

To: Eric Smedsrud  
Lisa Lewison, Evergreen Education Association

From: Roland Brosius and Scott Deutsch  
Evergreen Public Schools Human Resources

Date: April 13, 2016

Re: *Loudermill* Letter; Request for Meeting, April 19, 2016

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The purpose of this letter is to notify you of the results of the District's investigation of your suspected misconduct, and to provide you with notice that we have determined sufficient cause exists to terminate your employment with the School District.

We are requesting a meeting with you pursuant to the decision in *Loudermill v. Board of Education*, to provide you with an opportunity to explain and refute the conclusions we have reached that have caused us to recommend to the Superintendent that your employment with Evergreen Public Schools be terminated. **The meeting will be held on April 19, 2016, at 10:00, at the district office in the Burgundy Complex Conference Room. You may bring a representative to the meeting, provided that if that representative is an attorney, you provide at least 24 hours advance notice of the attorney's participation.**

1. **Summary of Allegations, Initial Interview, and Administrative Leave Pending Investigation**

On December 9, 2015, Mountain View High School Principal, Matt Johnson, was contacted via email by a person representing herself as the parent of a student at Central Washington University. In this email, the parent reported that you were dating one of your former students. The email also alleged you visited this student in her dorm room at Central several times this fall and brought alcohol with you. It was initially thought and later confirmed that the girl you were visiting was **1a**, one of your former students, and a June 2015 graduate. Of particular concern to the District was whether or not you had engaged in an inappropriate teacher-student relationship before **1a** graduated, engaged in any grooming behaviors of **1a** while she was an Evergreen student, and/or while you were a teacher, provided alcohol to someone who was under the legal drinking age of twenty-one.

You were placed on administrative leave pending investigation on December 10, 2015, after a meeting with us and your Union representative, Lisa Lewison. You were informed by Mr. Brosius in the meeting that you were not to discuss the investigation with anybody other than your Union representative. At the meeting, Mr. Brosius specifically asked you if you had been to Central Washington University, as the complainant alleged. You claimed you were in Ellensburg at the end of July 2015 for a camp and had not been back since. Mr. Brosius also asked if you provided any alcohol to anybody underage, and you said you had not. During this meeting, **1a** **1a** was identified as a witness in the investigation. You also denied texting former students.

## 2. Investigation and Summary of Evidence in Support of Discharge Recommendation

As you know, the District retained an outside investigator, Alan Key to conduct an investigation. You met with Mr. Key on December 15, 2015. You were reminded in the meeting you had to tell the truth during this meeting, and you verbally acknowledged you would. In the meeting, you admitted you and 1a were "friends," that you were sort of a "counselor" toward her, and that you communicated with her regularly. You also admitted that since 1a had been at college, you had talked with her almost daily, depending on her anxiety or depression. You said she had also talked about not wanting to live anymore, and you had tried to talk her into getting some professional counseling. At first, you stated that the last time you had spoken with 1a was a couple of days before the interview; but then you changed your story and admitted that you had talked with 1a and texted her just the day before. In either event, it was clear you had had several communications with 1a since your meeting with us on December 10, during which you had been directed not to talk to witnesses.

In the meeting, you denied supplying underage students at Central with alcohol, spending the night in 1a's room. But, contrary to what you told us on December 10, you told Mr. Key that you had visited 1a at Central, including a night in November, when you drove to Ellensburg in the middle of the night to intervene on what you perceived was a suicide attempt. You did not call 911 or attempt to reach 1a's parents.

Several students with whom Mr. Key spoke at Central contradicted your story. 1a's roommate reported she got very sick after drinking a bottle of tequila you brought her. The roommate also told Mr. Key that 1a told her she used to sneak out of her room to visit you when she was still in high school, that you and she would stay in motel rooms together, and that the two of you went camping alone together. Other students confirmed having seen you in 1a's dorm room, that you were there about every other weekend, that 1a had reported having "phone sex" with you, that you brought her alcohol, and that they had heard you and 1a in her dorm room having sex. Another former Evergreen student who is now at CWU reported she had dropped 1a off at your house when the two of them came home to Vancouver for a weekend. It appears to have been common knowledge in the CWU dorm that you and 1a were romantically involved. When 1a was interviewed, she denied having a sexual relationship with you and said that she had lied to her roommate and others in the dorm about her relationship with you.

