NEBRASKA DEPARTMENT OF EDUCATION

CONTESTED CASE DOCKET SHEET

CASE # 11-06

NAME Commissioner v. Kavan

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NEBRASKA DEPARTMENT
OF EDUCATION

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P.O. Box 94933 Lincoln, NE 68509-4933, Petitioner, vs. Dale Kavan 106 Hoffman Avenue Doniphan, NE 68832, Respondent.	))))))))))))))))))	N.P.P.C. Case No. 11-07 Case No. 10026 Findings Of Fact, Conclusions Of Law And Recommendation Of the Commission

I. STATEMENT OF THE CASE

This case commenced with the filing of a Petition on April 13, 2011, by Roger D. Breed, Commissioner of Education, Department of Education, State of Nebraska, hereinafter referred to as "Petitioner." The Petition was filed against Dale Kavan, hereinafter referred to as "Respondent." The Petition alleges certain acts of conduct by the Respondent in violation of Neb. Rev. Stat. Section 79-866(2) (Reissue 2003); Title 92, Nebraska Administrative Code, Chapter 27, Section 004.03C (effective date: November 12, 2003); Section 004.03D (same effective date; Section 004.03G (same effective date); Section 004.04E (same effective date); and Section 005.10C (same effective date).

On April 19, 2011, the Petition, Notice of Right to Submit an Answer, and a copy of Title 95, Nebraska Administrative Code, Chapter 1 (effective date: October 30, 1993), was served upon Respondent by certified mail, return receipt requested.

On May 5, 2011, the Respondent, through his attorney, filed an Answer to the Petition admitting items 1 through 5 of the Petition, and admitting part of item 6, "that the Nebraska statute and the Nebraska Administrative Code states as set forth in paragraph 6 of the Petitioner's Petition." Respondent denies that he violated all other sections as set forth in paragraph 6.

Further, on or about May 6, 2011, Kathi Vontz, Clerk of the Commission, filed a Notice of Hearing which was sent to the Respondent and the Respondent's attorney, postage prepaid, and delivered by hand to the Petitioner's general counsel. The Notice of Hearing advised that a public hearing on the Petition would be held on June 15, 2011, commencing at approximately 11:30 a.m. or immediately following the preceding hearing, in the State Board Hearing Room, 6th Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The Notice further advised that the hearing would be held before a designated hearing committee of the Commission, with Samuel Van Pelt serving as legal counsel to advise the Chair in the performance of his duties.

The Petition and Answer, came on for hearing at the above time and place before a Hearing Panel of the Commission consisting of Commission Members: Susan J. Anglemyer, Robert Beck, Sarah Brown, Susan Johnson, Raymond Keller, Jodi Kupper, Brian Maher, Cindy Serfass, Karen Shelton, Lana Sides, Jane Stavem and Lynn Strack. Commissioner Beck served as Chairperson. The proceedings were reported by Wendy Cutting of General Reporting Services, Lincoln, Nebraska. The Petitioner appeared by Brian L. Halstead, General Counsel. The Respondent appeared with his attorney, Rick G. Wade. Exhibits and testimony were received in evidence and the Petitioner's General Counsel and the Respondent's attorney made their closing arguments.

Thereupon, the Commission adjourned and deliberated based on the record before it, and makes the following Findings of Fact, Conclusions of Law, and Recommendation to the State Board of Education.

II. FINDINGS OF FACT

1. The Petitioner, Roger D. Breed, is the Commissioner of Education for the State of Nebraska; Respondent holds a public Nebraska standard teaching certificate, number 2008003579, endorsed in Coaching 7-12 and Physical Education K-12, with an expiration date of November 16, 2013.

2. The Respondent was employed as a teacher and coach by the Doniphan-Trumbull Public schools until his resignation was accepted by the Doniphan-Trumbull School Board on May 20, 2010.

3. On January 25, 2011, the Respondent was found guilty by the Hall County District Court of three counts of Third-Degree Assault, all Class I Misdemeanors, and on March 22, 2011, was sentenced to probation for a period of two years.

III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this case and all proceedings have been in accordance with applicable Constitutional, Statutory, and Regulatory Requirements.

2. The Petitioner has proven by a preponderance of the evidence that the Respondent committed an immoral act and an act of moral turpitude in violation of Neb. Rev. Stat. Section

79-866(2) (Reissue 2003); and Title 92, Nebraska Administrative Code, Chapter 27, Section 004.03C (effective date: November 12, 2003) which states, "the educator: Shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety"; Section 004.03D (same effective date) which states, "the educator: Shall conduct professional educational activities in accordance with sound educational practices that are in the best interest of the student"; Section 004.03G (same effective date) which states, "the educator: Shall not discipline students using corporal punishment"; Section 004.04E (same effective date) which states, "the educator: Shall not commit any act of moral turpitude, or any felony under the laws of the United States or any state or territory, and shall not have a misdemeanor conviction involving abuse, neglect, or sexual misconduct as defined in Sections 003.12 through 003.14 of 92 NAC 21"; and Section 005.10C (same effective date) which states: "each educator…shall: Appropriately control his or her emotions."

IV. RECOMMENDATION

Therefore, the Commission respectfully recommends to the State Board of Education that the Respondent's public Nebraska standard teaching certificate, number 2008003579, endorsed in Coaching 7-12 and Physical Education K-12, with an expiration date of November 16, 2013, shall be suspended for a period of two years from and after March 22, 2011, or until such time as the Respondent shall have satisfactorily completed the terms and conditions of the probation imposed by the District Court of Hall County Nebraska in Case No. CR 10-368.

Dated this 8th day of July, 2011.

Robert Beck

Robert Beck, Chairperson
Hearing Committee
Nebraska Professional Practices Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, and Recommendation for Case No. 11-07, was served upon Respondent, Dale Kavan, by certified U.S. Mail postage prepaid, and Respondent's attorney, Rick G. Wade by U.S. Mail postage prepaid, and hand delivered to Brian Halstead, attorney for the Petitioner, on this 8th day of July, 2011, at the following addresses.

Dale Kavan
Respondent
106 Hoffmann Avenue
Doniphan, NE 68832

Brian L. Halstead
Attorney for Petitioner
301 Centennial Mall South
Lincoln, NE 68509

Rick G. Wade
Attorney for Respondent
605 South 14th Street, Suite 220
Lincoln, NE 68508

Kathi Vontz
Clerk of the Commission

ORIGINAL

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South P.O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Dale Kavan 106 Hoffman Avenue Doniphan, NE 68832 Respondent.	Case No. 10026 PPC Case No. 11-07 TRANSCRIPT VOLUME I of I (Pages 1 through 93) EXHIBITS 1-9

Nebraska State Office Building
301 Centennial Mall South
Department of Education Board Room
Sixth Floor
Lincoln, NE

Convened, pursuant to notice, at 12:30 p.m., on June 15, 2011,

BEFORE:

ROBERT BECK, Hearing Officer.

COMMISSION MEMBERS PRESENT:

BRIAN MAHER, Chairperson; SUSAN ANGLEMEYER; SARAH BROWN; SUSAN JOHNSON; RAYMOND KELLER; JODI KUPPER; CINDY SERFASS; KAREN SHELTON; LANA SIDES; JANE STAVEM; and LYNN STRACK.

OTHERS PRESENT:

KATHI VONTZ, Clerk of the Commission

1

2 A P P E A R A N C E S

3 For the Commissioner: Brian L. Halstead, #18077
Assistant Commissioner/
4 General Counsel
Department of Education
5 301 Centennial Mall South
Sixth Floor
6 Lincoln, NE 68509

7 For the Respondent: Rick G. Wade, #17820
Attorney at Law
8 605 South 14th Street
Suite 220
9 Lincoln, NE 68508

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I N D E X

WITNESSES:	Direct	Cross	Redirect	Recross
FOR THE RESPONDENT:				
Dale Kavan	16	42	63	--
Brent Rainforth	64	69	70	--
Kevin Krueger	71	--	--	--

- - -

EXHIBITS:	Marked	Offered	Ruled On	Found
1 Pleadings (14 pages)	6	7	7	Appendix
2 Title 92, Nebraska Administrative Code, Chapter 27 (16 pages)	6	7	7	Appendix
3 Title 95, Nebraska Administrative Code, Chapter 1 (20 pages)	6	7	7	Appendix
4 Title 92, Nebraska Administrative Code, Chapter 28 (23 pages)	6	13	13	Appendix
5 Title 92, Nebraska Administrative Code, Chapter 29 (12 pages)	6	13	13	Appendix
6 Title 92, Nebraska Administrative Code, Chapter 21 (37 pages)	6	13	13	Appendix
7 Report of Investigation (29 pages)	6	13	13	Appendix
8 Journal Entry in Case No. CR10-368 (3 pages)	6	13	13	Appendix
9 Letters of Support (50 pages)	14	15	15	Appendix

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Appearances	2
Reporter's Certificate	5
Opening Statement by Mr. Halstead	7
Opening Statement by Mr. Wade	9
Closing Argument by Mr. Halstead	83
Closing Argument by Mr. Wade	86
Rebuttal Closing by Mr. Halstead	89
Motion	90
Decision	93

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REPORTER'S CERTIFICATE:

State of Nebraska)
) ss.
County of Lancaster)

I, WENDY C. CUTTING, reporter for GENERAL REPORTING SERVICE, and a Notary Public duly commissioned, qualified and acting under a general notarial commission within and for the State of Nebraska, certify that I reported the proceedings in this matter; that the witnesses in this proceeding personally appeared before me and were sworn by me to testify the truth, the whole truth, and nothing but the truth; that the transcript of testimony is a true and accurate and complete extension of the recording made of those proceedings; that the transcript consists of:

Volume I, pages 1 through 93, and Exhibits 1 through 9; and further that the disposition of the exhibits is referenced in the index hereto.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Lincoln, Nebraska, this 28th day of June, 2011.

GENERAL NOTARY - State of Nebraska
WENDY C. CUTTING
My Comm. Exp. Nov. 10, 2014

Wendy C. Cutting
Notary Public

- - -

1 PROCEEDINGS:

2 (Exhibits 1 through 8 were marked for

3 identification.)

4 THE HEARING OFFICER: Ladies and gentlemen, I am

5 Robert Beck, chairperson of this hearing panel of the

6 Nebraska Professional Practices Commission. I convene this

7 hearing at 12:30 p.m. for the purpose of receiving evidence

8 on a petition filed by Roger D. Breed, Commissioner of

9 Education, Petitioner, against Dale Kavan, Case No.

10 11-07.

11 The other members of the hearing committee are

12 Susan Anglemeyer, Sarah Brown, Susan Johnson, Raymond

13 Keller, Jodi Kupper, Brian Maher, Karen Shelton, Lana Sides,

14 Jane Stavem, Lynn Strack, and Cindy Serfass.

15 The Commission's attorney, Samuel Van Pelt, is

16 absent.

17 The court reporter is Wendy Cutting. Her purpose

18 is to record the testimony of the witnesses and mark the

19 exhibits.

20 The Clerk of the Commission is Kathi Vontz. Her

21 purpose is administrative.

22 This case arises from a request by the State Board

23 of Education that the Commission hear this matter pursuant

24 to Sections 79-859 through 79-871 of the Nebraska statutes

25 and the rules and regulations thereunder.

At this time I ask the attorneys to enter their appearance.

MR. HALSTEAD: Brian Halstead, 301 Centennial Mall South, Sixth Floor, Lincoln, Nebraska 68509, on behalf of the Commissioner of Education.

MR. WADE: Rick Wade, 605 South 14th, Lincoln, Nebraska 68506, with McGuire & Norby for the respondent, Mr. Kavan.

THE HEARING OFFICER: At this time, if there are no objections, I will enter into the record the pleadings which are marked as Exhibit 1; the standards of ethics and competency, which is 92 Nebraska Administrative Code, Chapter 27, and is marked as Exhibit 2; and the Regulations Concerning Teacher and Administrator Professional Practices Hearings, which is 95 Nebraska Administrative Code, Chapter 1, and is marked as Exhibit 3. Are there any objections?

MR. HALSTEAD: I have no objections.

MR. WADE: I have none, Your Honor.

THE HEARING OFFICER: Exhibits 1, 2, 3 are received.

(Exhibits 1 through 3 were received in evidence. See Index.)

Do you have an opening statement?

MR. HALSTEAD: Ladies and gentlemen, very briefly. In this case, the allegations have all been admitted except

1 for Paragraph 6, which is what ethical standards have been
2 violated. The respondent's admitted that, in fact, he has
3 been found guilty of three counts of third degree assault,
4 and the evidence, you're going to find is, in fact, he's
5 been sentenced to probation for two years for his third
6 degree assaults. Those assaults all involve students at the
7 Doniphan-Trumbull Public Schools where he was once employed.
8 The issues that are really before this Commission
9 this afternoon are, number one, what standards did he
10 violate by his conduct. And those you can find in Paragraph
11 6 of the petition. And then, what sanction should be
12 imposed for his violations?
13 I'd ask the Commission to listen carefully to what
14 is presented. Mr. Wade and I have, I think, condensed this
15 down to the fact that there will be just three witnesses,
16 the respondent and a couple witnesses for the respondent.
17 We are going to provide you with the report of
18 investigation. It gives some of the details. His client is
19 more than willing to answer questions about each of the
20 incidents that are part of his criminal convictions. And
21 from that, I think you're going to be able to make a
22 decision on this. Obviously, at the end of this hearing,
23 I'm going to tell you I'm going to ask you to recommend that
24 his certificate be revoked for a short period of time
25 because of his misconduct and that he satisfy all terms and

1 conditions of his probation before he ever applies for
2 reinstatement again. Thank you.
3 THE HEARING OFFICER: Mr. Wade, did you want to
4 make an opening statement?
5 MR. WADE: Thank you, Your Honor. Simply stated,
6 I appreciate your -- obviously, your presence and my ability
7 to present evidence on behalf of Mr. Kavan. I find him a
8 very likeable and pleasant young man. I represent this
9 young man who has had an immense amount of good influence on
10 many students, a school district, and a community. He's
11 also a young man, a young teacher. He taught athletics in
12 the form of wrestling and weight lifting and became well
13 liked by his students. In fact, he became more of a
14 friend -- not more of, but a friend to these students. And
15 in athletics, oftentimes, especially wrestling, you have
16 physical contact. I've been involved with this matter since
17 the very beginning, obviously, as his attorney, from the
18 point of the matter before the school board. I had
19 monitored it through the criminal matter, and I have the
20 privilege to represent him here today. I've kept in touch
21 with his developments and the people who have continually
22 supported him and will provide letters of support that have
23 been from individuals who have supported him from the very
24 beginning, from when the board was going to hear this matter
25 until today. These letters came to -- have come to me

1 because of my interest in and my representation of him and
2 the knowledge at the board, when we actually appeared before
3 the board, my statement that they need to remain involved
4 because there may be and there was, in fact it was pending
5 very shortly thereafter, a matter before this particular
6 Commission.
7 Mr. Kavan will testify that he became close to the
8 students in activities that were basically a part of what
9 school kids do. He was very instrumental in putting
10 together a weight room, and he was really an individual who
11 promoted the activities -- physical activities within the
12 school, and you'll hear evidence that he's very successful
13 reaching these kids, relating to these kids, encouraging
14 these kids. You will basically hear the testimony of
15 individuals, including Mr. Kavan, that states that they
16 engaged in activities that were not unlike what students do
17 with one another. They wrestle, they play, they goof off.
18 Unfortunately, in this particular case, as Mr. Kavan now
19 knows and you will hear, that wasn't and isn't an
20 appropriate role for a teacher to play. And as a result of
21 that, sometimes goofing off, whether it is intentional or
22 reckless, sometimes people get hurt. And you will hear Mr.
23 Kavan testify that these charges are as a result of his
24 reckless conduct and of conduct that did, in fact, cause
25 some harm. And under the statute, it could be knowingly,

1 intentionally, or reckless. And Mr. Kavan was, you'll hear
2 testimony, there was no intent. There was no knowing desire
3 to harm a student. It was goofing off, and unfortunately,
4 accidents happen, and it was reckless and he's admitted
5 that. And he appeared, obviously, before the judge,
6 indicated so to the judge, received probation, and
7 coincidentally, you'll see that he did not receive any
8 conditions on probation. He just needs to satisfy it. And
9 I say, didn't receive any conditions. There's not anger
10 control conditions. There's not satisfying of certain
11 conditions that were mandatory before he could complete his
12 probationary period. Basically, it's a very simple
13 probationary order.
14 There will be also testimony of individuals and I
15 will ask you to read these letters carefully, because there
16 are 50 letters here that come from all walks of life, I'll
17 say, people who knew him in the community, who watched him
18 help develop the community activities, the sporting
19 activities, and the school spirit. And then you will hear
20 from members of the board of that particular school district
21 who have noticed -- did notice the importance of his
22 involvement and have had students before him as well, and
23 felt very comfortable with him. Never felt he threatened
24 them in any way and would cause them harm intentionally.
25 That's the testimony that you will hear. In many

1 ways, I think this needs to be looked at and I will invite
2 some input maybe from Mr. Halstead as to how this matter
3 would be handled if it were corporal punishment. And
4 corporal punishment, obviously, is not that much different
5 except corporal punishment there would be intent. Here
6 there was no intent. It was reckless conduct. And many
7 times, I think the record would show and I think Mr.
8 Halstead's probably much more familiar with that than I am,
9 but for corporal punishment, which obviously would be an
10 intentional act or a knowing act, not a reckless act,
11 there's been admonishments issued. And Mr. Kavan has been
12 out of teaching for over a year now. He's been obviously
13 very diligent in doing what he needs to do. He's -- you'll
14 hear testimony as to his activities and also, then, as I
15 say, I think, at this point, he has suffered and he will
16 accept responsibility and acknowledges his responsibility.
17 He has been out of the profession for a while, a long while
18 in his mind, and the community believes a long while in his
19 mind -- in their mind. But as a part of this, I believe
20 that should be taken into consideration. And I believe an
21 admonishment would be sufficient, because it is not unlike
22 many admonishments, I believe, that have been issued for
23 corporal punishment cases. Thank you.
24 THE HEARING OFFICER: Any other evidence you want
25 to --

1 MR. HALSTEAD: I do have several exhibits. I
2 would offer at this time, Exhibit No. 4, which is Title 92,
3 Nebraska Administrative Code, Chapter 28, the rules and
4 regulations regarding complaints and investigations by the
5 Department of Education.
6 Exhibit No. 5, which is Title 92, Nebraska
7 Administrative Code, Chapter 29, the rules and regulations
8 regarding State Board hearings.
9 Exhibit No. 6, which is Title 92, Nebraska
10 Administrative Code, Chapter 21, the rules and regulations
11 regarding the issuance of certificates.
12 Exhibit No. 7, which is a redacted version of the
13 Report of Investigation in the matter involving the
14 respondent.
15 And Exhibit No. 8, which is the Court Order from
16 the Hall County District Court and the Probation Order for
17 the respondent. We would offer Exhibits 4, 5, 6, 7, and 8
18 at this time, Your Honor.
19 MR. WADE: Your Honor, I would have no objection
20 on behalf of Mr. Kavan.
21 THE HEARING OFFICER: If there are no objections,
22 Exhibits 4, 5, 6, 7, and 8 are received.
23 (Exhibits 4 through 8 were received in evidence.
24 See Index.)
25 MR. HALSTEAD: I have copies of the report and the

1 court order for the Commission members. May I distribute
2 them?
3 MR. HALSTEAD: With that, Mr. Beck, and the fact
4 that Mr. Wade is going to call his client at some point in
5 time, I have no further evidence at this point.
6 THE HEARING OFFICER: Mr. Wade, did you have any
7 other evidence that we would -- would be helpful for us to
8 read before we take a break to look through this?
9 MR. WADE: Yes, thank you. May I approach the
10 court reporter?
11 THE HEARING OFFICER: Yes.
12 (Exhibit 9 was marked for identification.)
13 MR. WADE: May I approach?
14 THE HEARING OFFICER: Yes, please.
15 At this time, we're going to take a break to look
16 through the materials.
17 COMMISSIONER MAHER: I would request of the
18 hearing officer, too, that we limit that break to five
19 minutes, knowing that we don't have full time to get through
20 all of this, but recognizing we need to take some time to go
21 through this information, because it may engender questions,
22 but also recognizing that we have more time in a
23 sure-to-have executive session where we can do diligence to
24 the information at that point, as well.
25 THE HEARING OFFICER: We'll take a five-minute

1 break to look through the materials.
2 (Off the record.)
3 MR. WADE: Your Honor, if I may, I don't mean to
4 interrupt, but just to make sure, I'm not sure that I
5 offered Exhibit 9, so I'd like to do that, have that formal
6 introduction.
7 MR. HALSTEAD: Your Honor, I have no objection to
8 Exhibit No. 9 if it is being offered as evidence of the
9 respondent's character in the community.
10 Is that your -- the purpose of the offer?
11 MR. WADE: Character in the community and as an
12 individual in whatever capacity.
13 MR. HALSTEAD: For any other purpose, I would have
14 objected, because it's hearsay, so in that regard, if it's
15 just being considered for his character, I have no
16 objections, in the community and as an individual, yes.
17 MR. WADE: Yeah, and his accomplishments there,
18 but, I mean, nothing about the facts.
19 MR. HALSTEAD: Right.
20 THE HEARING OFFICER: Okay, Exhibit 9 will be
21 received.
22 (Exhibit 9 was received in evidence. See Index.)
23 I believe our five minutes are up.
24 Okay, Brian, Mr. Halstead, did you have any other
25 evidence?

1 MR. HALSTEAD: No, I believe the rest of the
2 evidence will come in through Mr. Wade's witnesses, so I
3 have nothing else to offer to the Commission at this time.
4 THE HEARING OFFICER: Mr. Wade, did you have any
5 other evidence or witnesses?
6 MR. WADE: Yes, I do. I would call Mr. Kavan to
7 the witness stand.
8 THE HEARING OFFICER: Okay, he'll need to take the
9 oath.
10 THE REPORTER: Will you raise your right hand,
11 please? Do you solemnly swear or affirm the testimony
12 you're about to give will be the truth, the whole truth, and
13 nothing but the truth?
14 MR. KAVAN: I do.
15 DALE KAVAN
16 Called as a witness on his own behalf, having been
17 first duly sworn, testified as follows:
18 DIRECT EXAMINATION
19 BY MR. WADE:
20 Q Will you please state your full name and spell
21 your last name for the court reporter?
22 A Dale Patrick Kavan, K-a-v-a-n.
23 Q What is your address, Mr. Kavan?
24 A 106 Hoffman Avenue, Doniphan, Nebraska 68832.
25 Q And do you live there by yourself?

1 A No, with my wife and daughter, Casey Kavan and
2 Tatum Kavan.
3 Q And where do you work at this time, Mr. Kavan?
4 A Jerry's Sheet Metal in Grand Island, Nebraska.
5 Q How long have you worked there?
6 A Since July of 2010.
7 Q Were you employed by Doniphan-Trumbull Public
8 Schools?
9 A Yes.
10 Q And when were you employed by -- give me the
11 background, the periods of time you were employed there.
12 A I first started coaching at Doniphan-Trumbull
13 Public Schools in November of 2003. I was an assistant
14 wrestling coach. I continued to be an assistant wrestling
15 coach through 2006. In 2007, I received a position at
16 Scottsbluff where I was a student teacher, but was paid and
17 received an elementary PE position and head wrestling. I
18 then moved back to Doniphan in 2008 and was there until
19 2010, when I resigned.
20 Q You say you moved back. You had a position
21 elsewhere and then you were offered a position at Doniphan-
22 Trumbull Public Schools again, is that correct?
23 A That's correct.
24 Q And what was that position?
25 A That was a 7-12 PE teacher, and then head

1 wrestling and assistant coach for multiple sports.
2 Q And that is the position that you last held as far
3 as those were the categories that you filled as a teacher?
4 A Correct.
5 Q And as well as the actual coaching and classroom
6 activities, did you have other matters that you also dealt
7 with or worked with or handled while you were at the school
8 or in the community?
9 A Yes. I also ran the little kids wrestling
10 program. Outside of sports, we also had morning
11 weightlifting class all school year long that I did for the
12 students and they received credit. I did not receive any
13 extra pay for this. And then, anything with -- involving
14 the community that I could help out with.
15 Q Now, you said that you had open wrestling. Now,
16 the gym was open or the wrestling --
17 A The weight- --
18 Q Excuse me. The weight room was open and you were
19 there without charge?
20 A Yes.
21 Q Was that at the school?
22 A Yes.
23 Q And what kinds of activities -- did you oversee
24 the activities of the students that would participate in the
25 weight room?

1 A Yes, it was basically a weightlifting class and
2 they actually received credit for it.
3 Q So then, you had to help them accomplish certain
4 goals in that weightlifting class, although it was before
5 school, after school, at times that weren't school related.
6 A Yes.
7 Q And what are the ages of the students with whom
8 you worked?
9 A I worked with kids from preschool age all the way
10 up to seniors in high school. Are you talking about just in
11 weights or --
12 Q No, that's fine. I'm talking about everything.
13 So, those students would come, then -- was there a wrestling
14 club that you were also involved with?
15 A Yes, that was on weeknights after school.
16 Normally started at 6:00 at night.
17 Q And the wrestling club, what individuals or who
18 made up that particular club, members of the club?
19 A This was any kids in the Doniphan-Trumbull area,
20 not just Doniphan, but we had kids from Giltner and Hastings
21 that also came in that wanted to wrestle, anywhere from ages
22 three to 15, and then we also had high school kids that
23 would come in and help.
24 Q Did you meet parents as well as students --
25 A Yes.

