on the Board might be playing a role in these irregularities. As such, I’m reaching out to you as the Trustee with the least seniority and, accordingly, the lowest potential for institutional interference.

I understand that this is a heavy burden for you to carry. Nonetheless, transparent answers to these questions are critical to prevent further erosion of the Public Trust, already at its lowest point in the proud 76-year history of the District. Regardless of one's position on any given policy, the integrity of a public institution's decision ultimately rests on the process by which that decision is made.

Right now that process appears corrupted. Trustee Johnson's solicitation of the Attorney General Office's opinion through Ms. White and subsequent political manipulation was deliberately designed to mislead the public, undermine the legitimate concerns of West Ada patrons, and influence her fellow Board members to forestall investigation. When this failed, Trustee Johnson once again employed misdirection to avoid public scrutiny on the issue of recusal, and subsequently set the agenda, drove the discussion, and ultimately voted on the very issue for which she is currently under investigation for conflict of interest.

Regardless of the original conflict of interest charge's ultimate resolution, Trustee Johnson's subsequent actions demonstrate a pattern of behavior that belies the Public Trust she is expected to uphold. I ask that you oversee an independent review and adjudicate these claims outside of the scope of Trustee Johnson's obviously considerable influence.

However, barring any revelatory information you produce that mitigate the above concerns, Trustee Johnson's actions were neither open, nor fair, nor honest; they were indicative of a hidden agenda at odds with her first and greatest concern as a Trustee: the educational welfare of the students. I see no way to rectify this clear violation of Section 201.1 which is now a pattern, and the conclusion is as unfortunate as it is inescapable:

The only way to preserve the Public Trust is for Amy Johnson to resign.

Most sincerely,

A handwritten signature in black ink, appearing to read 'David Binetti', with a long, sweeping horizontal line extending to the right.

David Binetti

West Ada Parents Association