Given what he was learning, Mr. Key contacted CWU police, Officer Marc McPherson. Officer McPherson confirmed it was illegal to bring alcohol into a dorm, but that he would need a search warrant to obtain evidence of a violation.

Since she first talked with Mr. Key, 1a left CWU. Mr. Key spoke with her again in late January 2016. When confronted with what her dorm mates had said, 1a admitted to having a sexual relationship with you. While she declined at first to tell Mr. Key when the relationship turned sexual, she said she began communicating with you during the summer of 2014, that the relationship grew stronger during her senior year, that by July 2015, you were

helping her get ready for school, and then in July 2015, had sex. She claimed the relationship with you started to change around graduation time.

**1a**'s mother, **1b**, contacted Mr. Key through Mr. Ormson, a colleague of yours. Apparently, **1a** and her parents had a confrontation about you, and her father had kicked her out of the house. **1a**'s mother told Mr. Ormson she wanted to talk with Key about this issue and made a comment that she suspected there was some type of personal relationship developing over the past nine months. In a subsequent conversation with Mr. Ormson, Ms. **1b** said she believed the romantic relationship started in March or April of 2015, before **1a** graduated.

Mr. Key interviewed Ms. **1b** on January 25, 2016. Ms. **1b** said throughout this past fall, **1a** was a complete wreck and even saw a psychiatrist in Ellensburg to help her cope with her anxiety. She said **1a** continually told her parents she did not want to go back to Central, but instead wanted to come home so she could attend Clark Community College. She said **1a**'s father was so mad when he learned about your relationship with **1a** that he smashed her cell phone and told her she was no longer welcome in the house. Ms. **1b** said she was straightening up the house and putting things away, when she happened to find **1a**'s smashed cellular telephone. Ms. **1b** said she pays the bill and purchased the phone. Ms. **1b** brought the destroyed new phone and the old discarded phone to our meeting and gave both to Mr. Key. The screen saver photograph on the old phone was a photograph of you posing with **1a** at her graduation. Ms. **1b** gave Mr. Key permission to examine the phones to help determine what, if any evidence they may contain.

Mr. Key's forensic examination of the old phone, and secured it and the new, smashed phone. A review of the photographs on the old phone showed several of you, but none that would suggest an inappropriate relationship between him and **1a**. The call and text records were something different. The first evidence of any digital communication to or from your number was a series of text messages on February 17, 2015, at 10:39 a.m. The call records continued through June 13, 2015, which was the approximate date **1a** received her new phone. The call and text data revealed the following:

February:	4 calls or texts
March:	28 calls or texts
April:	18 calls or texts
May:	45 calls or texts
June:	42 calls or texts
Total	137 calls or texts

A number of these calls and texts were made prior to 6:00 a.m. and after 6:00 p.m. Some calls and texts were near or past midnight. Some calls lasted nearly an hour and even longer.

Yours and **1a**'s actual text conversations from February 17, 2015, through March 10, 2015, were preserved. Some of the most troubling of them are set forth below. These texts are some of the evidence that you were grooming **1a** and show definitively that you engaged in

inappropriate communication with her and other boundary invasions while she was still an Evergreen student.

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**1a** 02-18-2015 17:52:57

“Ahhhhh sorry!”

“There’s a scholarship at CWU that asks for a letter of recommendation regarding the students leadership contribution.. would you be willing to write me one? If you have time?”

Smedsrud 02-18-2015 17:55:35

“When? And what’s in it for me? And don’t say kindness and aiding a productive child in reaching her potential cuz I don’t give a !# about that. Just kidding.”

Smedsrud 02-18-2015 17:56:24

“My phone thinks I’m gay.”

**1a** 02-18-2015 18:03:18

“Not saying gay people aren’t awesome... they just tend to be bitchy”

Smedsrud 02-18-2015 18:17:12

“Well my phone keeps loading a banner on my metronome app for pics of single men. What the hell is that about?”

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Smedsrud 02-24-2015 16:43:34

“Don’t give away the shoe thing. I don’t want Ormson to know I shared the story”

**1a** 02-24-2015 16:45:39

“I wouldn’t dare”

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Smedsrud 02-25-2015 15:43:52

“Eats?”