1 Q -- and young people during that particular period
2 of time that you were either teaching or working with the
3 wrestling club
4 A Yes, parents were always encouraged to come and
5 help and watch practice. I met every parent of every kid
6 that was there during sign-ups.
7 Q When you came to Doniphan-Trumbull after leaving
8 for a year, was there a weight room available for the
9 students?
10 A Yes, there was. When I took over the weight room,
11 they had had a teacher in the past who was also their shop
12 teacher who did a wonderful job with their weightlifting
13 class, but -- he had built most of the equipment in the
14 weight room, and I, of course, was not able to keep it up,
15 so at that time, I worked with the booster club and school
16 board to redo our weight room completely with all new
17 weights from another school that we bought them from, Grand
18 Island Northwest, and rubber matting. And it was about a
19 $20,000 project.
20 Q Okay, that project, did that also include your
21 personal work to actually get it accomplished?
22 A No, I volunteered all my time.
23 Q Okay, but you did volunteer work to put together
24 the weight room?
25 A Yeah. I painted the weight room during the

1 summer, got students and board members to help me, and
2 booster club members to go help me get the equipment from
3 Northwest on our own time. Everything was done on our own
4 time.
5 Q And the activities as -- okay, again, your first
6 year coming back, your activities at Doniphan-Trumbull
7 Public Schools as a teacher, did you get good evaluations?
8 A Yes, very good evaluations from my principal that
9 year.
10 Q Did you believe that your evaluations reflected
11 your ability to relate well with students?
12 A Yes.
13 Q Let's talk a little bit about the layout of the
14 weight room. How big is the weight room or was the weight
15 room as you recall it when you were there?
16 A It's a fairly large weight room. It is in the
17 basement of Doniphan-Trumbull. I would say approximately 40
18 to 50 feet in length and probably 15 to 20 foot wide.
19 Q And what kinds of weightlifting devices or
20 equipment was available?
21 A At that time, it was five benches, five squat
22 racks, five platforms, two inclines, a decline, and then
23 machines and dumbbells and then there was also treadmills
24 and ellipticals.
25 Q And you helped students learn how to use those

1 particular pieces of equipment as well as weightlifting
2 mechanisms?
3 A Yes. And, as well as the community. We opened
4 the weight room up to the community with a key fob system
5 and so the community members were allowed to come down and
6 there was various community members that I would help to
7 learn how to use all the equipment.
8 Q And as a result of that, did you have -- I think
9 you've already indicated that you've had -- you had all age
10 groups that would come to the weight room, is that correct?
11 A Weight room, but mainly wrestling was where I saw
12 the younger kids.
13 Q Okay, saw the younger kids in wrestling. Is there
14 a specific age group that you recall that came to the
15 weightlifting group?
16 A Normally, the weight room was always junior high
17 and older.
18 Q And older?
19 A Yeah, which would be junior high to seniors.
20 Q Seniors, okay. And were some of those same
21 students or same individuals who came to the weight room
22 individuals that you had in wrestling?
23 A Yes.
24 Q Did that include seniors as well as --
25 A Yes, junior high --

1 Q High school and junior high?
2 A Yes.
3 Q Did you get to know some of the seniors -- not
4 seniors, some of the high school kids relatively well?
5 A Yes, very well. I spent multiple house with all
6 these kids on a daily basis.
7 Q And what kinds of things do you do as a wrestling
8 coach? Do you show them holds? Do you show them
9 take-downs? What -- give me an idea, and perhaps the
10 Commission knows more about this than I do, but tell me a
11 little bit about that.
12 A Yes. As a wrestling coach, it's a very hands-on
13 coaching position. Of course, with wrestling, you are
14 hands-on with the other individual, and so, of course, you
15 have to show all the moves with either normally a student,
16 because there was no one else to help. And so, you are very
17 hands-on with the students and athletes.
18 Q As a part of your activities, I think you've
19 indicated that you got to know a lot of the students well,
20 is that correct?
21 A Correct.
22 Q And they're -- many of them are seniors, 18 -- 17,
23 18 years old, is that correct?
24 A Yes.
25 Q Would they goof off with you as well as the other

1 individuals that would be either in the weight room or in
2 wrestling?
3 A Yes. All of my students and I goofed off
4 together. It was my way of getting the students to open up
5 to me and I was able to relate being a younger guy myself.
6 And it was just something that occurred on a daily basis.
7 Q Did you actually wrestle occasionally with some of
8 these individuals?
9 A Yes.
10 Q And you understand that we're here because of a
11 petition that was filed regarding conduct occurred, do you
12 not?
13 A Yes.
14 Q And there was an investigation done of that. Do
15 you understand that as well?
16 A Yeah.
17 Q Would you please -- and I'll just ask you to make
18 sure you say yes rather than yeah just because that makes
19 sure that the court reporter gets the answer correctly.
20 A Yes.
21 Q There is an allegation of an incident that took
22 place in 2008 regarding -- at a football senior breakfast.
23 Do you recall that incident?
24 A Yes.
25 Q Would you tell the Commission members what you

1 recall happened?
2 A This was a student who I goofed around with more
3 than probably most of the others. It was just his and my
4 way of relating very well. He wouldn't open up to very many
5 teachers, but him and I got along rather well, as well as
6 him and the football coach. This was a breakfast where we
7 watched film from the game the day before. So, it was early
8 morning. He came in and the student started goofing around
9 with me like we normally would. He flipped my hat off. Not
10 thinking anything of it, I grabbed him, put him in a WWE
11 move we call it, a sleeper hold, and at this time, he fell
12 to the ground and I thought he was messing with me. And
13 this is when he later said that he passed out. And I never
14 thought that this had occurred, never heard anything more
15 about it that day. If he did, it was very, very brief.
16 Q All right, now, you indicated that it was a
17 certain kind of hold. Is that a hold that other students
18 know how to use as well?
19 A Yes, it's something that a lot of the kids do to
20 each other and the coach -- us coaches did just to -- it was
21 just a goof-around-type thing that you see on TV wrestling
22 all the time.
23 Q All right, and did you -- I think your testimony
24 is that you didn't know that this young man might have
25 fallen down and passed out. Would you not have seen that he

1 passed out?

2 A No, his head --he would have been facing away from

3 me at this time.

4 Q Well, did he get up relatively quickly?

5 A Yes. He fell down and got right back up.

6 Q So, he fell down and got right back up?

7 A Yes.

8 Q Okay. So, from that statement, any passing out

9 would have had to have been in seconds?

10 A Yes.

11 Q Is that your recollection?

12 A Yes.

13 Q Did he indicate to you that there was a problem at

14 that time that, you know --

15 A No.

16 Q -- "Coach, you know, that's tough on me." Not a

17 problem?

18 A No, it was immediately a laughing thing, laughing

19 matter. We even -- the other coach asked him about it

20 afterwards and there wasn't ever anything acknowledged at

21 that time.

22 Q So, after -- you weren't upset with him when he

23 did that.

24 A No.

25 Q Were you both laughing about the situation, that

1 you recall?
2 A Yes.
3 Q Now, do you ever recall other wrestling incidents
4 where -- let me ask you, wrestling incidents where you were
5 upset with a student and did something to harm the student
6 or discipline the student or injure the student
7 intentionally?
8 A No, never.
9 Q Was all of the engagement that you had physically
10 with the students a part of either their bantering, playing
11 back and forth, goofing off, or part of the actual activity
12 of wrestling?
13 A Yes.
14 Q Okay. There's another indication or statement
15 that -- or that concerns, I should say, an incident that
16 took place in the weight room. Do you recall an incident
17 that might have taken place in the weight room regarding
18 some sort of incident where two students might have had
19 their heads hit together in some way or another?
20 A Yes.
21 Q And when, approximately, was that, if you recall?
22 A That would have been on -- it would have been
23 April 2010, I believe April 10th or 11th. I'm not sure on
24 the date.
25 Q All right, during that time or that incident, tell

1 me what happened, as you recall it.
2 A This was weightlifting class. One of the students
3 with the initials T.R., him and I were actually wrestling
4 around in a joking manner again. Once that incident got
5 done, a couple of the other kids were giving me a hard time.
6 Not thinking anything of it, we were laughing around. They
7 were doing a lift right next to each other. I walked over
8 and pushed their heads together. They collided harder than
9 I ever intended for it to happen. One of them caught his
10 eye right above where there is no bone, where there is no
11 meat, just bone, received a black eye. I did not know this
12 right away. I went on through the class. The kids
13 continued to lift afterwards. I talked to them both
14 afterwards. I got the one a bag of ice after he showed me
15 that he did have a knot on his eye. At that time, I talked
16 to them both and asked if there was any problems, if we
17 needed to do anything about this, that I was sorry. And
18 nothing was done at that time.
19 Q Okay, now whenever you describe pushing their
20 heads together, it's not that you -- or I mean, tell me, was
21 it that you grabbed each of their heads and deliberately
22 smacked them together?
23 A No, I walked up behind them and just gave them a
24 push.
25 Q So, you gave them a push, but their heads happened

1 to hit together, is that what you're statement is?
2 A Yeah. I pushed them together, not planning to
3 hurt them, just, I don't know. Every time I picture it, is
4 as if you put two little kids' heads together just to goof
5 around to boink heads. It wasn't ever intentionally to hurt
6 them.
7 Q To touch heads, but they hit harder than what you
8 thought.
9 A Yes, exactly.
10 Q And then, did you see that the student was lying
11 passed out or in a position where he couldn't get up or
12 anything like that?
13 A No, the one student who moved around and fell
14 down, was laughing the whole time he was doing it. And this
15 incident is on video. You can watch the kid. He walks
16 around and finds the mats to fall on, so it wasn't as if he
17 was hurt at that time that he let me know he was just
18 laughing and having a good time.
19 Q And again, it wasn't your intent to harm him at
20 all.
21 A Never intention to harm.
22 Q Did he get up and fill out the documents after
23 that or continue whatever activity he was doing?
24 A Yes. Both students continued to lift and fill out
25 their workout sheets.

1 Q And did you continue to work with them that day as
2 well?
3 A Yes.
4 Q And you did ask them, I think your testimony is,
5 or him and them, if they were okay.
6 A Yes.
7 Q And you got a bag of ice.
8 A Yes.
9 Q And that wasn't several minutes? That was
10 immediately after that incident happened?
11 A No, it was a little whiles after, because at first
12 I didn't know anything had happened, and then, as they were
13 lifting, of course, the swelling began above the one
14 student's eye. Other students started to notice it. That's
15 when I went over and talked to him about it and told him
16 that as soon as class was over we needed to get a bag of
17 ice, because it was almost over at this time. And then
18 that's when we walked upstairs from the weight room to the
19 gym where the ice machine was in the locker room, and I got
20 him a bag of ice.
21 Q Now, those particular incidents happened and
22 they're the basis of some criminal charges that were
23 ultimately filed, is that correct?
24 A Correct.
25 Q And, you know, I think you've indicated that you

1 had a pretty buddy-buddy relationship with a lot of students
2 and you regret that at this time. I could understand.
3 A Yes.
4 Q But the -- were there any other incidents
5 involving students that you recall that come to mind,
6 because over a long period of time, there may be others that
7 you might recall that might be of some importance that you'd
8 like to mention?
9 A There is multiple incidents. This was a daily
10 occurrence with me. But I know that there was another
11 incident that was brought up where I was in the gym after
12 school. One of the students was -- one student was messing
13 around with another student and stole her flip-flop or shoe
14 or whatever it was at that time. And as he was running
15 away, I grabbed him and held him and then I believe I said,
16 "Come get him." And she came over and in a joking manner,
17 everybody laughing, she was punching him in the stomach and
18 then later on, if -- continuing during this incident,
19 another student comes running in and jumps on my back, so it
20 was all a playful matter, no one getting hurt. Not me
21 letting a student beat up another student or anything like
22 that.
23 Q Those punches that you were talking about, were
24 they play punches. Were they --
25 A Yes, very, very light, laughing, both people

1 laughing punches.
2 Q You understand now that that sort of playing and
3 goofing off with students is inappropriate, is that correct?
4 A Yes, correct.
5 Q And when you appeared, you were actually charged
6 and you appeared before Judge Livingston, is that correct?
7 A Correct.
8 Q And you were given an opportunity to make a
9 statement. I think the Journal Entry said that allocution
10 is offered. Is that your statement to the judge?
11 A Yes.
12 Q What did you tell the judge?
13 A I just told the judge that none of these incidents
14 were intentional, that I loved all my students, and I loved
15 working at the school, and that it was a reckless incident
16 and I was very sorry for what I had done.
17 Q But you understand that because of the statutes it
18 says, if it's knowing or intentional or reckless, it should
19 be convicted -- or charged and convicted.
20 A Correct.
21 Q Then you accepted the guilt?
22 A Yeah, I completely accept the fact that what I did
23 was a reckless act and that is why I pleaded guilty to the
24 charges.
25 Q Do you understand now that if you were allowed to

1 teach, that that type of behavior could not continue, and
2 that as the wrestling coach or any kind of coach, you have
3 to be very careful with what kind of physical activity you
4 have, which is a very fine line to walk, isn't that correct?
5 A Yes, very correct.
6 Q But you understand that that's what you would have
7 to do.
8 A Yes.
9 Q Do you think you could do that?
10 A Yes, I know I could do that.
11 Q The order of probation that you got was for -- or
12 is for two years, 24 months, on the date of April 26th,
13 2011, is that correct?
14 A Correct.
15 Q And the conditions, have you followed these
16 conditions?
17 A Yes.
18 Q Have you met with your probation officer?
19 A Yes.
20 Q And you are gainfully employed?
21 A Yes.
22 Q And are you keeping the probation -- I'll ask you
23 to look at this. I'm not sure what exhibit number that is,
24 but the probation order has certain portions that --
25 requirements of you. Have you met those requirements?

1 A I have met every requirement besides defendant
2 shall submit a DNA test, which is, after I talked to my
3 probation officer, is not needed, because this was not a
4 felony.
5 Q And the -- has the probation officer indicated
6 anything more to you that you need to do or how much longer
7 you will have to be involved with specific kinds of things?
8 A My probation officer said that we will meet again
9 in December and then one more time in April and at that
10 time, as long as the restitution is paid, we will look at
11 ending the probation at that time, as long as I have not
12 violated any conditions.
13 Q Mr. Kavan, are you asking that the Board take into
14 consideration that you've already lost a year of teaching
15 and employment with the educational -- basically,
16 educational world?
17 A Yes.
18 Q And you're working now you said at --
19 A Jerry's Sheet Metal.
20 Q And is that something you'd like to get back into
21 is teaching?
22 A Yes, I would love to get back into teaching.
23 Q Are you continuing to help out in any activities
24 in the community?
25 A I have just recently, with the criminal case being

1 over with, I have just recently started to get back out into
2 the community just for the fact of the matter that I didn't
3 want to cause any problems with the individuals that were in
4 this situation. So, I have recently started lifting down at
5 the weight room again. I've been able to go to a couple of
6 baseball games to watch some of those -- my former students
7 now. And at this time, I am still working on helping the
8 school with some more stuff for the weight room.
9 MR. WADE: Can I approach for Exhibit 9?
10 Q (By Mr. Wade) Mr. Kavan, you've had a lot of
11 people following you for progress and your activities and
12 supporting you for a long time, is that correct?
13 A Correct.
14 Q I'm showing you what's been marked Exhibit 9.
15 This is a number -- these are letters from individuals and
16 I'd like to go through them very quickly for you to identify
17 who these individuals are and how you know them or what role
18 they played in either your school or the community. The
19 first letter's from Justin and Amanda Groff.
20 A They are parents of a little three-year-old who is
21 in my wrestling program.
22 Q And I think the letter states about their
23 observations of you, that sort of thing, is that correct?
24 A Correct.
25 Q So, I don't need you to go through the letter, but

1 I just want you to identify it. The next one is from
2 Katherine Schulte, and I'll let you pronounce the names.
3 Perhaps you know it better than I.
4 A Schulte. Katherine Schulte had two students that
5 I taught, Morgan and Andrew. They were high school age
6 students.
7 Q And the next.
8 A Brent Zakovec, a fire chief and neighbor of mine
9 as I was growing up in Morse Bluff.
10 Mary McNally, a parent of one of my high school
11 wrestlers and one of my junior high wrestlers.
12 Jason, Renee, and Jordan Brummund. Jordan
13 Brummund was a female junior high athlete that I worked
14 with.
15 Coach Derrick Adams was one of the assistant
16 football coaches.
17 Jason Quist and Christine Quist are parents who
18 actually home school their kids, but their kids were still
19 involved in little kids wrestling program.
20 Q And this is during the period of time that we're
21 discussing here when this incident took place, as well as
22 before, is that correct?
23 A Yes.
24 Q I want to make sure these are all relevant to this
25 period of time.

1 A Yes.
2 Q And the next letter?
3 A Desiré Ratkovec, a wife of one of my cousins.
4 Q And what basically -- she's known you in what
5 capacity?
6 A She's known me since I was very young and through
7 everything through my entire life. So, she just states what
8 she thought.
9 Q All right, the next letter?
10 A Michael and Robin Remm, they also had high school
11 students.
12 Q During the period of time, again, that we're
13 talking about --
14 A Yes.
15 Q -- that you were teaching and this incident
16 occurred?
17 A Yes. Wendy Fjeldheim, she had a son that I
18 coached in football and taught that was a senior at the
19 time.
20 Jackie Ediger has two boys, one in elementary and
21 one who is in junior high at the time of the incident.
22 Randy and Jodi Sadd had a six-year-old son that I
23 coached in little kids wrestling at the time.
24 The Sinner family, Cameron Sinner was one of my
25 football players and students at the time. He was a

1 sophomore.
2 Lisa King is a parent of a couple students, a
3 junior high student and a younger age student who wrestled
4 for me.
5 Tausha Lee was a senior at the time of the
6 incident and also my statistician for wrestling.
7 Karen R., I'm not sure who this one was for sure.
8 I can't think of a last name that starts with R.
9 The Krueger family, I have taught three of their
10 boys and coached two -- or coached three of their boys and
11 taught two of them. Two of them were in high school at this
12 time.
13 Dr. Jason Lavaley was another assistant football
14 coach.
15 Suzy Rainforth is a parent of one of the -- was
16 Samantha Rainforth who was one of my TAs and she was also a
17 student of mine.
18 Jerry Arnold, who was a bus driver for the time of
19 when I was coaching wrestling and still in college.
20 Mark and Carla Maurer are parents to Ashley
21 Maurer, who was a statistician for wrestling when I was
22 coaching before and then Heath Maurer, who was one of my
23 wrestlers in high school.
24 Lacie Weise was a freshman in college -- or a
25 sophomore in college at this time. She actually was never

1 one of my students, but she dated one of my wrestlers and
2 followed us around to take pictures for us his senior year.
3 Lexi Hoffman was a junior high student of mine.
4 Emily Tully, as it says, was a junior student of
5 mine.
6 D.J. Pfeiffer was a senior at the time.
7 Riley Wiltfong was an eighth grader at the time of
8 this incident.
9 Corbin Henk was a junior at the time of this
10 incident.
11 Taylor Fjeldheim was a senior that I coached and
12 taught.
13 Sam Samuelson was a senior girl that I actually
14 did not have in class, but she was a senior girl at the
15 school.
16 Shawna Williams is actually one of the community
17 members that I worked with in the weight room, her and my
18 wife, worked with her to teach her how to work out.
19 Joe Dinan was one of my freshman wrestlers.
20 Kristin Remm was a student of mine who was one of
21 the rare ones that was in actually no athletics at all that
22 really loved my class.
23 Seth Meadows was a freshman in college at this
24 time.
25 Maury Lorence was a senior.

1 Q Next letter?
2 A Jena Schlatz was a senior at the time, a student.
3 Nick Williams was a college student at this time,
4 but somebody that I had coached in the past.
5 Sam Rainforth was -- again, that was -- I think
6 that one was already in here, but she was my TA. Maybe that
7 was her mom's letter before, but this was a TA of mine and
8 she was a senior at the time.
9 Ashley Maurer is the girl that I mentioned before
10 that was statistician while I was coaching.
11 Heath Maurer was my junior -- one of my sophomore
12 wrestlers at the time.
13 And Blake Williams is one of my junior high
14 students.
15 Todd and Marilyn Williams were parents of that
16 student there and a couple other boys that I coached.
17 Dylan Sullivan was a junior high student.
18 Erica Lienemann was a junior at the time.
19 Jake Wetovik was a college student at the time,
20 freshman.
21 Kipp Pfeiffer was a father to D.J., a senior, and
22 Kenny, a freshman at the time.
23 Michele Henke is the mother of those same
24 students.
25 Deanna Bosselman, the parent of Emily Tully who

1 was the junior class president.
2 Scott Wiltfong who was a parent of a junior high
3 student of mine as well as some younger kids.
4 Q Now, some of these letters are dated earlier,
5 April 16th, 2010, and I've indicated that I've had
6 communication -- have you had communication with these
7 people that they still support you in this matter?
8 A Yes. Everybody that has written a letter still
9 offers me a ton of support today.
10 Q And some of those people are here today, is that
11 correct?
12 A Yes, correct.
13 Q Mr. Kavan, do you think you can get back into a
14 classroom if you were fortunate enough to find a position at
15 this time. It's late in the year, it's the middle of the
16 summer. If you got back into the classroom, do you think
17 you've learned from this experience so as to be able to
18 teach, coach, and participate in all kinds of activities
19 with students in appropriate manner remembering that there
20 are some activities or some things that you just can't goof
21 around with and do with students?
22 A Yes, I believe I can. And the reason I believe
23 this is because this was a different setting for me. I had
24 been around. It's a small community. I got to know
25 everybody very well. When I was teaching in Scottsbluff,

1 and it was a big community. I didn't know the students as
2 well. This would have never happened. I didn't ever spend
3 as much time with the kids there as I do -- did in Doniphan.
4 I was with them all the time. I became very close. I would
5 almost consider them most to be my family, because I spent
6 more time at that school than I did at home with my wife.
7 Q And now you know that you cannot treat them as
8 family members --
9 A Yes.
10 Q -- and goof off and wre- -- you might wrestle, if
11 you had need to show them how to wrestle, but you cannot
12 goof off with them, that might unintentionally, but
13 recklessly, cause them some harm.
14 A Yes, I understand.
15 MR. WADE: I have no further questions.
16 THE HEARING OFFICER: Mr. Halstead, did you have
17 any questions?
18 MR. HALSTEAD: I do.
19 CROSS-EXAMINATION
20 BY MR. HALSTEAD:
21 Q Mr. Kavan, where did you graduate from high
22 school?
23 A North Bend Central.
24 Q North Bend, Nebraska, correct?
25 A Yeah.

1 Q And after you graduated from high school, did you
2 go on to college?
3 A Yes, I went to Hastings College.
4 Q And when did you attend Hastings College?
5 A I would have been there from -- I graduated high
6 school in 2002. I graduated with my bachelor's from
7 Hastings College in 2006. I continued to go to school
8 until -- I continued my MAT program until 2007, and that is
9 when I received the position at Scottsbluff. And then I was
10 also still attending classes at Hastings College to receive
11 my master's in April of 2010.
12 Q So, your bachelor's degree is from Hastings in
13 2006.
14 A Yeah.
15 Q And what were you majoring in then?
16 A At that time, it was health promotion management.
17 Q And then you continued taking courses at Hastings
18 College in 2007?
19 A Yep. That's when I went into the masters program
20 for physical education.
21 Q Did you get a Nebraska teaching certificate in
22 2006?
23 A I received a provisional certificate in 2007, and
24 then I received my actual certificate in 2008.
25 Q So, in 2008 is when you completed your teacher ed

1 requirements and all necessary to get a certificate?
2 A Yes, that is correct.
3 Q And once that happened, then you took a position
4 with the Scottsbluff Public Schools.
5 A No, I had been teaching there as part of my
6 student -- that's why I had a provisional.
7 Q So, for the 2007-2008 school year, you were
8 teaching in Scottsbluff.
9 A Yes.
10 Q And what was your position at the Scottsbluff
11 Public Schools?
12 A I was an elementary PE teacher K through 5 and
13 head wrestling coach.
14 Q And then you got the position at Doniphan in 2008.
15 A Yes, correct.
16 Q And you taught at Doniphan for two school years.
17 A Most of two school years, yes.
18 Q Well, let's go back to the criminal charges, and
19 let's talk about the -- according to the information, it
20 says that the offenses occurred in October of 2008, and then
21 again on April 9th of 2010.
22 A Correct.
23 Q Okay, so let's talk about the April 9th, 2010,
24 incident. Where did that occur?
25 A That was in the weight room of the school.

