

**Minutes of Westside Community Schools  
Board of Education Personnel Hearing/Special Meeting  
May 8-9, 2019**

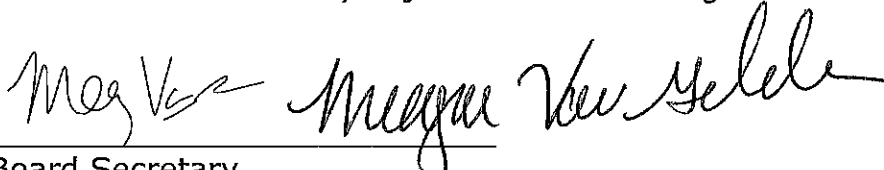
At 8:50 a.m. on May 8, 2019, the Westside Community Schools Board of Education convened a special meeting for the purpose of conducting a hearing on the consideration of the termination or continuation of the employment contract of John Brian. Upon roll call, members present were Dana Blakely, Adam Yale, Kris Karnes, Doug Krenzer, Meagan Van Gelder, and Beth Morrissette. Board President Blakely noted that a copy of the Open Meetings Act was posted by the door to the board room. She then turned conduct of the meeting over to Karen A. Haase, the attorney representing the board of education and serving as hearing officer for the hearing. The board heard evidence concerning Mr. Brian's employment.

At 10:23 p.m., Karnes moved to deliberate the matter of Mr. Brian's employment in closed session. Krenzer seconded the motion. Roll call vote: Blakley, Yale, Karnes, Krenzer, Van Gelder and Morrissette in favor, none opposed.

At 12:47 a.m. on May 9, 2019, Blakley moved to come out of closed session, and the board reassembled in open session.

Hearing Officer Haase read the proposed findings of fact and decision to terminate Mr. Brian's employment which are attached to these minutes and made a part of these minutes. Blakley moved to adopt the findings of fact. Yale seconded the motion. On roll call vote to adopt the findings, Blakely, Yale, Karnes, Krenzer, Van Gelder and Morrissette.

Board President Blakley adjourned the meeting.

  
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Board Secretary

BEFORE THE WESTSIDE COMMUNITY SCHOOLS  
BOARD OF EDUCATION

IN THE MATTER OF	)	FINDINGS OF FACT
THE EMPLOYMENT OF	)	AND DECISION TO
JOHN BRIAN	)	TERMINATE EMPLOYMENT

On May 8, 2019, the Board of Education conducted a hearing to consider whether to continue or to terminate the employment contract of John Brian. Mr. Brian was present and was represented by attorney Alexis Mullaney. The school district's administration was represented by attorneys Margaret Hershiser and John Lingelbach. The Board of Education was represented by attorney Karen A. Haase. Based on the evidence adduced at the hearing in the form of testimony and documents, the Board of Education makes the following findings and decision.

1. Mr. Brian is a permanent certificated employee who was employed as a teacher by Westside Community Schools for the 2018-19 contract year.
2. By letter delivered April 12, 2019, Mr. Brian was notified of the possible termination of his contract.
3. By letter dated April 19, 2019, Mr. Brian requested a hearing regarding the proposed termination of his contract.
4. By meeting held on Friday, May 3, 2019, Mr. Brian was given notice of the time, date, and place of the hearing including the employment-related reasons for the proposed termination of contract, the names of the witnesses who may testify at the hearing, and was permitted to

review the documents which might be offered into evidence by the administration at the hearing.

5. Due and proper notice was given of the meeting of the Board of Education at which the hearing was conducted, as required by law.
6. Based upon the evidence adduced at the hearing, the Board of Education notes that Mr. Brian has been effective in forming positive relationships with many students. Mr. Brian has also been effective in performing his duties as a soccer coach. The Board appreciates the supporters of Mr. Brian who have shared their positive experiences with them.
7. Based upon the evidence adduced at the hearing, the Board of Education finds that Mr. Brian has failed to meet the expectations and standards for the professional performance of a teacher at Westside Community Schools.
8. Mr. Brian has neglected his duties as a teacher at Westside Community Schools, acted unprofessionally, been insubordinate and acted in an incompetent manner in the following ways:
  - a) During the 2015-16, 2016-17, 2017-18 and 2018-19 school years, Mr. Brian repeatedly engaged in inappropriate and unprofessional behavior toward students and staff members: telling students to take their shirts off in front of a female staff member in the hallway; making derogatory comments about a female student's physical

appearance; and making comments about a student's sexual orientation in front of other students.