**1a** 02-25-2015 15:53:43

“Sorry not hungry”

Smedsrud 02-25-2015 16:47:24

“You suck so much!”

**1a** 02-25-2015 16:47:57

“You love me”

Smedsrud 02-25-2015 17:02:19

“Only kinda”

**1a** 02-25-2015 17:13:17

“:(“

Smedsrud 02-25-2015 17:32:31

“Ying and Yang”

Smedsrud 02-25-2015 21:34:59

“Thanks for hanging out tonight”

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Smedsrud 03-05-2015 22:06:42

"Just got c. blocked by the big unit j miller. Oh well maybe next year"

**1a** 03-05-2015 22:11:35

"What a shame!! Sneak around to her room"

**1a** 03-05-2015 22:16:12

"Party party party"

Smedsrud 03-05-2015 22:18:24

"Hell... after Jerry's been there I'll be aiming for a wall at best."

**1a** 03-05-2015 22:35:57

"**1a** is too innocent shes freaking out about girl talk"

Smedsrud 03-05-2015 22:28:25

"What about this time?"

**1a** 03-05-2015 22:29:26

"There might have been a joke about white face cream"

Smedsrud 03-05-2015 22:30:14

"Every girls gotta love a facial now and then"

**1a** 03-05-2015 22:32:17

"SHE DOESNT UNDERSTAND"

Smedsrud 03-05-2015 22:34:33

"How bad is this? Does she understand the mechanics of sex? Not understand the finish? Or just not understand some of the sex play stuff? By the way... this is not a share worthy conversation please."

Smedsrud 03-05-2015 22:40:49

"I guess that's ok? I just can't relate. I was pretty overly fascinated with it by the time I was her age."

**1a** 03-22-2015 22:43:32

"Its cool that she doesn't understand... it's the fact she gets bitchy when anything about it comes up"

Smedsrud 03-22-2015 22:45:09

"She wants to experience it... but her brainwashing tell her she's bad for wanting it. So she gets angry at any situation that makes her challenge her own values."

**1a** 03-05-2015 22:47:14

"Thanks for sharing about sam earlier. I enjoyed talking with you."

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Smedsrud 03-07-2015 00:52:50

"I had fun hangin. Thanks"

**1a** 03-07-2015 00:58:00

"Me too! Now go to sleep so you don't die tomorrow"

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Smedsrud 03-07-2015 08:03:20

"How about I pick you up about 9:30 ish"

**1a** 03-07-2015 08:03:49

"Sounds like a plan. Guess I should get up"  
Smedsrud 03-07-2015 08:05:14  
"Me too. I didn't get to bed until 2ish 2:30. I'm a douche"

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**1a** 03-07-2015 22:30:26  
"You're in a smeds funk"  
Smedsrud 03-07-2015 22:32:16  
"Sort of... need some exercise... back rub and some sleep. I'm happy though. Just cluttered... does that make sense"  
**1a** 03-07-2015 22:32:42  
"Yeah its how I feel"  
Smedsrud 03-07-2015 22:33:39  
"I'm sure you do. Can I help you with anything?"  
**1a** 03-07-2015 22:37:04  
"I wish, but I don't really know how ya can"  
Smedsrud 03-07-2015 22:38:58  
"I can do anything. I am amazing!! Seriously though... you can talk with me anytime. Just don't get in the way of my quality bitches."

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Smedsrud 03-08-2015 00:10:46  
"You GeT IN ok"  
**1a** 03-08-2015 00:12:18  
"Im the master at breaking in through windows"  
**1a** 03-08-2015 00:12:48  
"I don't know where the fuck my keys went. So that sucks"  
Smedsrud 03-08-2015 00:13:12  
"Can I help"  
**1a** 03-08-2015 00:13:34  
"Nah man I got in"  
Smedsrud 03-08-2015 00:14:00  
"You sure?"  
Smedsrud 03-08-2015 00:14:35  
"I'm still close"

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**1a** 03-08-2015 00:18:26  
"Sorry for talking about my issues so much"  
Smedsrud 03-08-2015 00:18:47  
"Something seemed different tonight. Like you had something else too share but didn't of..."  
**1a** 03-08-2015 00:24:12  
"Honestly, I didn't want to go home. Wish I had a car so I could just drive and drive and drive."