1 Q What time of the day did it occur?
2 A Exact time, I couldn't tell you, but it was
3 seventh period.
4 Q Okay, so this is seventh period class?
5 A Yeah.
6 Q And what was the class seventh period?
7 A Weights.
8 Q And what's the purpose of the weights class?
9 A To -- for the students to physically better
10 themselves through weightlifting. We also did agilities and
11 other activities.
12 Q Okay, so if I'm a student taking this class, what
13 knowledge skills am I going to gain if I complete the class
14 successfully?
15 A You will learn nutrition, also as long as --
16 lifting techniques and any physical activity techniques that
17 we -- would occur, which could be anything from aerobics to
18 sprint training and stuff like that.
19 Q So, do you remember what the lesson plan was on
20 April 9th, 2010?
21 A On that day, we were to the point where we
22 were -- the students each day received a lifting workout
23 sheet with lifts that they had to do. And on that day, we
24 did a warm-up up in the gym and then went down to the weight
25 room and they were working out filling out their workout

1 sheet.
2 Q And the workout sheets, is that something you
3 created for them?
4 A Yes.
5 Q Okay, so there were specific tasks that you had
6 assigned to each of the students on their workout sheets.
7 A Yes, correct.
8 Q And what did you do during this weights class?
9 A Most of the time during the weights class, I would
10 walk around, make sure that they were performing the
11 techniques properly and making sure that students were not
12 putting themselves or each other in harm.
13 Q So, you worked out in the gym and then the whole
14 class went downstairs to the weight room.
15 A Correct.
16 Q How many kids are in the class?
17 A It could have been anywhere from ten to 20. I
18 don't remember for sure. I think maybe around 17 maybe in
19 that one.
20 Q That's good. So, we got in the teens of number of
21 students in the class.
22 A Right.
23 Q So you go down to the weight room, and what
24 happens when you first get to the weight room?
25 A The kids go over to my desk and grab their

1 paperwork and begin to lift.
2 Q And did anything unusual, then, happen during this
3 class?
4 A This was when a student and I were discussing a
5 lift that he was supposed to be doing, which was step-ups
6 and he was using --
7 Q Okay, help me out. What's a step-up?
8 A That's what I was just going to tell you. He was
9 using a box where you have to step up onto the box while
10 you're holding weights. We have certain sizes of boxes and
11 this was a rather tall student who was a senior at the time,
12 and he was using the shortest box, and so I was telling him
13 that he needed to get a different one. At that time --
14 Q Wait a minute. So, he was using a box that you
15 didn't think was appropriate.
16 A Correct.
17 Q Did you direct him in any manner, shape, or form
18 then?
19 A This is when I was telling him that he needed to
20 grab a larger box.
21 Q And what did he do?
22 A This is when he started goofing around with me,
23 telling --
24 Q Stop. "Goofing around," what do you mean he was
25 goofing around? What was he doing?

1 A He joked around with me saying that this was tough
2 enough for him and that he couldn't handle a bigger one.
3 And I told him that he could and it was a laughing matter.
4 And so then, he went to go -- we were over -- I don't
5 remember for sure, over next to the wall by the treadmills,
6 and I told him he was tough enough and we begin to
7 throw -- I threw a set-up ball at him and told him to take
8 that over there and go get a different box.
9 Q You threw a what at him?
10 A It's a medi- -- or not a medicine ball, but a
11 set-up ball, a big rubber ball.
12 Q And what purpose did you have in throwing that
13 ball at him?
14 A It was just, like I said, just to joke with him
15 and then tell him to take it -- it wasn't -- I didn't throw
16 it at him to hurt him. It was right at his arms where he
17 could have caught it.
18 Q Okay, well, what sound educational practice were
19 you trying to reinforce by throwing a ball at him?
20 A None.
21 Q How was that in his best interest?
22 A It's not.
23 Q Okay, so you throw the ball at him. Did it strike
24 him?
25 A It -- he kicked it back at me, I believe.

1 Q He kicked it right out of the air? It didn't hit
2 him? He --
3 A It didn't go that high. It just was low and it
4 went at him and he kicked it back at me.
5 Q And then what happened?
6 A We walked over to the corner where the -- to put
7 that ball away and grab a different box, and this is
8 when -- I don't remember what led to it. We started to
9 wrestle a little bit.
10 Q Well, from your perspective, who had physical
11 contact with the other first?
12 A I really don't remember that part of the
13 situation.
14 Q So then, you and he are doing what?
15 A We were wrestling in the corner, which was, again,
16 a playful matter. This was a former wrestler of mine. And
17 at that time, a bunch of the other students started to watch
18 and so, when I noticed that it was distracting from the
19 class and I wasn't observing, that's when I told him that we
20 needed to stop.
21 Q Now, when I look at a number of the statements of
22 kids, they make reference about how this student had gotten
23 the best of you.
24 A Yeah, this is when I told the student to stop. He
25 actually, at that point, did have me in a headlock, which

1 was, again, I wasn't upset about it. He wasn't mad at me.
2 It wasn't an argument type thing, it was just a goofing
3 around type thing, and I knew that we needed to get back to
4 class and I needed to quit goofing around.
5 Q So, how long did this wrestling match with the
6 student last?
7 A Less than a minute.
8 Q So, who was supervising the rest of the students
9 while you were goofing around with him?
10 A Nobody.
11 Q And again, what sound educational practice were
12 you trying to reinforce with wrestling with the student?
13 A None.
14 Q What was in his best interest in doing this?
15 A Nothing. We were both just having a good time.
16 Q Was that the purpose of the class to just have a
17 good time?
18 A No.
19 Q All right, so after that is done, what happens
20 next?
21 A The class is standing outside, went to walk back
22 to get class going. That is when these two boys started to
23 make that comment that "T.R. got the best of you."
24 Q And what did you do when the boys were saying T.R.
25 got the best of you?

1 A At that point, I believe I said, "Whatever, just
2 go back to lifting."
3 Q Okay. And then you did what?
4 A I continued to walk around the classroom for a
5 while. Later, when I came back over to the boys, that's
6 when they said it again, and that is when I pushed their
7 heads together.
8 Q Okay, let's -- okay, so you went back to these
9 boys and they again said, "T.R. got the best of you."
10 A Yeah.
11 Q Okay. What was going through your mind after they
12 made that comment?
13 A Just boys being boys again.
14 Q And it was at that point in time you decided you
15 wanted to push their heads together?
16 A Not to inflict harm, but just in a joking --
17 Q I understand that. But you made the decision you
18 were going to physically push their heads together, is that
19 correct?
20 A It was a sporadic decision, but, yes.
21 Q And when you -- how did you accomplish that?
22 A I just put my hands and pushed them together.
23 Q Okay, you do this gesture, which doesn't get into
24 a record. So, you just gestured you took both of your
25 arms --

1 A Took both of my hands behind their heads and
2 pushed them together.
3 Q Like that.
4 A Just not completely shove them into each other,
5 but just pushed.
6 Q So, you took one hand and put it behind the head
7 of one of the students --
8 A Yes.
9 Q -- and you took your other hand and put it behind
10 the head of the other student.
11 A Yes.
12 Q And then you just pushed them together.
13 A Yes.
14 Q And you intended to do that.
15 A Yes.
16 Q You just didn't intend for them to get hurt as bad
17 as they did.
18 A Correct.
19 Q So, this wasn't an accident.
20 A The injury was an accident.
21 Q Okay. But you intended to push their heads
22 together.
23 A Correct. I didn't intend to harm a student.
24 Q Help me out. Going back to your college
25 education, methods course, classroom management, was there

1 anything in any of those courses that instructed you on this
2 means of classroom management?
3 A No.
4 Q Had you received any professional development or
5 instruction from any educator about this being an
6 appropriate manner of managing class or conducting class?
7 A No.
8 Q Had the administration at Doniphan-Trumbull
9 encouraged teachers to push kids' heads together?
10 A No.
11 Q Did they even encourage that you wrestle with
12 students while you're in class?
13 A No.
14 Q This was all something you developed.
15 A Yes.
16 Q So, the heads hit each other.
17 A Correct.
18 Q And I think you mentioned one of the kids rolled
19 over on a mat and fell down.
20 A Well, he stood up first and walked around and then
21 went to the mats and fell down, yes.
22 Q Is that the one who had the black eye?
23 A No.
24 Q How about the one who had the black eye, what did
25 he do?

1 A He was just still looking down. I didn't even
2 know he had it at the time. He was still on the bench.
3 Q After you pushed the two heads together, did you
4 stand there and watch or did you walk off?
5 A No, I was laughing right along with them and was
6 walking. I'd never stopped and actually did the motion. It
7 was just as I was walking by them.
8 Q So, you did this as you're walking. I take it
9 then that means you continued on walking around.
10 A Between them, yeah.
11 Q And how far into seventh period class did this
12 occur?
13 A This was probably at least halfway through the
14 period.
15 Q And it's later in the periods when you start to
16 notice that the one student's eye is getting bigger.
17 A Correct. Some of the other students started to
18 notice and that's when I went over to take a look at it.
19 Q So, did the other students have to tell you that
20 his eye was getting bigger?
21 A Yes. I actually had worked with him on another
22 lift and didn't notice it at that time.
23 Q And then I think you mentioned at the end of class
24 you got some ice for him.
25 A Yes, correct.

1 Q And then he went off to his next class?
2 A Yes. This is when I talked to him about it, told
3 him to keep the ice on there for at least 20 minutes and
4 then take it off and get another bag of ice later. And I
5 asked him if he was okay, asked him if I needed to contact
6 his parents. And at that time, he said, "No, Joe'll laugh
7 about it."
8 Q Did you report this incident to the
9 administration?
10 A No. At that time, the principal was not in the
11 office and I had to go to junior high track practice the
12 next period, and, honestly, after that, I completely forgot
13 about it.
14 Q This was just -- was this just another goofing off
15 incident?
16 A Yes.
17 Q Okay. I take it when you came to school on
18 Monday, you realized this wasn't a goofing off incident
19 anymore.
20 A I did not know anything about the situation until,
21 again, seventh period Monday evening -- or Monday.
22 Q That's when you first realized that there was a
23 problem.
24 A Yes.
25 Q And how did that get relayed to you?

1 A At that time, my principal came in to do the first
2 observation that I had had done that year.
3 Q Okay. And did he say something to you?
4 A Not at that time, but I knew that something must
5 have been going on, because the kids were acting a little
6 different and the principal was in the room, and he had
7 never done an observation on me.
8 Q Help me out. Let's go back. The kid you
9 wrestled, was there anything that kid did wrong?
10 A No.
11 Q These two students who got their heads pushed
12 together, did they do anything wrong?
13 A No.
14 Q So, are they responsible for any of this?
15 A No.
16 Q Do you think their parents did anything wrong?
17 A No. I believe they did what they thought they
18 needed to do.
19 Q If you were a parent, would you have reported it?
20 A I don't know if I would have handled it quite the
21 same, but I would have definitely contacted the
22 administration like they did.
23 Q And subsequently, the administration contacted law
24 enforcement, didn't they?
25 A Correct.

1 Q Let's go to the 2008 incident. This was at a
2 breakfast?
3 A Yes.
4 Q Help me out. A school day?
5 A No, Saturday.
6 Q Saturday.
7 A This was a Saturday meeting that we had with our
8 football team to watch film from the Friday night game.
9 Q Okay, so you had a football game Friday night and
10 the team meets Saturday morning.
11 A Correct.
12 Q So you -- the team has a breakfast and then
13 watches the film?
14 A Yes.
15 Q And so, relate to me -- you the only one there?
16 A No, all of the football coaches are there.
17 Q And the student, relate to me again how that
18 incident occurred.
19 A The entire football team was already there, but
20 like I said, it was -- he walked up to me, normal reactions
21 that we have to each other, he flipped my hat off and I
22 grabbed him.
23 Q Just stop. He flipped your hat off. How did he
24 do that?
25 A He just reached up and flipped my hat off with his

1 hand underneath the bill.
2 Q Okay, and it just flipped over backwards off your
3 head.
4 A Yep.
5 Q And then what happened next?
6 A That's when I grabbed him and put him in a sleeper
7 hold.
8 Q And help me out. I don't watch wrestling. A
9 sleeper hold, what is a sleeper hold?
10 A A WWE move, it's just when you grab the kid's head
11 and you just -- on the TV shows they actually act like they
12 fall asleep, but it's just basically an arm around the head.
13 Q Okay. And you put an arm around the head and
14 what? Just standing -- he's standing there right next to
15 you or --
16 A You act like you're squeezing it. He's right in
17 front of you.
18 Q Okay, so he's not standing side by side with you.
19 A No.
20 Q He's now --
21 A His back to my chest.
22 Q Okay, so his back is horizontal with the ground.
23 A No, we're both standing up. His back is against
24 my chest.
25 Q Oh, back is to you. He's standing up and then

1 you've got your arm around his head in front of you.
2 A Yeah.
3 Q How long did you hold him in that position?
4 A Maybe a minute, not even.
5 Q What was the purpose of the --
6 A Again, no purpose, just playing around.
7 Q Playing around. You recognize that he told law
8 enforcement he passed out.
9 A Yes.
10 Q Is it possible he did?
11 A It may have been, but I don't know. Like I said,
12 at that time, I did not believe that he did. And when we
13 asked him afterwards if he was okay, he said he was fine.
14 If he did, it was for a split second.
15 Q For a split second.
16 A Yeah.
17 Q Is this part of a drill in football?
18 A No.
19 Q Have any educational value?
20 A No.
21 Q Is this something teachers should be doing?
22 A No.
23 Q Were you upset with him for flipping your hat off
24 your head?
25 A No.

1 Q No? Okay. Do you believe you took reasonable
2 steps to protect the health and safety of students in these
3 incidents?
4 A No.
5 Q Do you believe you conducted educational
6 activities in accordance with sound educational practices in
7 the best interest of the students with these incidents?
8 A No.
9 Q Did you discipline them using corporal punishment?
10 A No.
11 Q You weren't punishing them for their misconduct?
12 A No.
13 Q You do admit you have a third degree assault
14 conviction.
15 A Correct.
16 Q Do you think you appropriately controlled your
17 emotions in all of these incidents?
18 A I believe so, yes.
19 Q So, of the standards we've listed, you just don't
20 think you engaged in corporal punishment and you don't think
21 you lost control of your emotions.
22 A No.
23 Q But the rest of them you agree to.
24 A Yes.
25 Q You mentioned -- or Mr. Wade asked you about Judge

1 Livingston.
2 A Yes.
3 Q He was he District Court judge, correct?
4 A Yes.
5 Q What did you think of Judge Livingston?
6 A He was a judge. He seemed fair and to the point.
7 Q Did he have any comments for you?
8 A He told me I needed to learn from my mistakes and
9 grow up.
10 Q I'm looking at a newspaper article. It says, "As
11 to being called 'a big kid,' the judge says that statement
12 'says it all. When your students see you as just a big
13 kid.'" Do you remember him making that statement?
14 A Yes.
15 Q The article then says he went on to say that
16 "Kavan's 'hands-on' approach to interacting with his
17 students led him down the path that would eventually bring
18 him to the Court." Do you remember him making a comment
19 like that?
20 A Yes.
21 Q Do you remember him saying, "A person teaching
22 can't be looked at by a student as a big kid. You can't
23 participate in the kids' flawed judgment."
24 A Yes.
25 Q Do you think the judge was right?

1 A Partially.
2 Q Partially. What part of it do you think he was
3 right about?
4 A I just don't think that -- the kids' got to be
5 able to open up to you. Being a judge, he's never been
6 probably around working with kids like I have. I'm not
7 saying that everything that I did was correct. I know that
8 I made a mistake and I know that I messed up, but at the
9 same time, you've got to be able to relate with kids.
10 Q Well, let me ask you this. The one student, J.S.,
11 is he the one that was part of this weight room head
12 hitting?
13 A Yes.
14 Q Was he also the one that was the sleeper hold?
15 A Yes.
16 Q Let me read to you something he wrote in his
17 statement. "Coach Kavan is not a bad guy. He just doesn't
18 realize what he's doing. At times when he's messing around
19 with us, he doesn't realize what he's doing is really
20 hurting. I don't hold anything against Coach, but he has to
21 realize what he's doing is completely wrong and he could
22 seriously hurt someone." Have you seen or heard that
23 statement before?
24 A Yes.
25 Q Is Jacob right?

1 A Apparently so.
2 Q Well, I'm asking your opinion. Do you think
3 Jacob's right?
4 A I'm telling you that I messed up, so, yes, I guess
5 he's right. I didn't underst- -- I didn't think that I was
6 ever causing harm to the students. That's never what I
7 meant to do.
8 MR. HALSTEAD: I don't have any more questions,
9 thank you.
10 THE HEARING OFFICER: Okay, Mr. Wade, did you have
11 any other questions?
12 MR. WADE: I just have a couple follow-up
13 questions.
14 REDIRECT EXAMINATION
15 BY MR. WADE:
16 Q We've gone into great detail and I don't want to
17 belabor this, but the incident that took place where the two
18 kids' heads came together, and I think it's absolutely
19 clear, but tell me, were you upset with him, mad at him, at
20 any time during any of these interactions or any of this
21 physical contact?
22 A No, it was never an anger thing. I was never mad.
23 It was just a boys being boys and me trying to act like a
24 boy.
25 Q And we've already gone through that it's something

1 that you would no longer do because you understand that is
2 not appropriate for a teacher, is that correct?
3 A Correct.
4 Q And J.S., as we've identified him, is somebody
5 that you goofed off with, he goofed off with you a lot?
6 A Yes.
7 MR. WADE: I have no further questions.
8 THE HEARING OFFICER: Okay.
9 MR. HALSTEAD: I have no further questions either.
10 THE HEARING OFFICER: Any other witnesses?
11 MR. WADE: Yes, I'll call Mr. Brent Rainforth.
12 THE HEARING OFFICER: Okay, you'll need to be
13 sworn in.
14 THE REPORTER: Do you solemnly swear or affirm the
15 testimony you're about to give will be the truth, the whole
16 truth, and nothing but the truth?
17 MR. RAINFORTH: Yes.
18 BRENT RAINFORTH
19 Called as a witness on behalf of the Respondent,
20 having been first duly sworn, testified as follows:
21 DIRECT EXAMINATION
22 BY MR. WADE:
23 Q Would you please state and spell your last name?
24 A Brent Rainforth, R-a-i-n-f-o-r-t-h, 7000 West
25 Platte River Drive, Doniphan, Nebraska.

1 Q And how long have you lived in Doniphan?
2 A All my life, 42 years.
3 Q And as a part of that, are you familiar with the
4 Doniphan-Trumbull Public Schools?
5 A Yes. Currently, I serve in my seventh year on the
6 Board of Education.
7 Q And have you been here during the testimony of Mr.
8 Kavan?
9 A Yes.
10 Q In 2010, were you on the board?
11 A Yes, I was president of the board at that time.
12 Q Do you know Mr. Kavan?
13 A Yes.
14 Q Do you know him as a board member as well as in
15 any other way?
16 A As in community activities, became aware when he
17 moved back in 2008 when he was hired by the school. I'm also
18 a member of the booster club and when started the process of
19 redoing the weight room, involved with those projects. And
20 this is kind of when we started a relationship. And come
21 before the board or the booster club always wanting to do
22 more, getting the kids involved.
23 Q And did you work with him, then, with the weight
24 room, actually see him?
25 A Yeah, some was -- helped move some of the new

1 equipment that they moved in and then I kind of turned it
2 over to him to let him do the stuff.
3 Q Have you observed him with the students?
4 A Yes.
5 Q And what -- have you ever observed him to endanger
6 a student in any way?
7 A No.
8 Q Do students appear to you to relate to him?
9 A Yes.
10 Q Why do you say that?
11 A My daughter, Samantha, you probably heard one of
12 her letters was in there. She was -- would have been a
13 junior and senior. She just graduated. She'll be a
14 sophomore now in college. Was a teacher assistant for him,
15 maybe both years. She really had a good relationship with
16 him. I think that's part of the reason she's looking at
17 going into teaching, is saw how Dale interacted with all
18 kids, whether it was the star athlete or the kid that kind
19 of seemed out of place. He worked with every one of them
20 and treated them equally, and I guess, in a way, kind of
21 helped get those younger kids motivated and make them feel
22 good.
23 Q Now, you've observed him in a variety of
24 situations. Have you ever seen him lose his temper and hit
25 anyone or hurt anyone?

1 A No, I have not.
2 Q What is the, if you have an opinion of his
3 demeanor and his personality, how would you describe it?
4 A Very hard-working, very interested in the kids,
5 doing whatever he can for them. One of the incidents that
6 impressed me just after the weight room was finished, came
7 to a board meeting and there was several kids that wanted to
8 take weights classes that would not -- it wouldn't fit into
9 their regular work -- or classroom schedule for the day. He
10 came -- asked, "Will you let me show up at 7:00? I will
11 teach the class and will you give them credit for it if I do
12 that?" "What do you want for it?" "Nothing. I'm
13 just -- I'm going to be here anyway. I want the kids
14 to -- I think it's that important to them to do that."
15 Q The -- you've heard the testimony about him
16 roughhousing with kids, have you not?
17 A Yes.
18 Q And you understand -- you've heard that he
19 understands now that that's inappropriate, is that correct?
20 A Yes.
21 Q The board accepted his resignation, is that
22 correct?
23 A Yes.
24 Q And was part of the reason why the board accepted
25 his resignation because it was being very divisive of the

1 community?
2 A Yes.
3 Q But it was something that he voluntarily did --
4 A Yes.
5 Q -- from your knowledge, without any pressure.
6 A No, there was --
7 Q Now, has he -- have you worked with him since that
8 resignation, because it -- during that period of time, it's
9 been a year, a little over a year.
10 A Yeah.
11 Q Have you been around him since then?
12 A Yes.
13 Q In what way?
14 A His -- Casey, his wife, worked for my wife for a
15 year maybe, involved in some stuff, would see him around,
16 talk with him, just been involved with him since the
17 incident.
18 Q Has he talked with you about his feelings, his
19 remorse and acceptance of responsibility or anything of that
20 nature?
21 A Yes, from the very beginning. He knows he did
22 wrong. He did not intentionally do that. It was, as you
23 say, goofing around. If I had any thought that this was
24 anger, violence, intentional harm to kids, I wouldn't be
25 sitting here. It'd been over before now, but I know he's

1 good and I know he deserves a chance.
2 Q Do you consider him a threat to kids?
3 A Not at all.
4 Q Now, would you, as a board member, consider hiring
5 him again, knowing what he has done, what he's been through,
6 and where he is right now?
7 A Absolutely.
8 Q And would you hire him if it were -- would you
9 vote to hire him?
10 A Yes.
11 MR. WADE: No further questions.
12 THE HEARING OFFICER: Any Commission member have a
13 question? Or did you --
14 CROSS-EXAMINATION
15 BY MR. HALSTEAD:
16 Q You said you've observed him with students. What
17 settings would that have been in?
18 A Probably at sports activity stuff or, you know,
19 never in the classroom, just at sporting events and --
20 Q Football games, wrestling match.
21 A Football games, basketball games, that kind of
22 stuff.
23 Q So, you never observed him in the classroom.
24 A No.
25 MR. HALSTEAD: That's all I have.

1 THE HEARING OFFICER: Anyone else have a question?
2 COMMISSIONER SHELTON: Mr. Kavan, obviously, being
3 an athlete yourself --
4 THE HEARING OFFICER: Of the witness.
5 COMMISSIONER SHELTON: Oh, sorry.
6 COMMISSIONER MAHER: I have one. Just a
7 clarification, you're a board member currently?
8 THE WITNESS: Yes.
9 COMMISSIONER MAHER: And you were a board member
10 during these issues.
11 THE WITNESS: Yes. I'm in the seventh year right
12 now on the board, continually.
13 THE HEARING OFFICER: Any other questions for this
14 witness?
15 MR. WADE: I just have one follow-up question.
16 REDIRECT EXAMINATION
17 BY MR. WADE:
18 Q Mr. Halstead asked you about your daughter or
19 daughters are in his class or were in his class?
20 A Yes, Samantha. I've got another one that's going
21 into second grade. And she had been around Dale and then
22 she thought the world of him, too. Part of that was being
23 involved.
24 Q Was she in the -- any of the weightlifting area,
25 any of those activities?

1 A I don't think so. She was just his teacher
2 assistant.
3 Q Do you know whether or not she was present during
4 any of the weightlifting activities as a teacher assistant?
5 A Don't know. I don't think so.
6 MR. WADE: No further questions.
7 THE HEARING OFFICER: Did you have any other
8 witnesses?
9 MR. WADE: I do. I have just another -- Mr. Kevin
10 Krueger.
11 THE REPORTER: Will you raise your right hand,
12 please? Do you solemnly swear or affirm the testimony
13 you're about to give will be the truth, the whole truth, and
14 nothing but the truth?
15 MR. KRUEGER: I do.
16 KEVIN KRUEGER
17 Called as a witness on behalf of the Respondent,
18 having been first duly sworn, testified as follows:
19 DIRECT EXAMINATION
20 BY MR. WADE:
21 Q Would you please state and spell your full name?
22 A Kevin Krueger, K-e-v-i-n, K-r-u-e-g-e-r.
23 Q Where do you live, Mr. Krueger?
24 A 103 West Second Road, Trumbull, Nebraska.
25 Q How long have you lived in Trumbull?