- b) On multiple occasions, Mr. Brian made inappropriate comments about special education students, including asking special education staff, "Can you please sanitize this area so those kids don't reproduce?" and referring to the IMC as the SBT-IMC. There was testimony that SBT stands for "social studies business 'tard." Mr. Brian's derogatory comments about special education students were unprofessional and appalling.
- c) On at least two occasions during the relevant time period, Mr. Brian lost emotional control in the presence of students and staff. During these incidents Mr. Brian repeatedly used profanity in the presence of students.
- d) Mr. Brian left students in his classroom unattended.
- e) Mr. Brian has inappropriately used sarcasm in his communication with students and with members of the administrative team. All staff at Westside are trained to avoid the use of sarcasm. Although other staff do occasionally use sarcasm, Mr. Brian's use of sarcasm was repeated and he persisted in using sarcasm despite being specifically instructed by his supervisors to stop.
- f) The administration provided Mr. Brian with two separate improvement plans in an attempt to assist him in improving his

instruction and assessment and in improving his professional behavior. Mr. Brian improved his performance in the area of instruction and assessment but failed to improve his professionalism.

- g) During the 2017-18 school year, Mr. Brian was placed on a plan of improvement. That plan, among other things, required Mr. Brian to attend a workshop on adaptive schools. Mr. Brian failed to attend the workshop and failed to notify the administration that he would not attend.
- h) During the 2018-19 school year, Mr. Brian's plan was intensified to assist Mr. Brian in improving his professional behavior. This was due to Mr. Brian's ongoing unprofessional behavior, including but not limited to his loss of emotional control, cursing and throwing a weight in front of students in the weight room.
- i) Mr. Brian failed to complete all of the required elements contained in the intensive assistance plan, despite multiple accommodations.
- j) In February of 2019, while still subject to the intensive assistance plan, Mr. Brian removed a student from the premises of Westside High School during the school day to take the student to get a haircut. Mr. Brian took this action in contravention of board policy and the protocols of Westside High School. When confronted by administration about the inappropriateness of removing a student from school and taking the student for a haircut without parental

permission during the school day, Mr. Brian maintained that he would take the same action again.

k) The administration of Westside Community Schools filed a complaint with the Nebraska Department of Education's Professional Practices Commission related to Mr. Brian's conduct. The Nebraska Department of Education sent Mr. Brian a communication in which the Department indicated that it was proposing a public reprimand of Mr. Brian.

9. Mr. Brian has neglected his duties; he has not acted in a competent manner, he has been insubordinate, he has been unprofessional and his conduct substantially interferes with the continued performance of his duties as a teacher at Westside Community Schools.
10. In judging the credibility of the witnesses and the weight to be given to witness testimony and other evidence presented, the board has considered the following:
  - a) The conduct and demeanor of the witness while testifying;
  - b) The sources of information, including the opportunity for seeing or knowing the things about which the witness testified;
  - c) The ability of the witness to remember and to communicate accurately;
  - d) The reasonableness or unreasonableness of the testimony of the witness;

- e) The self-interest or lack of self-interest of the witness in the result of this case;
  - f) The apparent fairness or bias of the witness, or the witness's relationship to the parties in this matter;
  - g) Any previous statement or conduct of the witness that is consistent or inconsistent with the testimony of the witness at this hearing; and,
  - h) Any other evidence provided at the hearing that affects the credibility of the witness or that tends to support or contradict the testimony of the witness or other evidence.
11. The testimony and evidence presented by Mr. Brian at this hearing, to the extent it is inconsistent with the evidence the school district, is not credible. The testimony that Mr. Brian presented in an attempt to excuse his conduct neither justifies his behavior nor diminishes Mr. Brian's responsibility for his actions.
  12. In making its determination, the board limited its decisions to the education-related and job-related considerations set out in its findings.
  13. The findings set out above, whether considered individually or in the aggregate, constitute just cause for the termination of Mr. Brian's employment.

It is therefore the decision of the Board of Education that the employment contract of John Brian should not be continued for the 2019-20

school year and the same is hereby terminated effective at the end of the 2018-19 contract year.

After discussion and on roll call vote, the board members voted as follows:

	Yes	No	Abstain
Dana Blakely	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Adam Yale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kris Karnes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Doug Krenzer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Meagan Van Gelder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Beth Morrissette	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The above resolution, having been consented to by a majority of a quorum of the Board of Education, was declared passed and adopted by the Board President at a duly held and lawfully convened meeting in full compliance with the Nebraska Public Meetings Law.

Dated this 13<sup>th</sup> day of May, 2019

Westside Community Schools  
Board of Education

BY: Dana Blakely  
Dana Blakely,  
President, Board of Education

ATTEST:





Meagan Van Gelder  
Secretary, Board of Education

ACKNOWLEDGEMENT AND RECEIPT

I, John Brian, hereby acknowledge receipt of a complete copy of the above Findings of Fact and Decision to Terminate Employment on this 9 day of May, 2019.

John Brian