Smedsrud 03-08-2015 00:25:24

"We could have driven around or gone somewhere else. Happily"

Smedsrud 03-08-2015 00:27:03

"I can come get you anytime. You can come out to the house and just chill by the river or talk or whatever. I like having you around."

1a 03-08-2015 00:29:22

"Really?"

Smedsrud 03-08-2015 00:30:04

"For sure. I'd come get you now if that's what you want."

1a 03-08-2015 00:33:11

"It is. But we both have an early morning. Im just cleaning but you're doing crazy boy things. You gotta sleep."

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1a 03-08-2015 12:31:38

"Yard work sucks ballz"

Smedsrud 03-08-2015 12:46:05

"I realize you may not be aware. But that description sends a pretty mixed message."

1a 03-08-2015 12:47:27

"Yard work as in weeds..."

Smedsrud 03-08-2015 12:49:34

"I meant sucks ballz as in hmm"

1a 03-08-2015 12:50:46

"Ohhhh.. well no. Not mah style. But no more Christmas lights!"

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Smedsrud 03-10-2015 21:03:17

"There's a really cool trail up to the top of larch. The trail is beautiful but long for an afternoon hike. There is a jeep road that bypasses a big portion of the trail. Sunsets are the best from the top."

1a 03-10-2015 21:03:48

"Whatever you think is best. Im up for anything"

1a 03-10-2015 21:09:54

"Not silver star though. It was pretty, way too rocky."

Smedsrud 03-10-2015 21:47:24

"I'll work on it"

1a 03-10-2015 21:52:16

"We don't have to go if you dont want to. You're a busy busy man"

Smedsrud 03-10-2015 21:58:05

"I want to... I don't want to hurt you. I don't know how much to too much. There are a couple of really nice hikes along the creek... no sunset. A great hike to a awesome ridge on larch. Lots of jeep road hikes to peaks and lakes."

1a 03-10-2015 22:00:51

"I know my limits. If worse came to worse I'd tell you we need to turn around. I can handle a lot, literally the only thing im worried about is going down something steep. Unless you helped me out a little. Distance isnt an issue really."

Smedsrud 03-10-2015 22:04:29

"So... creek or peak?"

1a 03-10-2015 22:07:38

"What would you prefer? I think a sunset would be cool, but the creek sounds exciting. Im beyond happy either way."

Individually, and certainly taken together, these texts evidence grooming, the development of an inappropriate, if not sexual relationship with your then-current student, and boundary invasions. Your late night and sexually charged texts themselves are inappropriate and constitute an invasion of teacher-student boundaries, as are/do the numerous late-night calls, even if they do not directly prove you were engaged in a sexual relationship with 1a while she was an Evergreen student.

### 3. Sufficient Cause for Discharge

Based on the results of the investigation, we have determined that sufficient cause exists to terminate your employment as a high school teacher with the District. We will be recommending that Superintendent Deeder issue a Notice of Probable Cause to terminate and not renew your contract, pursuant to RCW 28A.405.300 and .210. In summary, the causes for discharge and nonrenewal include:

#### a. **Providing Alcohol to an Underage Individual**

Based on the investigation, the preponderance of the evidence established that you supplied 1a with alcohol when she was underage. Though you and she denied it to Mr. Key, 1a told her dorm mates at the time that you did this. Her denials during the investigation are not credible.

#### b. **Boundary Invasion: Grooming and Inappropriate Relationship with Student**

Based on the investigation, the preponderance of the evidence established that you initiated a sexual relationship with 1a and invaded appropriate teacher-student boundaries while she was still an Evergreen student. The text messages above confirm what many of the witnesses suspected, that you had groomed 1a to consent to a sexual relationship, and may even have consummated such a relationship while 1a was a minor and a student at Evergreen.

#### c. **Insubordination: Talking to Witnesses and Lying During the Investigation**

During the investigation, you admitted you violated Mr. Brosius' directive to avoid contact with any witnesses and not to discuss this investigation with others. You admitted to having conversations with and texting 1a after Mr. Brosius had directed you not to. You also lied to investigators.



*This letter is intended to provide you with a summary of the evidence against you and the basis for our recommendation, in order that you may respond to charges in the Loudermill meeting scheduled for April 19. The District reserves the right to adduce all evidence obtained in the investigation and since the investigation, in support of this recommendation in any proceeding concerning your employment, whether or not specifically set forth herein.*