1 A Fifty-three years.
2 Q And Doniphan-Trumbull, is that a merger that
3 you're familiar with?
4 A Yeah. I served on the boards for 17 years, first
5 in the Trumbull district and then we merged and then in the
6 Doniphan-Trumbull district. I'm currently off.
7 Q You're currently on the board?
8 A No, I'm off now.
9 Q I'm sorry, you said off.
10 A My term was up.
11 Q Mr. Krueger, do you know Mr. Kavan, and if you do,
12 tell us how?
13 A First, he was there as a student wrestling --
14 helped us with our wrestling program when we were trying to
15 get it started. He had one of my older sons. Then he
16 finished school, went to North Platte, I believe, and then
17 we recruited him to try to get him back to Trumbull --
18 Doniphan-Trumbull to help us with our wrestling program and
19 our physical education.
20 Q Okay, when you say you recruited him, for what
21 reason did you recruit him? What did you see that made you
22 think it was worthy of -- he was worth of recruiting?
23 A He was an excellent teacher. He connected well
24 with the kids and communicated. The kids liked him. They
25 respected him. I guess, one thing I look at, especially

1 with the boys, he taught them to be gentlemen, be
2 respectable of others.
3 Q And now you say "the boys." You have sons?
4 A I had three sons that have had him.
5 Q Now, those three sons, when did they have him as a
6 teacher?
7 A Jerry had him as a -- my oldest one, or the oldest
8 one Dale was involved with, had him when Dale was an
9 assistant wrestling coach. Kyle and Mike, they had him when
10 we hired him back to be the head wrestling coach and
11 physical education at Doniphan-Trumbull.
12 Q And did they have him -- did they wrestle for him
13 or did they --
14 A Yeah, they wrestled for him. They had him in
15 weight class. They had him in physical education.
16 Q You've been present today. We've heard the
17 testimony about the weight class and activities in the
18 weight class, as well as at wrestling.
19 A Correct.
20 Q Did your sons ever indicate to you that they
21 were -- had any fear of Mr. Kavan?
22 A Absolutely not.
23 Q What did they tell you about Mr. Kavan, if
24 anything?
25 A Oh, he pushed them. He wanted them to do better.

1 He encouraged them, helped them in any way, whether it be
2 with academics or weights or wrestling. He cared about the
3 kids. He worked hard with them. If it meant extra time,
4 which is free time, he was more than willing to do it.
5 Q The activities, as far you say he related well to
6 them, did you see them, meaning the students or your sons
7 goof around with him?
8 A Probably my sons, no, just more as a friend. They
9 respected him and he was their teacher. We -- you've got to
10 know my family. That's just the way it is.
11 Q During the year 200- -- latter part of 2010, we're
12 talking about when these incidents occurred, did you have a
13 son in his class?
14 A I had two of them in his class.
15 Q Did they ever report to you that there were
16 concerns about their safety or other kids' safety in the
17 class?
18 A No. I was on the board at the time and I knew
19 they were in the class, so I questioned them, because I was
20 concerned about what happened. And, I guess, the oldest
21 one, Kyle, he was a senior. He said they were laughing,
22 didn't appear anybody was injured. He said, "If I would
23 have been concerned for their safety," he said, "I would
24 have either helped stop it or got a principal." He said it
25 wasn't -- it didn't appear serious at all.

1 Q Do you also have a grandson?
2 A Yeah, I've got a -- I had a three-year-old in the
3 youth wrestling program. We were involved with that in the
4 early basis.
5 Q So, you trust him with your -- you trusted him
6 with your sons. Your sons reported about their activities
7 in his class and you have no fear for a student or a young
8 person's safety in his presence?
9 A Absolutely not. Dale was always very patient and
10 worked very well with the three-year-olds and four-year-olds
11 and they're extremely hard to manage. It takes a special
12 person to work with those. And my grandson's precious to
13 me. If there was -- if it alarmed me, I would have told
14 him.
15 Q Well, tell me, if you know, I think you've
16 indicated that Mr. Kavan has a positive attitude and has an
17 approach to encourage kids. And you say push them. He
18 encourages them to achieve their goal.
19 A To excel and do better. It's a positive
20 encouragement. He -- wrestling is kind of a hard sport.
21 Sometimes it's a heartbreak and he's always there for them
22 when it goes bad. He's -- it takes a special person to do
23 that. It's a wide range of emotions.
24 Q And I think you've indicated that you actually
25 talked to your son about the alleged incidents that

1 occurred, is that correct?
2 A That's correct.
3 Q And you had -- I mean, your concern at that point
4 in time wasn't that he had done anything intentionally
5 wrong, was it?
6 A Well, I knew that we'd had the students get
7 injured and I guess I wanted to know how they got injured.
8 Was it -- did he do it on purpose? Was it an accident? Was
9 it, you know, it's different if somebody gets hurt and they
10 try to do it on purpose. If somebody gets hurt
11 accidentally, then it's still not good, but it's different.
12 I mean, it's -- had he tried to injure the students? No, he
13 didn't. The fact that -- I'm sorry that they got injured.
14 I don't approve that they got injured, but it's different.
15 I mean, you know, and accidents happen.
16 Q And I believe your testimony is one of his
17 positive attributes is his ability to actually relate to
18 students, young people, is that correct?
19 A Yeah. The students trusted him. They talked to
20 him. In the school system, that's always a plus. There's a
21 lot of good teachers, but at the end of the day, sometimes
22 they want to go home. They're tired. And Dale always took
23 the time for the kids. It didn't make any difference
24 whether they were his kids, but he would always take time
25 for the kids. And I guess I saw him as a positive hire. I

1 tried to get Dale back to Doniphan-Trumbull. When he went
2 to North Platte, I stayed in contact with him, hoping we
3 would have an opening to get him back.
4 Q Are you still of the opinion that as a community
5 member and having a grandson that's growing up in that
6 system that you would like Mr. Kavan to be a part of the
7 school system?
8 A Oh, absolutely. He was a plus to the community.
9 It's unfortunate what happened, but I think there's some
10 things to be learned from this and I think he's a plus to
11 the community.
12 Q Do you think he has learned those things that he
13 needs to learn from this?
14 A I know he's learned those things. I know he's
15 learned those things.
16 Q And you've talked with him about --
17 A Yes.
18 MR. WADE: I have no further questions of Mr.
19 Krueger.
20 MR. HALSTEAD: I have no questions.
21 THE HEARING OFFICER: Any Commission member have a
22 question for this witness?
23 (No response.)
24 Did you have any other witnesses?
25 MR. WADE: No, I do want to allow the Board to ask

1 Mr. Kavan any questions. I don't know how you want to do
2 that.
3 THE HEARING OFFICER: We certainly will.
4 MR. WADE: I don't have any further witnesses.
5 THE HEARING OFFICER: Are there any questions for
6 Mr. Kavan? Now, Karen.
7 COMMISSIONER SHELTON: Mr. Kavan, obviously, as an
8 athlete yourself, you've had lots of coaches and lots of
9 instructors. Can you relate to us how they have treated you
10 and how that molded who you became as a coach?
11 MR. KAVAN: My high school football coach and art
12 teacher was a very open and joking around type of guy. He
13 would, even at some point in times in high school suit up
14 with us and play football with us. And I, as a student and
15 as an athlete for him, I really liked that. And that's what
16 I liked. I then went to college and played football at the
17 college level, and I had a coach who wouldn't even say hi to
18 you in the hallways. And that was somebody that I never
19 wanted to be. I wanted to be someone that the kids could
20 feel open to talk to. If they had a question about
21 anything, they could come talk to me. I just wanted to
22 relate with them. And so that's what I tried to do and I
23 know that I took it too far, but that was my ultimate goal.
24 COMMISSIONER JOHNSON: Mr. Kavan, where did you
25 graduate from high school from?

1 MR. KAVAN: North Bend, North Bend Central.
2 COMMISSIONER JOHNSON: North Bend.
3 THE HEARING OFFICER: Any other questions?
4 COMMISSIONER STAVEM: I have two questions for
5 you. Had you had any prior altercations with either of the
6 parents of the two students involved?
7 MR. KAVAN: No, I did not.
8 COMMISSIONER STAVEM: And it looks like some of
9 the investigation happened -- it states in here that the
10 superintendent said that the investigation would be done
11 Monday, yet some things happened over the weekend, but you
12 were questioned on Monday?
13 MR. KAVAN: Yes, the actual -- the parents, from
14 my understanding, contacted the superintendent that night at
15 his house. The superintendent then saw the principal at one
16 of the other teacher's weddings on Saturday, and Saturday,
17 the principal decided that Sunday he would call the parents
18 in without notifying me.
19 COMMISSIONER STAVEM: And were you notified before
20 you were questioned? Were you a member of the teachers'
21 professional organization, NSEA?
22 MR. KAVAN: Yes, I was.
23 COMMISSIONER STAVEM: And were you notified that
24 you could call a representative or union rep?
25 MR. KAVAN: I called my representative right

1 before I went in to questioning.
2 COMMISSIONER MAHER: I want to make sure I
3 understand this. Senior breakfast, sounds pretty formal.
4 MR. KAVAN: It's not senior, it's just -- it
5 actually is a football breakfast.
6 COMMISSIONER MAHER: As an old football coach, I
7 think I know exactly what it was, but I want to make sure, I
8 do. Senior breakfast sounds formal, end of the year, we're
9 all looking pretty good, and we're going to hand out honors,
10 et cetera, et cetera. Saturday morning film session is an
11 entirely different thing. It's my understanding that you
12 had a football game on Friday night. The entire football
13 team, not just the seniors, were somewhere to watch football
14 videos on Saturday morning.
15 MR. KAVAN: Correct. It was --
16 COMMISSIONER MAHER: Pretty informal situation?
17 MR. KAVAN: Yes, yes, very informal.
18 COMMISSIONER SHELTON: Earlier you'd stated that
19 you'd started your master's program. How far into the
20 program were you?
21 MR. KAVAN: This happened in April. I graduated
22 in May.
23 COMMISSIONER KELLER: What are some things that
24 you'll do when you get back in the classroom that would
25 safeguard this situation from occurring again?

1 MR. KAVAN: I think for my situation, I probably
2 will not be hands-on at all with students anymore, mainly
3 from -- on my behalf, because I feel I'm going to -- every
4 time I even pat a kid on the back is going to be hard for me
5 now. I think my communicating with students and trying to
6 get them to open up is going to be done more verbally, you
7 know, encouragement, stuff that I did before, just take the
8 physical aspect out of it.
9 COMMISSIONER STAVEM: Can either of the attorneys
10 just clarify, not knowing how it works once it reaches the
11 court system, law enforcement was called by the principal.
12 And so, when charges are filed, that's by the sheriff's
13 department or was it by one of the --
14 MR. HALSTEAD: County attorney files charges in
15 Nebraska.
16 COMMISSIONER STAVEM: Okay. So, does that have to
17 stem from one of those parents saying, "We wish to pursue,"
18 or they do it on their own after that point?
19 MR. HALSTEAD: No, and for purposes of this case,
20 the school administrators contacted the sheriff's department
21 after they had interviewed the students and the parents on
22 Sunday.
23 COMMISSIONER STAVEM: Right.
24 MR. HALSTEAD: And then, from there, law
25 enforcement did its own investigation and --

1 COMMISSIONER STAVEM: Okay.

2 MR. HALSTEAD: -- as I believe came out in the

3 testimony, they were going to have a hearing at the school

4 district level on his employment and I believe he had just

5 been charged criminally at that point in time when he

6 resigned.

7 Is that fair, Rick?

8 MR. WADE: I think that's within -- I mean, that's

9 approximately correct, yes.

10 MR. KAVAN: And if I can make a statement about

11 that, if you actually look in that police report, too,

12 you'll see that the parents never pressed charges and that

13 they called back and they never did -- it never states in

14 there that the parents wanted charges filed.

15 MR. WADE: But, you do have to understand that

16 that's not up to them to decide.

17 MR. KAVAN: Yes.

18 COMMISSIONER STAVEM: Right, and that's -- I just

19 wanted to make sure I get all that.

20 MR. KAVAN: That's what I was clarifying.

21 COMMISSIONER STAVEM: Thankfully, I don't have

22 that experience, but I don't know for sure where it goes

23 once it gets there.

24 THE HEARING OFFICER: Were there any other

25 questions before closing statements?

1 (No response.)
2 Okay, Mr. Halstead, did you have any closing
3 statements?
4 MR. HALSTEAD: I do. Ladies and gentlemen, I
5 think you've heard the facts. I think Mr. Kavan today was
6 honest in his assessment that -- of the ethical standards he
7 violated. I would suggest to you he does now have a better
8 understanding of what the role of the teacher is. It is
9 somewhat surprising that he taught for almost three years
10 before recognizing he's not supposed to be one of the kids.
11 I think that's what Judge Livingston was trying to point
12 out.
13 You've heard me say this many times before.
14 What's the discipline we impose? I always cite to you what
15 the Nebraska Supreme Court says about lawyers. You should
16 take into consideration, one, the nature of the offense;
17 two, the need for deterring others; three, the maintenance
18 of the reputation of the profession as a whole; four, the
19 protection of the public; five, the attitude of the
20 respondent generally; and six, the respondent's present and
21 future fitness for continuing the practice of the
22 profession. And, you know, I usually point out to you the
23 good things about the educator. I don't think there's any
24 doubt that Mr. Kavan sits there today, he's remorseful for
25 what he did.

1 The nature of the offense, though, students being
2 injured by teachers as we work in a profession that draws
3 ever greater scrutiny as to it. He has been convicted of
4 three counts of third degree assault. He's going to be on
5 probation for two more years. Has he suffered? Sure he
6 has. He's working in a sheet metal business. That's not
7 what he wants to do. I recognize that. Probably also shows
8 you there aren't a whole lot of people out there are going
9 to want to hire him at this point in time while he's serving
10 a sentence on a criminal charge.
11 One of the board members mentioned how it had
12 divided the community. And I think it's great, he's got his
13 supporters here. But you have to recognize, there are
14 others out there in the public who look at this and just
15 can't believe that this is what teachers do. Is this the
16 minimum standard we would say that you can be as a teacher
17 and remain in the classroom? And I know the Commissioner
18 would say no. Are we that desperate for good teachers that
19 we lower the standard and say, "Yeah, a teacher who's got
20 three counts of third degree assault for assaulting
21 students, they're still good enough in our mind to be in the
22 profession"? I would tell you no.
23 I would suggest to you the appropriate sanction is
24 that you revoke his certificate for at least two years and
25 that you require him satisfy all terms and conditions of

1 probation, and if he's put that behind him and in a couple
2 years he's demonstrated his maturity, he understands he's
3 not there as a big kid. In some ways, this is one of those
4 map versus territory. Can you understand on the wall what
5 the map looks like, but can you understand when you get out
6 in the real world what your role is? And clearly, he had no
7 grasp of that as an educator at Doniphan-Trumbull.
8 I think when you read through numerous letters
9 there, you're going to see the same thing that Judge
10 Livingston saw. They called him a big kid. I would submit
11 to you exactly what went on in that weight room class is, he
12 was just one of the kids. He was just one of the kids and
13 when one of the kids didn't do what he wanted to do, then he
14 decided to act like a kid and get into a wrestling match.
15 Well, first he throws a ball at him. There's a professional
16 attitude. Then he gets into a wrestling match with him in
17 front of other kids. Boy, how do we demonstrate
18 professionalism and control of a classroom. And then when
19 the kid gets the better of him, he stops it. And then when
20 some other kids are -- needle him a little bit, he did
21 exactly what he intended to do. He wanted to push their
22 heads together. Did he intend to hurt them? I don't think
23 he intended to seriously hurt them, but at the same time, if
24 you're an educator, would you even think about pushing kids'
25 heads together?

1 That's why I would submit to you a two-year
2 revocation and a requirement he satisfy all terms and
3 conditions of probation. Not only does it protect the
4 public, does it send a message to the profession and to the
5 public as to the seriousness members of the profession take
6 when they stand in loco parentis to the children that are
7 entrusted to them. But it also tells you that, in fact, he
8 still has a chance. He can grow up and maybe there's
9 another day when he can be an effective educator. Thank
10 you.
11 THE HEARING OFFICER: Mr. Wade?
12 MR. WADE: Thank you. I understand what Mr.
13 Halstead is saying, but I think you need to remember the
14 facts of this particular case and the sincerity of this
15 particular defendant, the respondent, Mr. Kavan, and the
16 sincerity of the individuals who are present who were part
17 of that community, board members who have children in the
18 classroom, how much he is liked. And to say that because
19 the convictions are there that you're sending the message
20 basically ignores the facts and ignores all the other good
21 things that he has done and all the good things he wants to
22 do. And basically, he wants to be a part of the community.
23 The community and the board wants him to be -- the
24 community, as represented by the board, wants him to be a
25 part of the community and perhaps a teacher. So, we're

1 talking about a very young man who had taught for a very
2 short period of time, and makes mistakes. And Judge
3 Livingston, Mr. Halstead quotes him, I think it's
4 interesting, too, that Judge Livingston does not put any
5 serious conditions in his probation order in any way.
6 And if I look at this overall, I also think that
7 Mr. Kavan has probably satisfied, from his testimony, the
8 probation officer's interest that he's doing an excellent
9 job. And there's no reason to believe that the two-year
10 revocation -- excuse me, the two-year probation is going to
11 be necessary, because I think there's going to be, from what
12 I heard, the possibility of early release from probation.
13 And that's not unheard of.
14 So, I would ask this Commission to take into
15 consideration, look, if we are looking at a matter that
16 needs to be dealt with, it has been dealt with. Mr. Kavan
17 has learned. There is a probation order. Mr. Kavan is
18 satisfying that probation order. Mr. Kavan wants to get
19 back into teaching. He has shown that he has learned from
20 this incident and these incidents. He knows that he can't
21 do it -- do these things again. And if you think about the
22 way these things happened, they were not intentional. They
23 were reckless. And that is also the basis of a conviction.
24 He could not fight this. He did not want to fight this,
25 because he did not want to put the school nor the community

1 through serious, you know, animosity toward one another or
2 toward anything else. He just wants to be a part of the
3 teaching profession.
4 So, all I'm saying is, I would like not for this
5 to be the example of what you do with a person or to a
6 person who has been convicted of these particular matters,
7 because you need to take into consideration each and every
8 conviction for what they are and the facts and circumstances
9 that underlie them. And I think in this particular case,
10 nobody, the public would not look to this Commission and
11 believe that what it is doing is wrong if it admonished Mr.
12 Kavan or if it revoked his -- or suspended his certificate
13 retroactive to the date of the actual filing of this
14 petition, because he's served his time. He's doing a good
15 job. So, there's nothing to be gained, except for losing a
16 teacher, a dedicated teacher and a person that wants to be
17 in the profession and people who want him in the profession.
18 It doesn't seem to serve any purpose except for some
19 esoteric or some level of, if you commit this, this is what
20 happens, blank slate, rubber stamp.
21 So, I would ask that you take into consideration
22 all these facts and the circumstances and the sincerity of
23 everybody that has supported him all along and continues to
24 support him and his statements here today. Thank you very,
25 very much.

1 THE HEARING OFFICER: Thank you.
2 Anything final?
3 MR. HALSTEAD: Just briefly. Reckless. There's a
4 good word we can say about the teaching profession. We're
5 reckless. I don't think that's what Mr. Wade really wants
6 the profession to be.
7 I would submit to you Judge Livingston, that quote
8 I read to you is absolutely right on point. A person
9 teaching cannot be looked at by a student as a big kid. You
10 can't participate in the flawed judgment.
11 I would submit to you, admonishing him or taking
12 any other sanction is just flawed judgment. It's hard, I
13 know that. I told you earlier today, it's sometimes hard to
14 sit here and ask for you to revoke, because it seems like
15 that's all I do. But I would submit to you, that's the
16 absolute appropriate sanction. And the cases you heard
17 about the reinstatement, you can see how those individuals
18 can become a better person, and I would submit to you, Mr.
19 Kavan, in two years, could probably come back to you and
20 relate even better how this has made him a better person if
21 you revoke his certificate. Thank you.
22 THE HEARING OFFICER: Thank you.
23 Any other questions?
24 (No response.)
25 Okay, the hearing committee will now adjourn and

1 will consider the evidence. The hearing committee's
2 decision will be reduced to writing. A copy of the hearing
3 committee's findings, conclusions, and decision will be
4 furnished to the parties. If the decision includes a
5 recommendation to suspend or revoke the respondent's
6 certificate, the findings, conclusions, and recommendation
7 will be presented to the State Board of Education.
8 I now declare this hearing adjourned at 2:21 p.m.
9 (Whereupon, the hearing was adjourned at 2:21 p.m.
10 to be reconvened after executive session and deliberation of
11 the evidence.)
12 (Back on the record 3:43 p.m.)
13 CHAIRPERSON MAHER: Is there a motion regarding
14 the Commission's recommendation on Case No. 11-07? This is
15 the Kavan case.
16 COMMISSIONER SIDES: Yes. I move that the
17 Nebraska Professional Practices Commission adopts the
18 findings of fact and conclusions of law and recommend to the
19 State Board of Education that the certificate of Dale Kavan
20 be suspended for the term of probation.
21 CHAIRPERSON MAHER: I asked this question earlier,
22 so for clarification I'm going to ask you, too, and remind
23 you that there is a difference between suspension and
24 revocation. Do you wish to change your motion?
25 COMMISSIONER SIDES: Suspension.

1 CHAIRPERSON MAHER: Is there a second?
2 COMMISSIONER SHELTON: Second.
3 CHAIRPERSON MAHER: It has been moved and seconded
4 to accept the findings of fact and conclusions of law and
5 recommend that the license be suspended for the period of
6 probation. Did I say that correctly?
7 COMMISSIONER SIDES: Yes.
8 COMMISSIONER KUPPER: Do you have to say legal?
9 Do we have to define what probation or is that obvious?
10 MR. HALSTEAD: I think you defined it, so I --
11 CHAIRPERSON MAHER: Is there discussion? Is there
12 anything you would like the State Board to hear? And the
13 only reason I'm asking for discussion is this one's a little
14 odd in terms of our recommendation.
15 COMMISSIONER STAVEM: I feel there were
16 administrative steps that were missed.
17 CHAIRPERSON MAHER: Will the clerk please call the
18 roll?
19 THE CLERK: I will, just a second. Did you want
20 that for the record, Jane, that you felt that the --
21 COMMISSIONER STAVEM: Sure.
22 THE CLERK: You felt that administrative steps
23 were missed. Is that what you --
24 COMMISSIONER STAVEM: Yes.
25 COMMISSIONER KUPPER: And if it needs to be

1 documented that more than Jane thought that, you can put my
2 name on it, too. I mean, there's a part to be played in
3 mentoring new teachers, especially those who coach and
4 sometimes get physical with their athletes in relation to
5 preparing them for the sport. So, it could have been dealt
6 with maybe earlier on in his career in a more productive
7 way.
8 THE CLERK: Is that it? Shall I call the roll?
9 CHAIRPERSON MAHER: Please call the roll.
10 THE CLERK: Anglemeyer.
11 COMMISSIONER ANGLEMEYER: Yes.
12 THE CLERK: Beck.
13 COMMISSIONER BECK: Yes.
14 THE CLERK: Brown.
15 COMMISSIONER BROWN: Yes.
16 THE CLERK: Johnson.
17 COMMISSIONER JOHNSON: Yes.
18 THE CLERK: Keller.
19 COMMISSIONER KELLER: Yes.
20 THE CLERK: Kupper.
21 COMMISSIONER KUPPER: Yes.
22 THE CLERK: Maher.
23 CHAIRPERSON MAHER: Yes.
24 THE CLERK: Serfass.
25 COMMISSIONER SERFASS: Yes.

1 THE CLERK: Shelton.
2 COMMISSIONER SHELTON: Yes.
3 THE CLERK: Sides.
4 COMMISSIONER SIDES: Yes.
5 THE CLERK: Stavem.
6 COMMISSIONER STAVEM: Yes.
7 THE CLERK: Strack.
8 COMMISSIONER STRACK: Yes.
9 (Whereupon, at 3:46 p.m. on June 15, 2011, the
10 proceedings were concluded.)
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BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South – 6th Floor P.O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Dale Kavan 106 Hoffman Avenue Doniphan, NE 68832, Respondent.	)))))))))))))))	NPPC Case No. 11-07 Case No. 10026 NOTICE OF HEARING

Petitioner and Respondent are hereby notified that a hearing on the Petition filed by Roger D. Breed, on April 13, 2011, will be held in the Hearing Room, 6th Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, on the 15th day of June, 2011, commencing at 11:30 a.m., or immediately following the preceding hearing.

Commission members of the Nebraska Professional Practices Commission will hear and consider the case.

Samuel Van Pelt, Route 1, Box 169, Hickman, Nebraska 68372 has been appointed legal counsel to advise the chairperson in the performance of the chairperson's duties.

Dated May 6, 2011

Robert Beck, Chairperson, Hearing Panel
NEBRASKA PROFESSIONAL PRACTICES COMMISSION

Kathi Vontz

By Kathi Vontz, Clerk of the Commission
NEBRASKA PROFESSIONAL PRACTICES COMMISSION

PENGAD 800-631-6989 EXHIBIT 11707 App. 6-15-11 WC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above Notice dated May 6, 2011, for Case Number 11-07, was mailed to Dale Kavan, Respondent, and Rick Wade, attorney for the Respondent, by U.S. Mail postage prepaid, and delivered by hand to Brian Halstead, Attorney for the Petitioner, on this 6th day of May, 2011, at the following addresses.

Dale Kavan
Respondent
106 Hoffman Avenue
Doniphan, NE 68832

Brian Halstead
Attorney for Petitioner
301 Centennial Mall South
Lincoln, NE 68509

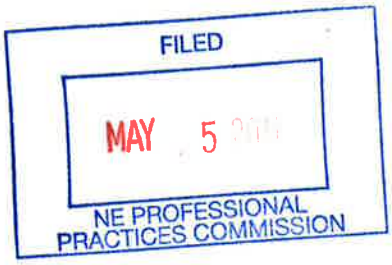
Rick Wade
Attorney for Respondent
605 South 14th Street, Suite 220
Lincoln, NE 68508

Kathi Vontz
Clerk of the Commission

McGUIRE AND NORBY
ATTORNEYS AT LAW
605 South 14th Street, Suite 220
Lincoln, Nebraska 68508
Telephone (402) 434-2390
Facsimile (402) 434-2393

Mark D. McGuire
Scott J. Norby
Rick G. Wade

May 4, 2011



Ms. Kathi Vontz
Clerk
Nebraska Professional Practices Commission
PO Box 94987
301 Centennial Mall South
Lincoln NE 68509

RE: PPC Case No. 11-07

Dear Ms. Vontz:

Enclosed please find an original and two copies of an Answer to be filed in the above-captioned case. Thank you for your attention to this matter.

Sincerely,

McGUIRE and NORBY

By: Rick G. Wade

RGW:kmk/kv5-4.ltr

Enclosures

cc: Brian Halstead

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P.O. Box 94933 Lincoln, NE 68509-4933, Petitioner, vs. Dale Kavan 106 Hoffman Avenue Doniphan NE 68832, Respondent.	))))))))))))))))	Case No. 10026 PPC Case No. 11-07 **ANSWER**

FILED
MAY 5 2011
NE PROFESSIONAL PRACTICES COMMISSION

COMES NOW the Respondent, Dale Kavan, by and through his undersigned attorneys of record, and for his Answer to the Petition admits, denies, and alleges as follows:

1. Admits the allegations of paragraph 1 of the Petition.

2. Admits the allegations of paragraph 2 of the Petition.

3. Admits the allegations of paragraph 3 of the Petition.

4. Admits the allegations of paragraph 4 of the Petition.

5. Admits that Respondent was found guilty of Class I Misdemeanors and was given probation at a sentencing on April 26, 2011.

6. Admits that the Nebraska statute and the *Nebraska Administrative Code* states as set forth in paragraph 6 of the Petitioner's Petition but denies that Respondent violated all sections as set forth in paragraph 6.

WHEREFORE, Respondent requests that the Professional Practices Commission take such action regarding the certificate of the Respondent as is warranted.

Dated this 4th day of May, 2011.

DALE KAVAN, Respondent,

BY: McGUIRE and NORBY
Respondent's Attorneys
605 South 14th Street
Suite 220
Lincoln, Nebraska 68508
Telephone (402) 434-2390

By _____
Rick G. Wade (#17820)
One of Said Attorneys

CERTIFICATE OF SERVICE

On this 4TH day of May, 2011, a copy of the foregoing Answer was served by regular United States Mail, postage prepaid, to Mr. Brian Halstead, General Counsel, Nebraska Department of Education, 301 Centennial Mall South, P.O. Box 94933, Lincoln, Nebraska 68509-4933, attorney for Petitioner.

_____
Rick G. Wade

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P. O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Dale Kavan 106 Hoffmann Avenue Doniphan, NE 68832 Respondent.	)))))))))))))))	Case No. 10026 PPC Case No. 11-07 PETITION

FILED
APR 13 2011
NE PROFESSIONAL PRACTICES COMMISSION

Petitioner, in accordance with Section 79-859 through 79-871 of the Revised Statutes of Nebraska, Title 95, Chapter 01, of the Nebraska Administrative Code, and Title 92, Chapters 27 and 28 of the Nebraska Administrative Code, states and alleges as follows:

1. The Petitioner is Roger D. Breed, Commissioner of Education, 301 Centennial Mall South, P.O. Box 94933, Lincoln, NE 68509;

2. The Respondent is Dale Kavan, 106 Hoffmann Avenue, Doniphan, NE 68832;

3. The Respondent holds a public standard teaching certificate, number 2008003579, endorsed in Coaching 7-12 and Physical Education K-12, with an expiration date of November 16, 2013;

4. The Respondent was employed as a teacher and coach by the Doniphan-Trumbull Public Schools until his resignation was accepted by the Doniphan-Trumbull School Board on May 20, 2010;

5. On January 25, 2011, the Respondent was found guilty by the Hall County District Court of three counts of Third-Degree Assault, all Class I Misdemeanors, and is scheduled to be sentenced on April 26; and

6. Based upon the factual allegation contained in paragraph 5 of the Petition, the Respondent violated the following statute and standards: Neb. Rev. Stat. § 79-866(2) (Reissue 1996) which in part states, "The board may, for just cause, revoke or suspend any teacher's or administrator's certificate. Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under

the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board"; Title 92, *Nebraska Administrative Code*, Chapter 27, Section 004.03C (effective date: November 12, 2003) which states, "the educator: Shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety"; Section 004.03D (same effective date) which states, "the educator: Shall conduct professional educational activities in accordance with sound educational practices that are in the best interest of the student"; Section 004.03G (same effective date) which states, "the educator: Shall not discipline students using corporal punishment"; Section 004.04E (same effective date) which states, "the educator: Shall not commit any act of moral turpitude, or any felony under the laws of the United States or any state or territory, and shall not have a misdemeanor conviction involving abuse, neglect, or sexual misconduct as defined in Sections 003.12 through 003.14 of 92 NAC 21"; and Section 005.10C (same effective date) which states, "each educator . . . shall: Appropriately control his or her emotions."

WHEREFORE, the Petitioner requests that the Professional Practices Commission hold hearings and make recommendations to the State Board of Education as is warranted, regarding the certificate(s) of the Respondent.

Dated this 13th day of April 2011.

Roger D. Breed, Ed.D.
Commissioner of Education

VERIFICATION

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

I, Roger D. Breed, being first duly sworn under oath, state that I have read the contents of the Petition and that to the best of my knowledge, information, and belief such contents are true.

Petitioner

Subscribed and sworn to before me this 13th day of April 2011 by Roger D. Breed, Commissioner of Education, as Petitioner.

Notary Public

GENERAL NOTARY - State of Nebraska
BRIAN L. HALSTEAD
My Comm. Exp. Nov. 27, 2014

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Petition and a copy of Title 95, *Nebraska Administrative Code*, Chapter 1, was mailed to the following persons, postage prepaid, by certified mail, return receipt requested, this 13th day of April 2011:

Dale Kavan
106 Hoffmann Avenue
Doniphan, NE 68832
Article No. 7010 0780 0000 3455 7636

Rick Wade, #17820
605 South 14th Street, Suite 220
Lincoln, NE 68508
Article No. 7010 0780 0000 3455 7643

General Counsel

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

Roger D. Breed, Ed.D. Commissioner of Education 301 Centennial Mall South - 6th Floor P. O. Box 94933 Lincoln, NE 68509-4933 Petitioner, vs. Dale Kavan 106 Hoffmann Avenue Doniphan, NE 68832 Respondent.	)))))))))))))))	Case No. 10026 PPC Case No. 11-07 FILED APR 13 2011 NE PROFESSIONAL PRACTICES COMMISSION NOTICE OF RIGHT TO SUBMIT ANSWER

Notice is hereby given that Respondent has a right to submit an Answer within 21 days after the receipt of this Notice by filing an Answer with the Nebraska Professional Practices Commission, P. O. Box 94941, Lincoln, NE 68509.

Brian L. Halstead #18077
General Counsel
Nebraska Department of Education

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Notice was mailed to the following persons, postage prepaid, by certified mail, return receipt requested, this 13th day of April 2011:

Dale Kavan
106 Hoffmann Avenue
Doniphan, NE 68832
Article Number 70100780000034557636

Rick Wade, #17820
605 South 14th Street, Suite 220
Lincoln, NE 68508
Article Number 70100780000034557643

Brian L. Halstead #18077
General Counsel
Nebraska Department of Education

NEBRASKA DEPARTMENT
OF EDUCATION

RULE 27

REGULATIONS AND STANDARDS FOR PROFESSIONAL PRACTICES CRITERIA

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 27

EFFECTIVE DATE
November 12, 2003
(REVISED)

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner

EXHIBIT
11-07
2
6-15-11 WC
PENGAD 800-631-6989

NEBRASKA PROFESSIONAL PRACTICES COMMISSION

TITLE 95, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 1

REGULATIONS CONCERNING TEACHER AND ADMINISTRATOR PROFESSIONAL PRACTICES HEARINGS

EXHIBIT
11-07
3
20pp
10-15-11
PENGAD 800-631-6989

Effective Date
October 30, 1993

NEBRASKA DEPARTMENT
OF EDUCATION

RULE 28

REGULATIONS AND STANDARDS FOR INVESTIGATIONS AND NONPUBLIC PROFESSIONAL PRACTICES HEARINGS

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 28

EFFECTIVE DATE
DECEMBER 25, 1989

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner

08.11.11 State Board of Education 7.9-110

EXHIBIT
PENGAD 800-631-6989
11-07
4
23pp.
6-15-11 WC

NEBRASKA DEPARTMENT
OF EDUCATION

RULE 29

REGULATIONS AND STANDARDS FOR PROFESSIONAL PRACTICES CASE DETERMINATIONS BY THE STATE BOARD

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 29

EFFECTIVE DATE
DECEMBER 25, 1989

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner

PENGAD 800-631-6989
EXHIBIT
5
12pp.
6-15-11 WC

NEBRASKA DEPARTMENT
OF EDUCATION

RULE 21

ISSUANCE OF CERTIFICATES AND PERMITS TO TEACH, PROVIDE SPECIAL SERVICES, AND AMDINISTER IN NEBRASKA SCHOOLS

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 21

EFFECTIVE DATE
MAY 11, 2010
(REVISED)

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509

EXHIBIT
11-07
6
37pp.
6-15-11 WC
PENGAD 800-631-6989

CONFIDENTIAL

BEFORE THE COMMISSIONER OF EDUCATION
STATE OF NEBRASKA

Nikole Sander 301 Centennial Mall South Lincoln NE 68509 Complainant, vs. Dale Kavan 106 Hoffmann Avenue Doniphan NE 68832 Respondent.	)	Case No. 10026 REPORT OF INVESTIGATION

In accordance with Title 92, *Nebraska Administrative Code,* Chapter 28, the attached Report of Investigation into case number 10026 is submitted to the Commissioner of Education on this 13th day of April 2011. This Report was submitted to the Respondent on the 31st day of March 2011 and no exceptions were filed.

Certification Investigator

TABLE OF CONTENTS

JURISDICTION 2

SUMMARY OF COMPLAINT 2

POSITION OF RESPONDENT 2

FINDINGS 2-4

STANDARDS OF PROFESSIONAL CONDUCT AND ETHICS 4

DETERMINATION OF LEGAL SUFFICIENCY 5

RECOMMENDATION 5

EXHIBITS 5

08.11.11 State Board of Education 7.9-113

EXHIBIT
PENGAD 800-631-6989
11-07
29pp.
6-15-11 WC

CONFIDENTIAL

BEFORE THE COMMISSIONER OF EDUCATION
STATE OF NEBRASKA

Nikole Sander 301 Centennial Mall South Lincoln NE 68509 Complainant, vs. Dale Kavan 106 Hoffmann Avenue Doniphan NE 68832 Respondent.	)))))))))))))	Case No. 10026 REPORT OF INVESTIGATION

In accordance with Title 92, *Nebraska Administrative Code,* Chapter 28, the attached Report of Investigation into case number 10026 is submitted to the Respondent on the 31st day of March 2011.

P. Jeffrey Schneider
Certification Investigator

TABLE OF CONTENTS

JURISDICTION 2

SUMMARY OF COMPLAINT 2

POSITION OF RESPONDENT 2

FINDINGS 2-4

STANDARDS OF PROFESSIONAL CONDUCT AND ETHICS 4

DETERMINATION OF LEGAL SUFFICIENCY 5

RECOMMENDATION 5

EXHIBITS 5

JURISDICTION

On April 29, 2010, Nikole Sander filed a Complaint with the Commissioner of Education against Dale Kavan, the Respondent. A copy of the Complaint was served upon the Respondent on May 5, 2010. Copies of the Complaint and return receipt are collectively attached and marked as exhibit "E-1".

The Teacher Certification Office Records revealed that the Respondent holds a public standard teaching certificate, number 2008003579, endorsed in Coaching 7-12 and Physical Education K-12, with an expiration date of November 16, 2013.

SUMMARY OF COMPLAINT

The Complainant alleged that the Department received a letter from the Doniphan-Trumbull Public Schools stating the Respondent used physical force on students.

POSITION OF RESPONDENT

The Respondent, through his attorney, requested a personal conference in the matter. However, numerous attempts made by the investigator to arrange a conference with the attorney and his client were unsuccessful.

FINDINGS

The investigator obtained documentation from the Doniphan-Trumbull Public Schools, and copies of pertinent documentation are collectively attached and marked as exhibit "E-2". The Respondent had been employed by the Doniphan-Trumbull Public Schools as a teacher and coach since the 2009-2010 school year. On Friday, April 9, 2010, the parent of S.S. contacted Superintendent Kirk Russell at home. The parent reported S.S. told him that earlier that day during weight class the Respondent "banged" his and another boy's heads together and he wanted something done. The parent stated there had been other events that occurred between his son and the Respondent. Mr. Russell stated he was not aware of this and an investigation would be conducted first thing Monday. On Saturday, April 10 Mr. Russell contacted Principal Dan Schiefelbein and informed him of the alleged incident. On Sunday, Mr. Schiefelbein met with the family of S.S., and on Monday he met with the family of J.S. Mr. Schiefelbein also interviewed students regarding the incident.

On Sunday when S.S. was interviewed, S.S. told Mr. Schiefelbein he and J.S. were in the Respondent's class and observed the Respondent wrestling with T.R. and T.R. getting the best of the Respondent. S.S. and J.S. told the Respondent, "Hey Kavan, we found your weakness: . . . (T.R)". Later in class, as S.S. and J.S. were on benches that were parallel to each other, the Respondent grabbed J.S. by the back of his neck lifting him off the bench and struck the left part of J.S.' head into the right eye of S.S. S.S. stated the Respondent laughed and walked away and did not apologize to either boy. S.S. suffered

3

a black right eye, and J.S. immediately put his hand to his head and rolled on the floor. S.S. stated at the end of the period the Respondent gave S.S. an ice pack for his eye.

Mr. Schiefelbein told the parents of S.S. law enforcement would need to be contacted and they called the Hall County Sheriff's office who told Mr. Schiefelbein a deputy would be stopping out later that night. Mr. Schiefelbein observed that S.S. still had a black eye on Sunday. Included in the material from the school is a photo of S.S. with a blackened right eye.

Mr. Schiefelbein contacted the mother of J.S. and set up a meeting for Monday morning. At that time the mother thought the family would handle the situation themselves. The next morning the principal met with both parents, and J.S. brought in a typed report of what had occurred. J.S. also made Mr. Schiefelbein aware of past incidents. The parents of J.S. stated J.S. and the Respondent get along, but they were concerned about the wrestling and bullying that has taken place in the Respondent's classroom. Mr. Schiefelbein observed that J.S. still had a small bump on his head.

The parents of J.S. related the prior incidents that occurred between their son and the Respondent. They stated that during the 2008 football senior breakfast their son flipped the Respondent's hat off his head, and the Respondent put J.S. in a choke hold causing him to pass out for a short time. A video of the weight room was included showing the Respondent wrestling with T.R. and banging the heads of S.S. and J.S. together.

Included in the material obtained from the school are statements from the Respondent, S.S., T.R., and J.S., as well as other students and teachers. All were consistent in their accounts of what occurred during 7th period between the Respondent and the students.

On Monday, April 12 the administrators met with the Respondent and questioned him regarding the information that had been shared with them regarding the April 9 weight room incident, incidents during the 2009-2010 football season, and a 2008 headlock incident. During said meeting, the Respondent apologized for his actions and stated he "wasn't thinking . . . knew it was serious, more than he had intended. He was sorry for the incident". The Respondent further stated he knew that his wrestling with the students and putting them in headlocks was wrong.

On April 13, 2010, the Respondent was arrested by the Hall County Sheriff's Office and charged with two misdemeanor counts of Third Degree Assault, one felony count of Strangulation, and two felony counts of Tampering with a Witness. On April 13 the Respondent was given a letter of possible cancellation which recommended the Respondent's contract be non-renewed or terminated at the end of the 2009-2010 school year. A draft resignation letter was attached and unsigned by the Respondent. On April 15 the Respondent, through his attorney, requested a hearing in the possible cancellation matter. On May 4 a hearing was set before the Doniphan-Trumbull School Board for May 20, and on May 7 a Disclosure Letter was sent to the Respondent through his attorney. On May 20 a special meeting was held at which time the Respondent submitted his resignation, and the Board approved a Resignation Agreement offered before them. The Resignation Agreement states that the Respondent resigned from his employment with the Doniphan-Trumbull Public Schools effective May 20.

The investigator obtained documents of the Hall County District Court, copies of which are collectively attached and marked as exhibit "E-3". On May 19, 2010, a Complaint was filed in the Hall County Court charging the Respondent with Strangulation (Class IV Felony) and two counts of Third-Degree Assault (Class I Misdemeanors). On August 31 an Information was filed in the Hall County District Court charging the Respondent with the above offenses. On September 7 the Respondent pled not guilty to the charges against him. On January 25, 2011, an Amended Information was filed and the Respondent pled guilty and was found guilty of three misdemeanor counts of Assault Third Degree. The Respondent is scheduled to be sentenced on April 26.

STANDARDS OF PROFESSIONAL CONDUCT AND ETHICS

The following statute and standards would appear applicable: Neb. Rev. Stat. § 79-866(2) (Reissue 1996) which in part states, "The board may, for just cause, revoke or suspend any teacher's or administrator's certificate. Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or administrator's certificate by the board"; Title 92, *Nebraska Administrative Code*, Chapter 27, Section 004.03C (effective date: November 12, 2003) which states, "the educator: Shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety"; Section 004.03D (same effective date) which states, "the educator: Shall conduct professional educational activities in accordance with sound educational practices that are in the best interest of the student"; Section 004.03G (same effective date) which states, "the educator: Shall not discipline students using corporal punishment"; Section 004.04E (same effective date) which states, "the educator: Shall not commit any act of moral turpitude, or any felony under the laws of the United States or any state or territory, and shall not have a misdemeanor conviction involving abuse, neglect, or sexual misconduct as defined in Sections 003.12 through 003.14 of 92 NAC 21"; and Section 005.10C (same effective date) which states, "each educator . . . shall: Appropriately control his or her emotions."

5

DETERMINATION OF LEGAL SUFFICIENCY

There is legally sufficient evidence to indicate a violation of the above-referenced statute and standards with regard to these allegations.

RECOMMENDATION

The Certification Investigator would recommend the Commissioner of Education file a Petition in this matter.

EXHIBITS

E-1. Copies of the Complaint and return receipt.

E-2. Copies of documentation from the Doniphan-Trumbull Public Schools.

E-3. Copies of Hall County District Court documents.

BEFORE THE COMMISSIONER OF EDUCATION
STATE OF NEBRASKA

APR 2010
FILED
NEBR DEPT ED

Nikole Sander 301 Centennial Mall South Lincoln, NE 68509-4987 Complainant, vs. Dale Kavan 106 Hoffmann Doniphan, NE 68832 Respondent.	)	Case No. 10026 COMPLAINT

In accordance with Title 92, Chapter 28, of the *Nebraska Administrative Code*, the Complainant states as follows:

1. The Complainant is Nikole Sander. Her address is 301 Centennial Mall South, Lincoln, NE 68509-4987;

2. The Respondent is Dale Kavan. His address is 106 Hoffmann, Doniphan, NE 68832;

3. The Department received a letter from the Doniphan-Trumbull Public Schools alleging that the Respondent used physical force with students; and

5. Witness(es): Kirk Russell, Superintendent, Doniphan-Trumbull Public Schools, P.O. Box 300, Doniphan, NE 68832.

WHEREFORE, Complainant requests that the Commissioner of Education investigate this Complaint and take such action as is warranted, including the filing of a petition.

Dated this 3rd day of May 2010.

Nikole Sander

Nikole Sander

EXHIBIT
E-1

VERIFICATION

State of Nebraska)
) ss
County of Lancaster)

I, Nikole Sander, being first duly sworn under oath, state that I have read the contents of the Complaint and that to the best of my knowledge, information, and belief such contents are true and there is reasonable cause for filing said document.

Nikole Sander

Subscribed and sworn before me this 3rd day of May 2010 by Nikole Sander.

(Seal)

GENERAL NOTARY - State of Nebraska
BRIAN L. HALSTEAD
My Comm. Exp. Nov. 27, 2010

Notary Public

REC'D APR 29 2010

Doniphan-Trumbull Public School

Administrative Offices
302 West Plum, P.O. Box 300
Doniphan, NE 68832
http://sites.esu9.org/doniphantrumbull

Superintendent's Office: (402) 845-2282
Jr. - Sr. High School Office: (402) 845-6531 Elementary Office: (402) 845-2730

April 26, 2010

Dr. Roger Breed
Commissioner of Education
Nebraska Department of Education
301 Centennial Mall South
Lincoln, NE 68509-4987

RE: Dale Kavan

Dear Dr. Breed:

Pursuant to Chapter 27, and the advice of our attorney, I am reporting a possible violation of Chapter 27 by Dale Kavan. Mr. Kavan is employed as a teacher by our school district.

The possible violation concerns alleged actions involving Mr. Kavan using physical force with students.

If you have any questions or need anything further, please feel free to contact me. Unless I am informed otherwise by your office, I and the other administrative staff at Doniphan-Trumbull Public Schools will consider our legal obligation to report this incident to have been fulfilled.

Sincerely,

Kirk Russell

Kirk Russell, Superintendent
Doniphan-Trumbull Public Schools

cc: Dan Schiefelbein
Gregory H. Perry

UNITED STATES POSTAL SERVICE

CENTRAL NE

05 MAY 2010 PM 1

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

General Counsel's Office
Nebraska Department of Education
P. O. Box 94933
Lincoln, NE 68509-4933

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. 10026

1. Article Addressed to:

Dale Kavan
106 Hoffman
Arapahoe NE 68832

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Carey L Kavan ☐ Agent ☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery 5-5-10

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service label) 7009 1410 0001 5279 6950

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

10

Doniphan-Trumbull Public School

Administrative Offices
302 West Plum, P.O. Box 300
Doniphan, NE 68832
http://sites.esu9.org/doniphantrumbull

Superintendent's Office: (402) 845-2282
Jr. - Sr. High School Office: (402) 845-6531 Elementary Office: (402) 845-2730

April 13, 2010

Dale Kavan
106 Hoffmann
Doniphan, NE 68832

Dear Mr. Kavan:

This is a notice of possible cancellation, termination or nonrenewal. You are hereby notified that upon my recommendation the Board of Education will be considering the immediate cancellation of your employment contract. In the event cancellation does not result, I am recommending in the alternative that your employment contract be non-renewed or terminated effective at the end of the 2009-2010-contract year.

The reasons for the proposed action is performance and conduct that constitutes neglect of duty, unprofessional conduct, insubordination, incompetency, immorality, breach of any of the material provisions of your contract, and other conduct which interferes substantially with the continued performance of your duties and for any of the reasons set forth in your employment contract. If you feel further information on these listed reasons is necessary to enable you to prepare an adequate defense, or desire further information on the reasons for the proposed action, such information will be supplied upon written request.

You are advised that you have the right to file a written request for a hearing with the Board of Education if you so desire. Any such request must be in writing and delivered to and received by me or by the Secretary of the Board within seven (7) days from the date of your receipt of this letter. You are further advised that if no hearing is so requested, the Board of Education may proceed and take appropriate action on your employment contract as set forth in this letter, without further notice.

5:10 p.m.
KM

Sincerely,

Kirk Russell, Superintendent
Doniphan-Trumbull Public Schools

RECEIPT

I acknowledge receipt of a copy of this letter this 13th day of April 2010.

Dale Kavan

EXHIBIT
E-2

Doniphan-Trumbull Public School

Administrative Offices
302 West Plum, P.O. Box 300
Doniphan, NE 68832
http://sites.esu9.org/doniphantrumbull

Superintendent's Office: (402) 845-2282
Jr. - Sr. High School Office: (402) 845-6531 Elementary Office: (402) 845-2730

Resignation

I hereby voluntarily resign from my employment contract and contractual relations with Doniphan-Trumbull Public Schools effective at the end of the 2009-2010-contract year and waive any right to a hearing on the notice of proposed cancellation, nonrenewal or termination.

Dated this _____ day of _____, 2010.

_____
Dale Kavan

(2)

McGUIRE AND NORBY
ATTORNEYS AT LAW
605 South 14th Street, Suite 220
Lincoln, Nebraska 68508
Telephone (402) 434-2390
Facsimile (402) 434-2393

COPY

Mark D. McGuire
Scott J. Norby
Rick G. Wade

April 15, 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Certified Article No. 7002 2030 0002 4716 8312

REGULAR UNITED STATES MAIL

Mr. Kirk Russell
Superintendent
Doniphan-Trumbull Public Schools
302 W Plum
PO Box 300
Doniphan NE 68832

RE: Mr. Dale Kavan

Dear Superintendent Russell:

This office is legal counsel to the Nebraska State Education Association and its member, Mr. Dale Kavan.

We have been advised that you have informed Mr. Kavan that you will be recommending to the School District's Board of Education that it consider the possible cancellation, termination, or nonrenewal of Mr. Kavan's teaching contract for the 2009-2010 school year. Please consider this letter to be Mr. Kavan's request for a hearing pursuant to Neb. Rev. Stat. §§ 79-824 through 79-842 (Reissue 2008). I or another member of this office will be representing Mr. Kavan at any hearing to be held in this regard. I would, therefore, request that all future contacts and correspondence regarding the matter of Mr. Kavan's continued employment be directed to this office.

On behalf of Mr. Kavan, request is hereby made for a complete listing of all of the charges, incidents, events, observations, and reasons that will be raised or otherwise relied upon at the hearing as alleged grounds for the cancellation, termination, or nonrenewal of Mr. Kavan's employment. Additionally, request is hereby made for a complete list of all witnesses who will testify at the hearing, a summary of what such witnesses will testify to, and copies of all documents that will be presented at the hearing and used as either a basis for any witness' testimony and/or identified as exhibits.

EXHIBIT
tabbies
2

Because the action of the Board of Education is subject to review by the District Court, I request that the Board of Education employ a certified court reporter to be present at the hearing to transcribe all testimony in order that the School District can provide a transcript of the proceedings as provided by law in the event judicial review is necessary. I also request that you advise me of the name of the attorney who will present the School District's case at the hearing, the name of the attorney who will serve as a hearing officer/advisor to the Board of Education at the hearing, and the name of the court reporter employed by the School District who will record the hearing.

I would ask that the School District's attorney contact me for the purpose of arranging a mutually convenient scheduling of this hearing. It is my desire to schedule this hearing at a time convenient to all involved.

By making the requests contained in this letter, I do not waive any claims that I may now or subsequently have on behalf of Mr. Kavan as to the procedures used in this matter.

Sincerely,

McGUIRE and NORBY

By: Rick G. Wade

Rick G. Wade

RGW:kmk/kr4-15.rfh

cc: Dale Kavan

BEFORE THE SCHOOL BOARD OF
DONIPHAN-TRUMBULL PUBLIC SCHOOLS

IN RE:	)	
	)	**THIRTY DAY WAIVER/MAY 15 WAIVER**
Dale Kavan	)	

Dale Kavan, by and through his attorney and authorized representative, Rick Wade, hereby waives the statutory right, pursuant to §79-831, R.R.S. and other Nebraska law, to a hearing before and final determination by the School Board of Doniphan-Trumbull Public Schools within thirty days of the date of his request for hearing, and waives the statutory right that final action by the School Board be taken on or before May 15, 2010.

The parties agree that the hearing be held commencing at the time, date and place set forth below:

Date: Thursday, May 20, 2010
Time: 6:00 p.m.
Place: East Gym
Doniphan-Trumbull High School
302 West Plum Street
Doniphan, Nebraska

DATED this 4TH day of May, 2010.	DATED this 4TH day of May, 2010.
Rick Wade, attorney and authorized representative for Dale Kavan	Greg Perry, attorney and authorized representative for Doniphan-Trumbull Public Schools administration

EXHIBIT
3

John M. Guthery*
Thomas M. Haase
James B. Gessford
Rex R. Schultze***
Daniel F. Kaplan
Gregory H. Perry
Joseph F. Bachmann*
Riko E. Bishop
R. J. Shortridge*
Jeanette Stull
Corey L. Stull*
Joshua J. Schauer*
Shawn P. Dontigney
Derek A. Aldridge**

PERRY, GUTHERY, HAASE & GESSFORD, P.C., L.L.O.

90th Anniversary
1920 - 2010

Of Counsel
Edwin C. Perry

Ernest B. Perry (1876-1962)
Arthur E. Perry (1910-1982)
R. R. Perry (1917-1999)

*Also admitted in Iowa
**Also admitted in Kansas
***Also admitted in Wyoming

May 7, 2010

VIA HAND DELIVERY

Rick G. Wade
McGuire and Norby
605 South 14th Street, Suite 100
Lincoln, NE 68508

RE: Disclosure Letter for Dale Kavan Hearing

Dear Rick:

NOTICE OF HEARING

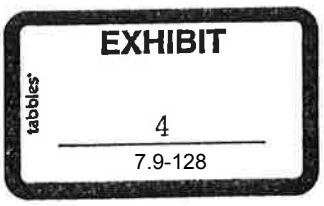
A hearing will be held relating to the employment contract of Dale Kavan pursuant to his request.

We have mutually agreed to the hearing being held as follows:

Date: Thursday, May 20, 2010
Time: 6:00 p.m.
Place: East Gym
Doniphan-Trumbull High School
302 West Plum Street
Doniphan, Nebraska

This will be an open hearing. The hearing may be held in closed session only if you request, prior to commencement of the hearing, a closed hearing and a majority of the School Board votes to proceed in closed session. The formal action of the School Board will be made in open session.

The purpose of the hearing will be to consider and take action on the administration's recommendation to cancel the employment contract of Dale Kavan immediately, and if cancellation does not occur, to terminate or nonrenew effective at the end of the 2009-2010 school year.



233 South 13 Street, Suite 1400 • Lincoln, Nebraska 68508
Telephone (402) 476-9200 • Fax (402) 476-0094
www.perrylawfirm.com

REASONS

The reasons for the administration's recommendation that the employment contract of Dale Kavan be cancelled, and if cancellation does not occur, to terminate or nonrenew effective at the end of the 2009-2010 school year, are set forth in Exhibit "A," which is attached to this letter. Further background and basis for the reasons is also contained in the Exhibits and the Witness List.

EXHIBITS

An initial listing of documents to be presented at the hearing is attached to this letter as Exhibit "B." A copy of the documents referred to in Exhibit "B" is also provided with this letter. Any documents listed or provided with this letter, or later provided, may be used at the hearing. The listing of documents does not include documents which may be used for impeachment or rebuttal purposes, which we reserve the right to present and use at the hearing.

WITNESSES

A listing of witnesses who may testify on behalf of the administration is attached to this letter and served along herewith as Exhibit "C." A summary of the witnesses' expected testimony is also provided. The witnesses may further provide foundation for the documents listed in Exhibit "C" information and an explanation of such documents, and information regarding the reasons set forth in the reasons section of this letter.

MISCELLANEOUS

If you have any questions regarding the listed exhibits, reasons, or witnesses, or need further details or documents to prepare an adequate defense, please let me know sufficiently in advance of the hearing so you may be accommodated, or you may exercise formal discovery rights. The administration reserves the right to call other witnesses or use other testimony and exhibits for rebuttal purposes.

For your information, Gregory H. Perry of Perry, Guthery, Haase & Gessford, P.C., L.L.O., 233 South 13th Street, Suite 1400, Lincoln, Nebraska 68508, (402) 476-9200, or another attorney from such firm, will be representing the administration in this matter. An attorney from a different law firm will be present at the hearing to give procedural and technical advice to the Board and conduct the hearing. The attorney advising the School Board will be:

Neal Stenberg
285 South 68th Street Place, Suite 207
Lincoln, NE 68510
Phone: (402) 486-0415
Cell Phone: (402) 525-2443
Email: StenbergLaw@neb.rr.com

or another attorney designated by the Board or Mr. Stenberg.

Elite Court Reporting will be providing court reporting services to record these proceedings or make arrangements for same.

The Administration hereby requests to be provided, at least five (5) days prior to the hearing, with a list of all witnesses whom Dale Kavan intends to call and a copy of all documents which he may use at the hearing. The Administration reserves the right to claim procedural violations by Mr. Kavan in this matter.

Sincerely,

PERRY, GUTHERY, HAASE
& GESSFORD, P.C., L.L.O.

Gregory H. Perry

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this letter, along with Exhibit "A," Listing of Reasons, Exhibit "B," Listing of Exhibits, with copies of the documents referred to in Exhibit "B," except as noted, and Exhibit "C," Listing of Witnesses, were served upon Rick Wade, attorney for and authorized representative of Dale Kavan, by hand-delivery on this 7th day of May, 2010.

Gregory H. Perry

RESIGNATION AGREEMENT

THIS AGREEMENT is made this 20th day of May, 2010, by and between Dale Kavan (hereinafter referred to as "Kavan") and Hall County School District 0126, a/k/a Doniphan-Trumbull Public Schools (hereinafter referred to as "School District").

WHEREAS, the parties wish to execute a Resignation Agreement constituting a full and complete settlement of all questions regarding the ending of Kavan's employment relationship with the School District;

NOW, THEREFORE, in consideration of the agreements contained herein, Kavan and the School District agree as follows:

1. **Resignation.** Kavan hereby voluntarily, unconditionally and irrevocably resigns from all employment relations with the School District effective May 20, 2010. The School District hereby unconditionally and irrevocably accepts Kavan's resignation. Kavan authorizes the School District to take action on this Resignation Agreement and to advertise for his replacement immediately upon his signing this Resignation Agreement. The School District shall pay Kavan for the days he was absent commencing April 13, 2010 through the end of the 2009-2010 contract year.

2. **Personnel File.** Kavan shall have until June 2, 2010 to remove documents from his personnel file, but not including documents required to be maintained in the file by federal or state authorities. The documents to be removed by Kavan shall be placed in a sealed envelope and such shall be delivered to and retained by the School District's legal counsel, Perry, Guthery, Haase & Gessford, P.C., L.L.O., 233 S. 13th Street, Suite 1400, Lincoln, Nebraska, and shall not be made public or otherwise distributed or made available except if the need to do so arises in the future to enforce this Agreement, or as a result of litigation, or other administrative subpoena or proceeding or process determined to require the production of the same, or upon Kavan's express request. Such sealed envelope and the enclosed documents may be destroyed five (5) years after the end of the 2009-2010 school year.

3. **COBRA.** The parties agree this is an involuntarily termination of employment for purposes of COBRA Continuation Coverage Assistance Under the American Recovery and Reinvestment Act of 2009, or an equivalent program or law, as the resignation constitutes a termination for good reason due to employer action that causes a material negative change in the employment relationship for the employee.

4. **Full and Complete Release.**

A. **Release.** Kavan hereby releases the School District, all past, present, and future members of the Board of Education, and all officers, agents, and employees of the School District, in their official and individual capacities. This is a full and complete release from any and all claims, however characterized, whether for damages, costs, expenses, compensation, penalties, wages, benefits, reinstatement, attorneys' fees under 42 U.S.C. §1988 or other authority, with respect to, arising out of, or in relation to Kavan's employment with the School

Approved by Dale Kavan K

District and Kavan's resignation from such employment including, but not limited to, claims or rights:

1. under the Age Discrimination in Employment Act (ADEA), the Older Workers Benefit Protection Act (OWBPA) (29 U.S.C. '621 et seq.), and the Act Prohibiting Unjust Discrimination in Employment on the Basis of Age (Neb. Rev. Stat. '48-1001 et seq.);
2. under the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. '1001 et seq.)
3. under Title VI (42 U.S.C. § 2000d et seq.; 34 CFR §100 et seq.), Title VII (42 U.S.C. §2000e, et seq.) and Title IX of the Civil Rights Act of 1964 (20 U.S.C §1681; 34 CFR 106.1 et seq.);
4. under the Civil Rights Act of 1866 and 1871 (42 U.S.C. '1981, through and including 42 U.S.C. '1988);
5. under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.; 28 CFR §35.101 et seq.), Section 504 of the Rehabilitation Act (29 U.S.C. §791, et seq.; 34 CFR §104, et seq.), and the Family Medical Leave Act of 1993 (29 U.S.C. '2601 et seq.);
6. under the Nebraska Fair Employment Practices Act (Neb. Rev. Stat. §48-1101 et seq.); the Nebraska Equal Opportunity in Education Act (Neb. Rev. Stat. §79-2,116 et seq.), the Industrial Relations Act, including unfair labor practices claims under that Act (Neb. Rev. Stat. §48-801 et seq.), and civil rights claims under Neb. Rev. Stat. § 20-168 and other state and local laws;
7. under the Wage Payment and Collection Act (Neb. Rev. Stat. §48-1228 et seq.), including claims or rights to be paid for any unused leave, but excluding rights to salary earned and unpaid to date of resignation;
8. of or relating to discrimination on the basis of race, ethnic background, color, religion, sex, age, disability, handicap, marital status or national origin, or other protected status, free speech, and unlawful retaliation, before the state or federal EEOC or NEOC, or any other agency or department or state or federal courts under any state or federal constitution, law, rule, or regulation;
9. for breach of contract and any tort, including but not limited to negligence, libel, slander, and breach of confidentiality or privacy;
10. of whatsoever nature arising under any other state, federal, or local constitution, statute, regulation, or ordinance arising out of Kavan's employment with the School District, this Retirement Agreement, or Kavan's resignation from such employment.

This release does not waive rights or claims under the referenced discrimination laws that may arise in the future after this Agreement is executed.

B. Encouragement to Consult Attorney. Kavan is encouraged to consult an attorney prior to signing of this Resignation Agreement. Kavan agrees that, in fact, he has received advice from his attorney, Rick Wade. Kavan agrees that this Release and all of the terms and conditions of this Resignation Agreement have been fully explained to and are understood by him.

C. Notice of Right to Review and Revoke Agreement. Kavan is notified that he has twenty-one (21) days to consider this Resignation Agreement.

Approved by Dale Kavan

In the event Kavan signs this Resignation Agreement prior to the 21 day consideration period, he waives such 21 day consideration period. In the event Kavan signs this Agreement prior to the 21 day time period, Kavan hereby states and affirms that: (1) his decision to accept such shortening of time is knowing and voluntary; (2) his decision to accept such shortening of time was not induced by the School District through fraud or misrepresentation, and (3) his decision to accept such shortening of time was not induced by the School District through a threat to withdraw or alter the offer prior to the expiration of the 21 day time period, or by providing different terms to employees who sign the release prior to the expiration of such time period.

5. **Entire Agreement.** This Resignation Agreement contains the entire agreement between the parties and the terms hereof are contractual and not a mere recital.

Dated this 20th day of May, 2010. Dale Kavan Witness	**HALL COUNTY SCHOOL DISTRICT 0126, a/k/a DONIPHAN-TRUMBULL PUBLIC SCHOOLS** Dated this 20th day of May, 2010. BY: _____ President of the Board ATTEST: _____ Secretary of the Board

Approved by Dale Kavan

Doniphan-Trumbull Public School
May 20, 2010 Special School Board Meeting

Date: May 20, 2010 Special Board Meeting 6:00 P.M.
Location: 302 W. Plum St., Board of Education Room
To: Board of Education Members and General Public

Agenda: Special Meeting
From: Kirk Russell, Superintendent

The following is an Agenda for a special meeting of the Board of Education to be held on May 20, 2010, at 6:00 p.m. in the East gym at Doniphan-Trumbull High School, 302 West Plum Street, Doniphan, Nebraska.

1. Call to Order

2. Determination of Legality of the Special Meeting, Announcement of open meetings posting and Roll Call

3. Discuss, consider, and take action to appoint a hearing officer and advisor to the Board for a personnel hearing.

4. Conduct hearing concerning the employment contract of Dale Kavan. At the conclusion of the hearing, conduct deliberations and then discuss, consider, and take action to cancel, terminate, amend, continue or take other action the Board deems appropriate on the employment contract of Dale Kavan. (Executive or closed session is possible for the hearing and for deliberations). In the event of a resignation or agreement the Board of Education will consider, discuss and take action on acceptance of the resignation or agreement.

5. Adjourn meeting.

Dated this __20__ day of May, 2010.

DONIPHAN-TRUMBULL PUBLIC SCHOOL

DONIPHAN-TRUMBULL PUBLIC SCHOOL
BOARD OF EDUCATION
May 20, 2010 Special Meeting

The special May 20, 2010 meeting of the Doniphan-Trumbull School Board was called to order in open and public session on Monday, May 20, 2010 at 6:00 P.M., in the High School Gym at Doniphan-Trumbull High School by President Rainforth.

President Rainforth made note and referenced the current copy of the Open Meetings Act posted on the wall of the meeting room.

President Rainforth acknowledged that the notice of the meeting was given in advance by publication in accordance with the Board approved method for giving notice of meetings. Notice of this meeting was given in advance to all members of the Board of Education. The availability of the agenda was communicated in the publicized notice and a current copy of the Agenda was maintained as stated in the publicized notice. All proceedings of the Board of Education, except as may be hereinafter noted, were taken while the convened meeting is open to the attendance of the public. Secretary Buhr was asked to call the roll. Members present were: Judy Buhr, Laurie Lueck, Kevin Krueger, Brent Rainforth, Chris Sullivan and Denise Wiese.

Motion by Lueck, seconded by Krueger to appoint Neil Stenberg as Hearing Officer and Board of Education Legal Counsel. Voting yes: Lueck, Krueger, Buhr, Rainforth, Sullivan, and Wiese.

BE IT RESOLVED that the resignation of Dale Kavan be accepted, that the Resignation Agreement with Dale Kavan be and is hereby approved and that the President or Secretary, or any Official of this School District are hereby authorized to sign, execute and put the provisions of the agreement into effect.

The above Resolution having been read in its entirety, member Brent Rainforth moved for its passage and adoption, member Kevin Krueger seconded the same. After discussion and on roll call vote, the following members voted in favor of passage and adoption of the above resolution. Voting yes: Rainforth, Krueger, Sullivan, Wiese, Lueck, and Buhr. Motion carried 6-0.

President Rainforth adjourned the meeting at 6:06 p.m.

Respectfully Submitted,

Judy Buhr

Judy Buhr, Secretary

Court Costs Information

Incurred By	Account	Date	Amount
Plaintiff	Information	08/31/2010	$35.00
Plaintiff	Filing Fee - State	08/31/2010	$5.00
Plaintiff	Automation Fee	08/31/2010	$8.00
Plaintiff	NSC Education Fee	08/31/2010	$1.00
Plaintiff	Dispute Resolution Fee	08/31/2010	$0.75
Plaintiff	Indigent Defense Fee	08/31/2010	$3.00
Plaintiff	Uniform Data Analysis Fee	08/31/2010	$1.00
Plaintiff	J.R.F.	08/31/2010	$6.00
Plaintiff	Filing Fee-JRF	08/31/2010	$2.00
Plaintiff	Crime Victim Fund	08/31/2010	$1.00
Plaintiff	Civil Legal Services Fund	08/31/2010	$1.00
Plaintiff	L.E.I.F.	08/31/2010	$2.00
Plaintiff	Legal Aid/Services Fund	08/31/2010	$5.25
Plaintiff	County Court Fees	08/19/2010	$76.60
Plaintiff	Sheriff's Fees	09/07/2010	$16.60

Financial Activity

Trust held by the court is $900.00
No fee money is held by the court

Payments Made to the Court

Receipt	Type	Date	For	Amount
206873	Check	10/29/2010	State of Nebraska	$35.00
			Filing Fee - State	$5.00
			Automation Fee	$8.00
			NSC Education Fee	$1.00
			Dispute Resolution Fee	$.75
			Indigent Defense Fee	$3.00
			Uniform Data Analysis	$1.00
			J.R.F.	$6.00
			Filing Fee-JRF	$2.00
			Civil Legal Services F	$1.00
			L.E.I.F.	$2.00
			Legal Aid/Services Fun	$5.25
9051581	Non-Monetary Rec	09/07/2010	State of Nebraska	$16.60
			Sheriff's Fees	$16.60
9051541	Non-Monetary Rec	09/01/2010	State of Nebraska	$36.00
			Information	$35.00
			Crime Victim Fund	$1.00
205661	Check	08/19/2010	Kavan,Dale,Patrick	$900.00
			Bindover Ten Percent B	$900.00

Register of Actions

01/25/2011 Amended Information
This action initiated by party State of Nebraska

Image ID 000211906D08

01/19/2011 Notice-Hearing
This action initiated by party Dale P Kavan
January 25, 2011 at 1:30pm; cert serv
Image ID 000211010D08

12/06/2010 Order-Continuance
This action initiated by Judge James D Livingston
PT to 2/3/2011 at 10am & Jury Trial 4/3/2011 at 9am
Image ID 000206782D08

12/06/2010 Motion-Continuance
This action initiated by party Dale P Kavan
Image ID 000206781D08

11/05/2010 Order-Continuance

This action initiated by Judge James D Livingston
PT - December 6, 2010 at 10:00am
Image ID 000204371D08

11/04/2010 Cert-Service
This action initiated by party Dale P Kavan
Image ID 000204372D08

11/04/2010 Motion-Continuance
This action initiated by party Dale P Kavan
Image ID 000204370D08

09/07/2010 Order-Reciprocal Discovery
This action initiated by Judge James D Livingston
Image ID 000199829D08

09/07/2010 Appearance Date

09/07/2010 Arraignment
see docket sheet

09/07/2010 Return-Information
This action initiated by party State of Nebraska
Dale Patrick Kavan not served Information 9/7/2010
Image ID 000199768D08

09/03/2010 Stipulation
for Reciprocal Discovery
Image ID 000199827D08

09/03/2010 Notice Filed
This action initiated by party State of Nebraska

of compliance w/discovery; cert serv
Image ID 000199505D08

08/31/2010 Information
This action initiated by party State of Nebraska
Image ID 000199262D08

08/19/2010 Bond
BOND 2063 FILED

08/19/2010 Transcript-County Court
This action initiated by party State of Nebraska
County Court Case #CR10-1692
Image ID 000197286D08

Judges Notes

09/07/2010
09-07-2010
Recip discovery order.
Kavan; Arr; State by Carstensen; Def w/Wetzel;
rights and penalties explained; Def pleads not guilty;
pretrial 11/3/10 at 10:00; jury 1/3/11 @ 9am; bond continued.
11/03/2010
11-03-2010
PT; continued to 12/6/10.
12/06/2010
12-06-2010
Trial date continued on Def motion.
01/25/2011
01-25-2011
Kavan; State by Medlin; Def w/Wetzel; State files an Amended
Information; granted; Def waives service and reading of Amended
Information; Defendant waives any defense as to the statute of
limitations as to Count I; Def pleads guilty to:
Count I, Assault Third Degree, I MO
Count II, Assault Third Degree, I MO
Count III, Assault Third Degree, I MO
Factual basis established; plea agreement; Def found guilty;
PSI ordered; sentencing 3-22-11 at 10am; bond continued.
03/22/2011
03-22-2011
Sentg.
Kavan; Young for State; Def w/Wetzel; PSI not complete;
sentencing continued to 4/26/11 at 10am; bond continued.

IN THE DISTRICT COURT OF HALL COUNTY, NEBRASKA
IN AND FOR THE NINTH JUDICIAL DISTRICT

STATE OF NEBRASKA,

Complainant,

vs.

DALE PATRICK KAVAN,
106 HOFFMAN AVE
DONIPHAN NE 68845
DOB: 11/16/1983
OLN: H12574320 NE
CAU/M

Defendant.

CR10-368

AMENDED INFORMATION

FILED
JAN 25 2011
VALORIE BENDIXEN
CLERK OF DISTRICT COURT

I. ASSAULT 3RD DEGREE
28-310(1) I MO

II. ASSAULT 3RD DEGREE
28-310(1) I MO

III. ASSAULT 3RD DEGREE
28-310(1) I MO

State of Nebraska
ss
County of Hall

Be it remembered that MARK J YOUNG, Hall County Attorney, in and for Hall County, Nebraska who prosecutes in the name and by the authority of the State of Nebraska, comes here in person into this Court and gives the Court to understand and be informed that said defendant, in the County of Hall, and State of Nebraska, on or between:

COUNT I
October 1, 2008 and October 20, 2008 intentionally, knowingly or recklessly caused bodily injury to J.S.;

COUNT II
April 9, 2010, intentionally, knowingly or recklessly caused bodily injury to J.S.;

COUNT III
April 9, 2010, intentionally, knowingly or recklessly caused bodily injury to ~~J.A.S.;~~ S.S.

contrary to the form of the Statutes in such cases made and provided and against the peace and dignity of the State of Nebraska.

For MARK J YOUNG, #16963
HALL COUNTY ATTORNEY
231 S. Locust St., PO Box 367
Grand Island, NE 68802
(308) 385-5150

08111 State Board of Education
000211906D08

7.9-139

28

State of Nebraska

ss

County of Hall

MARK J YOUNG, Hall County Attorney, being first duly sworn under oath deposes and says that he/she is a Deputy County Attorney within and for Hall County, Nebraska, in the Ninth Judicial District of the State of Nebraska, and that the allegations and charges against said defendant in the within Information are true as he/she verily believes.

For _____
MARK J YOUNG, #16963
HALL COUNTY ATTORNEY

Subscribed in my presence and sworn to before me this _____ day of _____, 20____.

_____
Clerk of the District Court

Filed in the office of the Clerk of the District Court, Hall County, Nebraska on this _____ day of _____, 20____, at the hour of _____.

_____
Clerk of the District Court

State of Nebraska

ss

County of Hall

Received this within writ this _____ day of _____, 20 ___. I hereby certify that I served the within writ on this _____ day of _____, 20____, on the within named defendant by delivering to said defendant, personally at the hour of _____ o'clock a true and certified copy of the writ with all endorsements thereon.

_____
County Sheriff

WITNESSES:

DEPUTY JOHN HINKLE HCSO
GRAND ISLAND NE

DEPUTY JESSICA HOBACK HCSO
GRAND ISLAND NE

DEPUTY JASON SMITH HCSO
GRAND ISLAND NE

CAPTAIN JIM CASTLEBERRY HCSO
GRAND ISLAND NE

J

IN THE DISTRICT COURT OF HALL COUNTY, NEBRASKA

STATE OF NEBRASKA,

Complainant, **CASE NO. CR10-368**

vs. **FILED** **JOURNAL ENTRY**

APR 26 2011

DALE P. KAVAN,

VALORIE BENDIXEN
CLERK OF DISTRICT COURT

Defendant.

On April 26, 2011, this matter comes on to be heard before the Court for sentencing.

The State is present through its counsel Mark Young, Hall County Attorney; the Defendant is present with his counsel Art Wetzel. Allocution is offered.

The Court **FINDS AND ORDERS** that the Defendant is a fit and proper candidate for probation and hereby sentences the Defendant to a term of probation as set forth in the Probation Order. Defendant's bond is released.

Defendant is informed that should Defendant fail to abide to the terms of probation probation could be revoked and Defendant would be sentenced under the original statutes.

BY THE COURT:

JAMES D. LIVINGSTON
DISTRICT JUDGE

FAX: **County Attorney**
Art Wetzel
State Probation

000221426D08

EXHIBIT
11-07
8
3pp
6-15-11 WC

IN THE DISTRICT COURT OF HALL COUNTY, NEBRASKA

STATE OF NEBRASKA,

Complainant, **CASE NO. CR 10-368**

vs. **PROBATION ORDER**

DALE P. KAVAN,

Defendant.

FILED

APR 26 2011

VALORIE BENDIXEN
CLERK OF DISTRICT COURT

This document sets forth conditions of probation imposed on the Defendant.

AS TO COUNT I:

1. The terms of probation shall be for a period of 24 months commencing this date 4/26/11.

2. The conditions of probation are as follows:

   Not violate any laws, refrain from disorderly conduct, or acts injurious to others.

   Report to probation officer as directed by the officer.

   Allow probation officer to visit at all reasonable times and places.

   Answer all reasonable inquiries concerning personal conduct or conditions asked by probation officer.

   To meet all family responsibilities.

   To be gainfully employed or actively seeking employment.

   To keep the probation office continually informed of residential and employment status.

   Defendant shall submit to DNA test as directed by probation office and pay for such test.

   Within 30 days write a letter of apology to victims with a copy to probation for the circumstances which brought the Defendant here.

   To pay restitution through the Hall County Clerk of the District Court's Office in the sum of $1,431 payable to the Jacob Slough family at the rate of $100 per month commencing 6/1/11.

To pay the costs of this action of $164.20.

Pay Probation Administrative Enrollment Fee of $30 this date. In addition, pay a monthly Probation Programming Fee of $25 per month due and payable to the Clerk of the District Court on or before the 10th day of each month.

AS TO COUNT II:

Probation for a period of two years under the same terms and conditions of Count I with the exception of restitution and costs.

AS TO COUNT III:

Probation for a period of two years under the same terms and conditions of Count I with the exception of restitution and costs.

Counts II and III to be served concurrent with Count I.

Pursuant to §29-2266(4) NEB. REV. STAT. if in the judgment of the probation officer the probationer's failure to comply with any of the provisions of this Probation Order has, or is occurring, the probation officer shall assume that the probationer is placing lives or property in danger or attempting to leave the jurisdiction of the Court and shall arrest the probationer with or without a warrant and detain the probationer in a jail or other detention facility pending further proceedings pursuant to §29-2266(5) and §22-2267 NEB. REV. STAT.

BY THE COURT:

JAMES D. LIVINGSTON
DISTRICT JUDGE

FAX: County Attorney
Public Defender
State Probation
Hall County Department of Corrections

3

Justin and Amanda Groff
816 E Bismark Rd.
Grand Island, NE 68801

April 16, 2010

Dear Mr. Arthur Wetzel:

We are writing you in regards to our support of Dale Kavan. Mr. Kavan is an outstanding wrestling coach and teacher. He is a very compassionate individual with passion for what he does.

It is because of Mr. Kavan that we drive our 3 year-old son to participate in the Doniphan-Trumbull Youth Wrestling Club instead of participating in the Team GI youth wrestling club here in town. Our son loves Mr. Kavan. When we leave practice our son can't stop talking about how "cool Coach Kavan is" and how "Coach" always lets him win when they practice together.

We have watched Mr. Kavan interact with his high school students as well. He truly care about their well being and works hard to be a positive roll model for all of his students whether they be 3 years old or 19. We do not believe Mr. Kavan would ever intentionally hurt anyone.

Sincerely,

Justin W Groff Amanda L Groff

Justin and Amanda Groff

PENGAD 800-631-6989
EXHIBIT
11-8
7.9-144
6-15-11 WC
page 9

April 18, 2010

This letter is in regard to the recent accusations against Mr. Dale Kavan, teacher and coach at Doniphan-Trumbull High School. According to what I have heard and read in the paper, this accusation includes assault, or an attack, on two students. My children have been students of Mr. Kavan's and after talking with him many times in the past, I find it almost impossible to believe that he would willfully attack a student.

Mr. Kavan has taught both of my children, Morgan and Andrew, although he has not been their coach. He has been an excellent teacher and mentor for both of them, giving them encouragement and showing interest in their lives. I feel Mr. Kavan is one of the better teachers we have here in Doniphan. While I cannot see Mr. Kavan intentionally injuring any of his students, I could believe that he might have been "roughhousing" with them and accidentally cause an injury.

It would be a travesty of justice to see this incident take on such proportions that his calling to the teaching profession be in jeopardy. He is truly an excellent teacher and a very caring individual.

Sincerely,

Katherine S Schulte

Katherine S Schulte
P O Box 328
Doniphan, NE 68832

April 16, 2010

To Whom It May Concern:

I am writing on behalf of Dale Kavan. He has been a life long friend and neighbor. He has always looked out for other people and is driven to do good deeds. Dale is always willing to lend a hand. He is always polite and kind to each person he meets. Dale Kavan has been a part of the Morse Bluff community and helps any chance he gets.

Sincerely,

Brent Zakovec
Morse Bluff Fire Chief

3

April 18, 2010

This letter is in regards to Coach Kavan. Coach Kavan has coached my children in wrestling, track and football. He also recently chaperoned a group of high school students to Washington D.C. During the last few years there has not been a single time that I felt my childrens physical safety was an issue. Coach Kavan is very passionate about what he does. He wants his students and athletes to excel at what they do.

Sincerely,

Mary McNally

This letter is to support Dale Kavan. We've known Dale for 1½ years. Our daughter has had Mr. Kavan as a teacher and coach for the last 1½ years. Mr. Kavan encourages her to do her best + strive to be a better athlete. Mr. Kavan helps her when she asks for his help. He has a great sense of humor. He is very dedicated to the school, students and community. He's a young talented teacher and coach with great ideas to add to the school and community. We would not hesitate to have my daughter continue to be Mr. Kavan's student. We trust him + support him.

Sincerely,
Jason, Renae + Jordyn Brummund

Derrick A. Adams
749 N. Briggs Ave.
Hastings, NE 68901

To Whom it May Concern,

Two years ago I started coaching at Doniphan-Trumbull High School. At that time I had the privilege of meeting Coach Dale Kavan. Getting to know Dale has been an honor whether it be the countless hours spent at football practice, road trips to Junior Varsity football games or the hours spent watching game films. Spending time with him away from football and the school only helps you see his enthusiasm, passion, and pride for life and the kids at Doniphan-Trumbull High School.

Knowing Dale, you know his playful nature with the students, parents and his fellow coaches. I truly believe that this has made him a beloved figure in the school and community. I have seen first hand how he has a positive impact on the lives of not only the student athletes he comes in contact with, but everyone around him. His dedication is also second to none. Dale is always spending time trying to plan new and better ways to do things not only for athletics but in the classroom.

I truly believe that he would not intentionally or maliciously harm a student or any other individual. Dale is a great person who's enthusiasm and pride has had a positive impact on any person who has come in contact with him. I know that I am a better person for knowing Dale. I believe it would be a travesty to convict him and deprive the students at Doniphan-Trumbull High School of such a dedicated teacher and coach.

Sincerely,

Derrick A. Adams

Coach Derrick A. Adams

Jason & Christine Quist

320 East Plum Street

Doniphan, NE 68832

April 16, 2010

We are writing this letter to you regarding the matter of Coach Kavan from the Doniphan-Trumbull School District. We know that these types of cases need to be considered carefully and great importance needs to be placed on the protection of our youth.

As parents, we send our children to school and expect that the teachers will provide a safe and secure environment. Both of our sons (age 12 and 7) have had Coach Kavan as their wrestling coach throughout the 2009-2010 school year. Not only that, but him and his wife are our neighbors. We can attest that he is a man of great moral character and integrity. We would not have allowed our kids to enter into the wrestling program if we did not believe so. We make it our business to know who is coaching or teaching our kids, and we can tell you with certainty that Coach Kavan is the kind of teacher and coach that our schools cannot afford to lose.

It saddens us when good people's lives are turned upside down due an incident that was accidental being made out to be malicious. Our court systems are taxed enough, but when unnecessary cases are thrown their direction it burdens them even more. If this were something that was inappropriate and out of line we would be the first to stand in line and demand that something be done, but that is not the case here.

In all our dealings with Coach Kavan, he has interacted with our boys in an appropriate and responsible manner. He is a role model that our boys look up to and admire, and in this day and age good role models are hard to come by. Our school, our kids, and our community need Coach Kavan! Thank you for your time and consideration in this matter.

Sincerely,

Jason Quist

Christine Quist

Friday April 16, 2010

To whom it may concern,

I am writing this letter in support of Mr. Dale Kavan. I have known Dale for more than 12 years. He is one of the most caring, giving, and helpful individuals that I have ever had the privilege and honor of knowing. He is the type of person that puts his needs aside to help others first. If you ask him for help, he'd be the first to arrive and the last to leave. I know him personally. I have watched him grow from a child and a student to a man and an educator. He's always been a team player and always carried a concerned and caring attitude towards others with him along the way as he's grown. He is a remarkable person, educator, and coach. He goes above and beyond the call of his professional duties in every aspect. His students always come first and he does all he can to ensure that each and every one of his students succeeds. Educators and Coaches alike are not well paid professionals. The great ones teach because it is what they love and what they were meant to do. They love the joy of providing knowledge and an educated future for each and every student they encounter. Dale is no different. He teaches and he Coaches because it is what he loves. It is the occupation that he was meant to have and it is the profession that fits him perfectly.

I pray that all of the individuals involved in determining the fate of his future are able to see the passion that Dale has for educating his students. I hope that you see the youthful energy that he is able to bring into his classes and his teams that he is so blessed to coach. It is my deepest hope that you are all able to see the respect that he holds for each of his students and that they then return that respect to him.

Dale would never intentionally cause harm to anyone, especially one of his students. He is a protector of others. It is just a part of his natural personality. I would trust Dale with my life and the lives of my children in any situation.

There are so few truly dedicated and respected teachers in this world today. I sincerely hope that you are able to see that Mr. Dale Kavan is one of these few teachers and coaches. Dale is exactly the type of individual that I want to teach my children. He is a hands on, dedicated person. If he ever attempted to change school districts, I would hope that the school district that my children attend would welcome him with open arms. He is indispensable as educator, coach, and human being. Anyone who has come in contact with Dale should truly feel honored. People like him do not come around everyday. The Doniphan-Trumbull School District is lucky that they were able to hire him as a member of their staff. The students of this school district have reaped the rewards of having Dale as one of their educators. I hope that the students of the Doniphan-Trumbull School District are able to reap these rewards by having Mr. Dale Kavan as one of their excellent educators for many years to come.

Most Sincerely,

DesiRae Ratkovec

DesiRae Ratkovec

4-15-10

We are writing in regards to Dale Kavan. Mr. Kavan has been at Doniphan Trumbull High School for two years. We have two high school students who have enjoyed and appreciated Mr. Kavan during that time. Unfortunately, we have not had as much personal knowledge and contact with Mr. Kavan as we would like, however, most of the great stories we hear from our kids about school revolve around Mr. Kavan. Our kids sense a genuine care and concern from him. They are challenged to be the best they can, and encouraged by Mr. Kavan when they succeed. We have heard nothing but positive feedback from the kids. When there is a teacher that grabs the attention of our kids in such a positive way, we want to stand behind him in any way we can.

Sincerely,

Michael Remm
Robin Remm

Michael & Robin Remm
DTHS Parents

April 17, 2010

Richard and Leslie Mlinar
424 Campbell Ave
Doniphan, NE 68832

RE: Dale Kavan

Please let it be known that we support teacher, Dale Kavan, and that these charges against him should be dropped. Our reasons are that he had no intent of harming any students. Dale is very hard worker, he cares about his students and he would be there if anyone of them needed support.

The incidents mentioned in the Grand Island Independent newspaper are simple not malicious in any manner and he should only have to answer to the parents and our school administration.

Thanks.

Sincerely,

Richard & Leslie Mlinar

Richard and Leslie Mlinar

28 Lillian Lane
Doniphan, NE 68832
April 15, 2010

To Whom It May Concern:

My name is Wendy Fjeldheim. I am the mother of two boys who have had Mr. Kavan as a coach and/or a teacher either this year or in years past. Mr. Kavan has always struck me as being an enthusiastic and well disciplined coach. My sons have never had anything but good things to say about him. When Mr. Kavan was hired at Doniphan-Trumbull, there was a sense of excitement about his arrival. He seems to relate well with the kids and I am appreciative of the work ethic he tries to instill.

Being a teacher in the world we live in can't be easy, as there are many kids today that disrespect their authority. While Mr. Kavan may have made a mistake, it was never intentional or malicious. I would hate to see Mr. Kavan, a teacher that the kids love and respect, be unable to realize his own potential as a gifted teacher and coach for our youth. I do not feel that Mr. Kavan is a danger or threat in any way to our children at Doniphan- Trumbull Public School.

Thank you for your time and I hope that you take these thoughts and the thoughts of many other supporters into consideration.

Sincerely,

Wendy Fjeldheim

Wendy Fjeldheim

Jackie Ediger

21 Lillian Lane• Doniphan, NE 68832• Phone: 402-845-9296 •
E-Mail: jediger5@gmail.com

Date: April 17, 2010

RE: In Support of Mr. Dale Kavan

To Whom It May Concern::

This letter is sent in support of Mr. Kavan. My oldest son, Aaron, has had him as a Physical Education Teacher, Weights Teacher and Coach the last two years. Mr. Kavan has all students' best interest in mind as working to establish life-long physically active routines and mind sets for all students.

Aaron is a basketball player, has played since he was very young and gone to many basketball camps through the years. As an 8th grader Aaron again went out for wrestling, but only to stay in shape for basketball. In September, at the beginning of his 9th grade year, he waivered, 'Maybe I want to wrestle'. It was because of Mr. Kavan, his encouragement and seeing potential in Aaron that he almost left basketball to begin a high school career in wrestling. Aaron did pick basketball (quite frankly he is better at basketball) but has enjoyed working with Mr. Kavan has part of the football program and in classes.

Mr Kavan has also worked with adults getting into shape. He started an evening workout session for about six of us showing us how to lift weights, tone up in a way none of us had done in twenty years. This was on his own time, planning workouts, running and encouraging us along the way. This shows his commitment to the community, taking personal time to invest in not only the students but adults as well. I hope Mr. Kavan can continue to teach in Doniphan Trumbull High School. Mr. Kavan and his wife are great assets to this community.

My family supports Mr. Kavan as a teacher and a coach.

Sincerely,

Jackie Ediger

Jackie Ediger
Parent of two boys who attend Doniphan Trumbull Public Schools

April 15, 2010

We are writing to you to express our support of Dale (Coach) Kavan. We were mortified when we heard of the acquisitions made toward him and could never imagine that he would intentionally hurt anyone, let alone a child. He coached our 6 year old son, Myles, these past couple of months during a wrestling camp at the Doniphan-Trumbull school. It was apparent to us that he truly cared for the kids. We have witnessed his devotion to the sport of wrestling, the students and faculty at the Doniphan-Trumbull school and to the Doniphan community. He is truly an asset to our school and community.

We pray that the court system dismiss all charges against Coach Kavan.

Sincerely,

Randy & Jodi Sadd

April 15, 2010

We are writing this letter on behalf of Dale Kavan. He is our son Cameron's coach and teacher. Cameron has upmost respect for him. Mr Kavan's enthusiasm for his job is contagious; this reflected in our child's willingness to want to please him whether in the weight room or on the football field.

Mr. Kavan believes in our youth he pushes them to excel in whatever they are pursing. He goes over and above to make Doniphan-Trumbull school a better place to be for our children.

It would be a great loss to Doniphan Trumbull School to lose Mr. Kavan. He is about instilling confidence in our children; to have a loss of a teacher/coach of his caliber it would be incomprehensible what it would do to our children.

Mr. Kavan is not a criminal; he has the attributes of an outstanding teacher and mentor. We feel that that the only justice that needs to be done is to put him back where he belongs which is at Doniphan Trumbull School.

It is crucial to the spirit of our school to have Mr. Kavan be a part of the D-T family. Without Mr. Kavan it would be a devastating blow to the hearts and minds of our children.

Sincerely,

Greg Sinner

Kathy Sinner

Cameron Sinner

4/16/10

To Whom It May Concern,

I support Dale Kavan. He has coached two of my sons and he is also my neighbor. He has always shown himself to be a man of character around me. I do not think he would ever intentionally hurt anyone. I feel my sons are totally safe around him and would never want to see him lose his job over this situation. Mr. Kavan is a very caring man and has helped my sons in many ways.

Sincerely,

Lisa King

Lisa King

312 E Plum St.
Doniphan, NE 68832
402-845-2006

To Whom It May Concern:

I have known Mr.Kavan for the past four years and during this time I have experienced first hand the mutual respect from Mr.Kavan and the students. I have had the opportunity to help Mr.Kavan and Mr. Breckner during the previous three wresting seasons.

I have had the opportunity to attend three different school systems in Nebraska. Each of these school systems have there unique advantages and disadvantages and even though I am only a senior I know it's hard for some people that have been in education for multiple years who have trouble relating to there students. Mr.Kavan did not have this trouble as he could relate to all students. Mr.Kavan spends many hours trying to improve his students and athletes.

I believe I speak for all students and the large majority of the parents in the Doniphan Trumbull school system that wish to see all charges dropped against Mr.Kavan. I feel that the justices system and the Doniphan -Trumbull school system should have investigated these accusations a little bit more before they destroy a persons personal character and his professional career.

Sincerely,

Tausha Lee

Tausha Lee

To whom it may concern,

This letter is being written in **support** of Mr. Dale Kavan. As a parent of high school students I understand the importance of having good educators within a district. I also understand how important our children are to us as parents. I send my children to school every day knowing that I can trust the educational staff. Many of these educators also choose to become coaches/mentors which requires a significant amount of time away from their families. Mr. Kavan has whole heartedly accepted a position that allows him to be a good educator, outstanding coach and a mentor to many students. I know that he has sacrificed many hours to also help out with many of the Elementary Sport Programs. In todays society there are many broken homes to where there is not a father in the household. Mr. Kavan has become a mentor to many of those boys who otherwise would not have the chance to become outstanding wrestlers or young men. Mr. Kavan has shown many of those boy direction in their lives, where they may not have has that otherwise. Mr. Kavan has been a role model in the eyes of many boys due to his kindness and encouragement.

I am hoping that the board, as well as the courts, will consider all the positive aspects of Mr. Kavan as an educator, coach and mentor. I find these allegations very difficult to accept since I am a person who knows Mr. Kavan and what he stands for. He is a very kind, caring and trustworthy man. He would not intentionally do anything to harm anyone especially the students weather they are an active in sports or someone in his PE class. He is a great asset to the Doniphan-Trumbull School District. I truly believe there is a solution to these allegation in the event they are founded. That solution would **NOT** to terminate Mr. Kavan from his teaching/coaching position but to give him a probationary period to prove that he can continue to be an asset to Doniphan-Trumball School District.

Thanks you,
Karin R.
A supporter for Mr. Kavan

To Whom It May Concern:

Mr. Kavan is highly thought of throughout the Doniphan-Trumbull community as witnessed by the support on the Face Book "Support Coach Kavan" page established by our students to show support for Mr. Kavan and the many letters that will be presented on his behalf from students and parents alike. His young energetic, enthusiatic and playful nature has endered him with students and parents alike and it sickens us to see this young mans reputation tarnished. Those of us whose children have been coached by Mr Kavan for the past 6 years and taught by him for the past 2 years know his playful style of teaching and coaching well and we are confident that these allegations will turn out to be unfounded.

His devotion to the students and athletes of this district are outstanding, he encourages all his students to do their best in a fun and playful manner. In this day of '24x7 learning' and video games he works very hard to show kids that keeping physically fit can be fun. As a coach, he's never been afraid to throw an arm around the shoulders of one of his wrestlers after losing a match to talk about what they could have done differntly or give them a pat on the back or tossle their hair if they win. That reassuring arm combined with his caring nature and his willingness to listen to them at anytime is one of the traits we parents admire. This mentoring manner does not stop at the edge of a wrestling mat it is seen on the sidelines of the football field and in the hallways and classrooms of school. It is very rare these days amoung our nations educators to see a teacher or coach who isn't afraid to show that kind of support to our students for fear that allegations like these will be brought against them. I fear that this type of behavior on the part of the parents will only serve to limit our teachers ability to fully inspire our students for fear that similar allegations will be made against them.

Mr Kavan has only been a teacher within the school system for two years but in that short time his integrity in teaching and coaching and devotion to the students have truly made a positive impact and it would be a tremendous loss for this school and community if he were unable to continue in those roles.

Respectfully yours,

Claudia Krueger

Michael Krueger

Gerald Krueger

Nadeen McDaniel

Kyle Krueger

Jason Lavaley, DC
(402) 461-1171
www.lavaleychiropractic.com

Lavaley Chiropractic
835 S. Burlington Ave, Suite 106
Hastings, NE 68901

April 16, 2010

To whom it may concern,

I wanted to start out by mentioning that I have known Dale since 2002, at that time we were teammates on the Hastings College football team. I have had the privilege of working with Dale in a greater capacity as we have worked together within many of the same organizations since 2008. I have been more than impressed by his moral standards and how well he works with the youth of the communities of Doniphan and Trumbull. He cares about those children more than anyone I have ever met. The children that have the honor of working with Dale on a daily basis have the utmost respect and admiration of him. He has a unique ability to relate to them and the issues that they face every day. I cannot think of a single authority figure that those students, elementary on up, are more comfortable associating themselves with.

On a personal note, I have had the opportunity to get to know Dale through our work together and have had many occasions where my family and I have spent time socially with Dale, and there is no other person outside of myself and my wife that I trust more with my children. He is extremely caring and when he is around children, there is nothing more important to him at that time than those children.

I know that losing the opportunity to interact and help in the development of our youth on a daily basis would be absolutely devastating to Dale. I honestly feel that losing Dale as a teacher and mentor would be robbing the youth the opportunity of learning, not on scholastic lessons but life lessons, from a man that cares so deeply about them and their well being. He is exactly the kind of person I want my children to develop into.

CREDIT MANAGEMENT
Recovering Your Company's Future

Sincerely,

Dr. Jason Lavaley

Dr. Jason Lavaley, DC

IF THERE IS ANY MORE I CAN DO TO HELP, PLEASE DO NOT HESITATE TO CALL.

JASON

www.credit-mgmt.com

April 16, 2010

To Whom It May Concern;

In the relatively short time I have known Dale Kavan, I have gotten to know him well. I was impressed with him as a student-teacher and volunteer coach and even more so as a teacher and coach. He has been a great influence on my daughter Sam. Dale Kavan encourages Sam on a daily basis to do her best and doesn't just say the words; he helps her accomplish her goals. She is planning to pursue a degree in education partly due to Mr. Kavan's example and encouragement.

He has shown great leadership at DTHS by offering to teach a class outside of regular school hours and not included in his pay. He did this because there was a need and kids reached out to him and he was there to help! As a coach, he also spends many of his hours outside of school helping with youth wrestling, again without pay! This is not a man who thinks of himself first, he is always putting others first. Dale Kavan treats all kids fairly. It appears to me that he doesn't care if you are a popular athlete or a moody outsider; you get the same treatment from Mr. Kavan.

Dale Kavan has always been an active, positive role model for DTHS students. He may have made the mistake of horsing around with students but being engaged with students is part of his appeal to those same students. I would trust him one hundred percent with any of my 3 kids, in or out of the classroom. Mr. Kavan is not only an excellent teacher and coach, he is a bright, kind, friendly, generous (with his time and talents) and caring person and a good friend.

Please consider all of the above when you are trying to get the bigger picture of who Dale Kavan is. He is many things, none of which is criminal.

Sincerely,

Suzy Rainforth

Jerry Arnold
1401 N 7th Ave.
Hastings, NE 68901

Phone 402 461 5570 or 402 694-1128

I am a retired school bus driver. I drove a bus for over 20 years and have seen some good and not so good teachers and coaches. I came to know Dale Kavan from driving he and the wrestling team to different meets. He is a very caring person, loves the kids and would never intentionally harm any of them. I have seen how he works with the kids and how they love and respect him, He is the same way in the classroom. I have great grandchildren who attend the D/T School and they like him as a teacher and a coach. We should have more dedicated teachers like him in the school systems.

Jerry Arnold

Jerry Arnold

To whom it may concern:

Wow, disbelief and unbelievable are just a couple words that come to my mind. I can't believe how deep they are digging for "stuff" to be used towards Mr. Kavan. I can tell you that none of what has been said or what is in the newspapers describes Mr. Kavan at all. This is not the type of person he is or should be portrayed to be. He was always the "big kid" and had a very playful side of him. Never would he intentionally hurt anyone.

Mr. Kavan has always been the person to go above and beyond the needs of his students and athletes at Doniphan-Trumbull High School. If he saw potential in a student he went after it. He sought out the best in each and every one of them. From being successful in the classroom with the study tables available to any student before school in the mornings. Whether it is on the football field or the wrestling mat. He was there for the kids. They knew that they had to also put the time and effort into each thing they did to succeed.

Mr. Kavan started his day's early; it didn't matter if it was the school year or during the summer programs. He was up early with the athletes in the weight room and working with them on agility four to five days each week. I have seen the tremendous turn around in my own son since Mr. Kavan has been a part of his life. He is a more dedicated person in the classroom as well as his athletics.

Mr. Kavan has always gone above and beyond for his students and families. We would hope that you could see beyond all of this and give him a second chance. There are many people out there that have been given that second chance and have grown to make a big difference in this world. We believe that Mr. Kavan would do the same if he was given that opportunity.

Sincerely

Mark & Carla Maurer

Mark & Carla Maurer

April 15, 2010

To Whom It May Concern:

It is extremely rare to find someone who cares about others and is willing to sacrifice their time and energy to help someone other than themselves. We live in a world where good Samaritans are hard to come by and team players are rare, so when you can find such an individual, cherish that, especially when the individual is a teacher as well as a coach.

That is what the Doniphan students have been doing since Coach Kavan first stepped foot in the halls of the school, because not only is he a wonderful person, he is a wonderful teacher and mentor to students around him. I can't speak of Coach Kavan as a teacher, because unfortunately I graduated from Doniphan before I had the privilege of sitting in one of his classes, but I can speak of Mr. Kavan as a coach and as an incredible person.

Last winter I had the honor of witnessing Coach Kavan in action as I travelled every weekend to photograph his team's wrestling meets. I watched him coach his athletes through wins and loses and I can honestly say the relationship he has built with his athletes is unlike any other coach in that gym, it is one of mutual respect and understanding. This is honestly remarkable because the respect they share is not one of forced authority but rather one that has taken sweat, blood, and tears to form. True respect must be earned and never forced, and it is truly astounding to watch such respect between coach and athlete.

I watched as the other coaches throughout the gym helped their athletes throughout the day and as they talked them through their matches, but no other coach in that gym was willing to get down on their knees and actually walk their students through their mistakes and failures. He has truly built a beautiful relationship with these kids, he is not only their coach, he is their friend, one who is there to push them when they need a helping hand and one who will drag them up the slope when the road is tough and they want to give up. He truly places his athletes first and will sacrifice his personal time and energy to ensure they are reaching their full potential. He is a knowledgeable teacher, a kind and thoughtful mentor, and a tremendous asset to the Doniphan Athletic Program and the Community.

Sincerely,

Lacie M. Wiese

Lacie Wiese

Lexi Hoffman

To whom of which this may concern,

I was not present at the time of the accident involving Mr. Kavan so therefore I cannot say what took place at that time. I will not attempt to make any excuses. However I will make a stand and tell what I do know. Everything I will be telling does not consist of any rumors or anything I have heard. What I'm going to tell you will be factual and come from my perspective. None of what I will tell you will involve the accident, only my view of Mr. Kavan and his relation to the D-T student body (grades Kindergarten-12).

Mr. Kavan is an outstanding teacher at Doniphan-Trumbull. He teaches numerous classes and coaches wrestling to all ages. He is also coaches Junior High track. I have had him as a teacher in explore and as my coach for track this year. Mr. Kavan teaches the material on hand during his classes. Everyone looks forward to going into his classroom or seeing him in the hall.

He is by far the one of the most well respected educators at our school and earned his respect not by glaring at students who misbehave. Instead he is a role model for everyone. He shows us how to be confident in ourselves and our studies.

Before a sports season starts up you always get "THE SPEECH" from your coach telling you the basic rules of the sport. Mr. Kavan does tell us that but he goes deeper and gives us each a list of morals to live by and life lessons to learn during the season. He gives everyone a fair shot and helps everyone to improve. When a student isn't giving it 100% he speaks to them and influences them to do their best all of the time.

One of those morals he has taught everyone at Doniphan is family. He's taught us that we are each other's family through everything. Since Mr. Kavan has arrived at Doniphan the students are harder working, in better condition physically and mentally, they are driven toward their goals, and most importantly closer as a community of young people. As one individual in this vast family at D-T I hope to make a difference some way however I know for a fact that losing Mr. Kavan would be devastation not only to our sports programs but the overall performance of the students as a family.

Lexi Hoffman

I know this has been a tremendous burden to the family of students at Doniphan and we all hope to see him back again. I want to say that I know Mr. Kavan as a good man that would never intentionally hurt a student. I am part of a student family that is so strong that as one we can make it through anything. I know we can go on meeting challenges in our lives. However the young people of Doniphan that do not yet know the power of a student family will never experience it if he leaves. I know that D-T would never be the same again if we lost a member of our family that influences us to always be our best. I know this because I used to be picked on as an individual before he came. When he did come he made us all part of something larger than life. So we are who we are and there are those who make us who we are. Mr. Kavan has made us as a family of students and a community who we are.

Thank you for your time.

Sincerely,

Lexi Hoffman

Lexi Hoffman

04/17/2010

To Whom It May Concern:

Coach Kavan is one of my teachers and I have nothing but good things to say about him. Last year was my first year in a weights class. Being a girl that was a little intimidating for me, but it was one of my most enjoyable classes last year. You would think a weights class would be easy to get a good grade in but Mr. Kavan makes us work really hard to earn our grades just like any other class. He is passionate about what he teaches us and he has fun teaching us which makes it an exceptional learning environment for all of us. Coach Kavan has really made a difference in our school. He got a grant through the Cattleman's Ball to redo the weight room in our school and now it looks great! We have real weights instead of ones made by the shop classes and now it is much safer. He has just been a positive force all around. He is also a great support for the students, especially me. Last year in January my dad passed away from pancreatic cancer and it has been really hard for me. I was gone for three weeks of school that January and Mr. Kavan was nothing but supportive, understanding, and kind towards me. He didn't make me make up any of my classes for him because he knew I already had a load of things to do from other teachers. One day when I was in the office because I was having a hard day, he came in and talked to me. I will never forget that day because it showed me what a genuinely caring and good person he is. I also recently spent a week with Mr. Kavan when he was the sponsor of our Close Up trip. We went to Washington D.C. and having Coach Kavan show us around made it all the more fun. We had a great time and we got to see practically all of D.C. because he felt that it was an important experience for us and now it is something I will never forget. He cared for all of us on that trip, always taking us to the store when we needed it, getting us up early so we could see all that we could, and taking me to the lost and found at the Pentagon City Mall when I lost my cell phone. He was an amazing sponsor, always bending over backwards for us just like the way he teaches. His presence is always felt around the school. Mr. Kavan empowers us to do our best, helps us believe in ourselves, and he has helped create a sense of pride in our school that wasn't there before he taught here at Doniphan. All of the students are hurting right now because every single one of us feels like Mr. Kavan is more than just a teacher and we want him back. Not having him in our school is detrimental to our whole school environment. I am lucky to have experienced him in the classroom because teachers like Mr. Kavan don't come around very often. Mr. Kavan has such a great spirit and I don't feel like court should be necessary for him. He has never meant anyone any harm and these charges against him are a mistake. This letter doesn't even do our Coach Kavan justice. I only wish that you could see what a great person he is and maybe the passion that our students show towards him will show that to you. He has done so much for me and has been there for me; this is my turn to show him the same appreciation he has shown me.

Sincerely,
Emily Tully, Junior Class President
308-329-1329
pupcos_2@hotmail.com
10550 South Buffalo Road, Doniphan, NE 68832

To Whom It May Concern:

My name is D.J. Pfeiffer and I am also writing on the behalf of my brother Kenneth Pfeiffer. I am a senior at Doniphan-Trumbull Public School and I have spent three years playing sports for Coach Kavan. Coach Kavan is an amazing teacher in so many ways; He coaches us football very well and tells us how to perform at each position thoroughly, in school he is always on task and finding ways to make us better, and he teaches us important lessons that we will use the rest of our lives.

He has always been there for me whether it be needing a recommendation for college, or simply talking to about problems that I have going on with my life. I have always felt comfortable talking and being around him and have never felt threatened or intimidated by him. I absolutely believe that he would never intentionally hurt a student emotionally or physically. Our school could not find another coach, mentor, or educator like Coach Kavan. Doniphan- Trumbull needs Coach Kavan.

Sincerely,

D.J. Pfeiffer

Coach not only wants us to excel in sports he expects us to be respectful kids that do their best in the class room everyday. He teaches us to respect one another because that is what makes a good person.

One example of coach caring for people was this summer when he came to see me at my house while I was down. I had, had knee surgery a couple days before he came. Well actually it was the day I got off of my meds. I was in some pain and just plain out of it. Coach Kavan calls me to see what I am doing so I told him and after a couple minutes he was at the door. I will always remember that, when coach came that day. He took the time just to talk with me and that made me feel good.

The big thing for our football team this year was ***Protect the Family.*** What the coaches were trying to get at was look out for each other and do things as a team and be there for each other. Another saying we had was ***Hold the Rope.*** Coach Breckner read a letter to the team and all the people at our pep rally at homecoming before the game about *holding the rope*. The speech was about would you hold on to the rope if someone was hanging off a cliff? Would you let the rope scar your hands to hold the rope? In this situation the best way to hold the rope is to pray about it. I am sure there are prayers every night about this, including mine. I am willing to hold on to the rope for Mr. Kavan as well as many others. We are all trying to Protect the Family and Coach Kavan is apart of the family. Please don't take that away from us.

Sincerely,

Riley Wiltfong
8th Grade Student Doniphan-Trumbull Schools

To whomever may be reading this:

This is in concern to Coach (Dale) Kavan and I would just like to tell my opinion on him. Coach Kavan is one of the best guys I've ever met. He has been at our school since I was a freshman and has coached me in football and wrestling. He has always been a great role model to every one and does what is right and expected of him. I have a great respect for him, because at one point last year I was going throw some though family times around the time of wrestling season and if I ever needed to talk about it Mr. Kavan was always there to listen. He's taught me that no matter what life throws at you just get back up and keep going even if it hurts. He always tries to push people to do the right thing and to push themselves. Mr. Kavan would never intentionally hurt someone he just likes to mess around with people. He is a dedicated man to what he believes and is always there to help out if you need it. He is one of the best men I think I'll ever meet.

Corbin Henk

Corbin Henk

28 Lillian Lane
Doniphan, NE 68832
April 15, 2010

To Whom It May Concern:

My name is Taylor Fjeldheim and I am a senior at Doniphan-Trumbull Public School and would like to share with you a few things concerning Mr. Dale Kavan. Mr. Kavan has been my football coach for three years and teacher for two and I have nothing but positive things to say about him. The past few years Doniphan-Trumbull has been a very progressive place to learn and compete and Coach Kavan has been a major part in this. He always has the best interest for the kids in his mind and is constantly searching for new intuitive ways to make learning and athletics better at DT. Before he was brought in our school and football team lacked respect, discipline, confidence, and work ethic and these were things that were holding us back from moving forward. Mr. Kavan has instilled in my teammates and myself what it means to be a true competitor with class and dignity both on and off the field. He completely remodeled our aging weight room and was able to provide new equipment to give our athletes a new excitement about lifting. He has attended several coaches clinics to learn new things he can bring and share with us that will make us better athletes and healthier people. He has designed all new Doniphan-Trumbull apparel to give our students a certain "swagger", confidence, and pride about our school. He is always talking about the new things he wants to get us for gym, health, and weights classes that improve health and athleticism. Mr. Kavan also coaches wrestling and I know he works hard getting his guys in shape preparing them for their matches. He runs several wrestling camps for kids even in elementary school. The time, effort, and pride Mr. Kavan puts into his job is unparalleled. Most of all Coach Kavan has been a great role model for every person at Doniphan-Trumbull. He is a guy who easily relates to kids and you can count on to be there for you when you need it. Coach Kavan has never and would never intentionally or maliciously hurt any student. He is the type of teacher that likes to joke around with students and people love that about him. It is possibly one of his greatest gifts, yet possibly one of his greatest flaws. However, as I stated before he has never done anything in anger or spite. Mr. Kavan made a mistake as every young man will and I am confident he has learned never to even come close to that line again. I feel it would be a huge mistake to take such a promising young teacher away from kids. In no way, does any student at Doniphan-Trumbull feel unsafe or uncomfortable around Mr. Kavan. In fact it is quite the opposite. Please do the right thing and understand that this man is not dangerous and has never at any point done anything to harm any student intentionally, maliciously, or in spite.

Sincerely,

Taylor Fjeldheim

Taylor Fjeldheim

32240 Rd A
Trumbull, NE 68980
February 9, 2010

To Whom It May Concern:

I am writing to you in regards of Mr. Dale Kavan. Being senior at Doniphan-Trumbull School, I have never had the privilege of having Mr. Kavan as a teacher or coach. But nonetheless I am devastated, along with many others, by the situation he has been put in.

As an outsider perspective, I see all the good Kavan has done for our school and community. In his two short years as a Doniphan-Trumbull Public School employee, Mr. Kavan has brought much change and success to our school. From advocating and helping with the "weight room renovation" to coaching a school-record, 4 State Wrestling qualifiers his affects are tangible.

Not only has "Coach" Kavan helped our school in "physical" ways, but he has helped us "mentally" too. My younger brother is one who struggles through life, socially and academically. I have seen first hand the care and encouragement Coach Kavan has offered my brother; Kavan <u>really</u> cares about his students.

Please help Mr. Kavan any way you can! Please help bring him back to where he belongs: at Doniphan-Trumbull High School.

Thank you.

Sincerely,

Samantha Samuelson

Samantha Samuelson

4/15/2010

To Whom It May Concern:

This letter is in regard to Mr. Dale Kavan, and I am showing my support to him. The amount of time Mr. Kavan spends at school and school events shows how much he cares for the students and Doniphan-Trumbull. I have seen him on several occasions at the school before and after school with students coach and mentoring them.

I know Dale is a man with integrity, honesty and love for the kids. I believe with Dale and his wife Casey moving to Doniphan that shows his dedication to the kids and his job. He is here to stay and make the kids better kids and better athletes. I AM HERE TO SUPPORT DALE KAVAN. I also believe Doniphan-Trumbull School is very lucky to have him as a teacher and coach.

One last thought I have 3 children 2 girls and 1 boy and would NOT hesitate to leave them in the care of Mr. Kavan. My Twins are in the Doniphan-Trumbull preschool program and Mr. Kavan has always helped them and they look up to him like you wouldn't even believe they call him "KAVAN".

Sincerely Yours,

Shawna Williams

Shawna Williams

To whom it may concern:

I am writing this letter in support of Dale Kavan of Doniphan-Trumbull High School. Mr. Kavan is my teacher, my coach, my mentor and my friend. He has taught me many lessons that have influenced me now and will continue to guide me throughout my life. He taught me that if you work hard you can do anything. He taught me to treat people with respect both on and off the field and he continually reminded me how important it is to get good grades in school. He has influenced me to eat healthy, stay fit, and make healthy choices. He taught us in class and by example, in the way he lives his life every day. The students of DTHS need teachers like Mr. Kavan. We all feel very comfortable talking to him, he listens, he makes us laugh, smile and enjoy school. Coach Kavan has had a very positive influence on me. He has coached me in football, wrestling, and power lifting and he would never intentionally harm anyone. A mistake and an attempted apology has escalated into a nightmare that could destroy a good man and his families future. Please take into consideration the positive influence Mr. Kavan has had on me, the student body of Doniphan-Trumbull and the Doniphan community as a whole. I ask that you help me have faith in the judicial system and treat him fairly by dropping the charges against him and give him a second chance.

Sincerely,

Joe Dinan

Joe Dinan,
Freshman DTHS
309 N 4th Street
Doniphan, NE 68832
(402) 845-2203

4/15/10

RE: Dale Kavan

I have only known Coach Kavan for two years. In those two years, I have grown to really appreciate everything he has done and is still trying to do for our school. Since he has been here, I feel more pride within our school! There is not as much apathy about our school and sports programs. There is more enthusiasm about trying to do the best of our ability! In the time he has been at Doniphan-Trumbull Public Schools, our Power Lifting Team made it to State, and four wrestlers also made it to the State Competition. He pushes each and every student to do their best in athletics, academics and character. I know it's his job to teach us, but in his teaching, you can identify a teacher who genuinely cares and one who is just doing their job. Coach Kavan genuinely cares. It saddens me that Coach Kavan's character is being questioned! Please consider this letter in support of Coach Kavan.

Sincerely,

Kristin Remm

Kristin Remm
DTHS sophomore

As a student and a wrestler from Doniphan/Trumbull, I have known Mr. Kavan for a while now, and this whole situation has been blown way out of proportion. Mr. Kavan was just messing around with a couple of students and one kid got a black eye, and for the "strangulation" part of it, it was also just him messing around, it's just the way he is. He likes to joke around with the students and we like to joke around with him as well. It was not intended for him to hurt the student at all.

Mr. Kavan cares so much about the school and the students. He spends hours and hours trying to improve it as a whole. I'm sure he knows what he did was wrong and regrets it completely. As a coach, there is no one else that will push you to get better than coach Kavan. If it wasn't for his help, I wouldn't of even had a chance in wrestling this year.

Mr. Kavan needs our support now more than ever and we need to help him through this misfortune and hopefully all will work out for him.

Thank you for your time,

Seth Meadows

Seth Meadows

4/17/10 11:56 AM

My name is Maury Lorence and I am a student at Doniphan-Trumbull Public School, and I am as close to Mr. Kavan as student, having him as my weights instructor, I am his teacher's aid, and he was my linebacker's coach on the football team. Mr. Kavan is a special person at out school and has a special relationship with the students. I know that he would never do anything to put any of the students in harm, as he is a person that does everything to make the school a better place. A guy like Mr. Kavan doesn't go to school for that long to become a teacher and coach for the money, he did it because he cares about kids, and wants to see them succeed and reach their fullest potential. That's why everyday, he's figuring out lessons and programs to help us reach that level. Even though he's a Jr. High and High school teacher, he still spends multiple nights out of the week working with the elementary students, helping them and teaching them.

I know in my heart Mr. Kavan is a great guy, and has ran into some misfortune, but please don't let this effect the rest of his life, as he needs to be in school, teaching, and being a role model for us students.

Respectfully, Maury Lorence

To Whom It May Concern:

I am not writing this letter to condone or agree with the actions of Mr. Kavan, but I am writing this letter to express my feelings about Mr. Kavan as a teacher, and person.

Many students from Doniphan-Trumbull have had Mr. Kavan as merely a teacher in a P.E. or weightlifting class, but I have not only seen that side of him, but iv also seen a different side last summer while working with him on the weight room. I have worked at our school since my freshman year, and to completely truthful, you see a totally different side of teachers during the summer months. I have had many bad, and undesirable experiences from teachers of whom I thought to be the nicest teachers, but my experience with Kavan was totally different.

While spending my time painting I saw his often tough guy front melt down to a caring person who you could tell anything to. We conversed about friends, school, and issues going on in my life. He genuinely cared and put significant effort into helping me with my problems. He even at times joined into our "girl talk."

Mr. Kavan was also my weight lifting teacher my junior year, where I learned more, and had more fun than in any other class I have ever taken. He was definitely not a teacher that let you slack, and often times made me do more than I wanted to, but overall improved me as a person and improved my work ethic as well.

I cannot speak for the whole school, or even the people in my class, but I can help voice the reactions I've heard from fellow students, and everything I've heard is positive. Yes, I've heard the complaints from sweaty boys after a football practice outside in 90-degree weather, but I've also heard their reactions after a hard earned win. Kavan is a dedicated coach, who works night and day for his players and their success. He never once asks for recognition or glory in his name, but instead continuously strives to improve people and our school.

Mr. Kavan never went to Doniphan-Trumbull Public School, or even grew up in our community, yet he fought to better our school, and only looked to improve. Our wrestling room was redone with Kavan's help, and this year alone he led four of our wrestlers to state. He worked to completely redo the weight room, and spent hours out of his time to take the extra steps. Mr. Kavan even came in to help the contracted painters himself just to cut down on costs.

Even though this is only Kavan's second year here at Doniphan-Trumbull, he has made more changes, and improved more than teachers that have been here their whole careers. The students have always been his first priority, and he has always looked to improve individuals as well as our school and community.

I believe that Mr. Kavan is an asset to Doniphan-Trumbull Public School that they cant afford to loose. The changes that he has made in the two years that he has been here, has been the impact that Doniphan has been looking for. Without Mr. Kavan, Doniphan-Trumbull will never be the same.

Sincerely,
Jena Schlatz

To Whom It May Concern,

I am writing this letter in support of Mr. Dale Kavan, a teacher and coach at Doniphan-Trumbull High School. As a former student of D-T and athlete on his wrestling and football teams, I know that Coach Kavan is a great man with a big heart and cares about kids very much. He is very passionate about what he does and wants to see all his student and athletes achieve not only success in life, but also excellence. Coach Kavan will always go out of his way to help struggling students and athletes, whatever the situation may be. He is a very inspiring and invigorating person to Doniphan-Trumbull Schools and will contine to help students at D-T achieve new heights. Coach Kavan would never intentionally harm students and he is certainly not deserving of these accusations that have been brought against him. I just want to say that if Mr. Kavan is convicted of these accusations, it would be a huge loss to D-T schools and the Doniphan and Trumbull communities. I know that I cannot control the outcome of this situation, but I just ask that you consider the things I have mentioned above and consider all the many letters of support that I am sure you have received from all the students, parents, and supporters of D-T schools and see that Coach Kavan is a great man and cares so much about kids and their futures. Thank you for taking the time to read this letter.

Sincerely,
Nick Williams

7000 West Platte River Drive
Doniphan, Nebraska 68832
April 16, 2010

To Whom It May Concern:

Teacher: Someone who shows or explains how to do something, one who causes another to learn or understand a subject, one who encourages and is helpful to accepting new things and instructs students with their knowledge. Leader: one who leads or commands a group or organization, one who is followed by others, one who is advanced or successful in a particular area. Coach: a tutor or trainer who specializes in an athletic activity with the goal of making a team better. Webster defines the words in just sentences and until they are lived and showed though example in ones life, they are just words. They were just words to me at one point, until I met Mr. Kavan

Anyone can tell you how to read, how to write, and what history is all about, but a true teacher will live a life that others want to be a part of, one that goes far beyond a text book or worksheets. Mr. Kavan lived that kind of life; he was an example for everyone he came in contact with, regardless if they were outcasts to the other students or the most popular kids in school. Students knew who Mr. Kavan was because of the light he gave off, even those who did not take his classes or little lone step foot in the gym. Teachers, leaders, and coaches are hard to come by especially those who can change a student for the better in a matter of seconds. I have been that student many times and have been a witness many more. With the way that Mr. Kavan carries himself, it is not hard for others to see that and want to be that kind of person. When a student has a teacher that "goes through the motions" they learn and succeed far less then when they have a teacher like Mr. Kavan who goes above and beyond his responsibilities as an educator and/or coach to be sure his students succeed.

Mr. Kavan has such a friendly, out-going, positive attitude and high spirit it is hard for others not to want to be around him. Students may tend to forget he is one with authority and tease him or joke around in a playful manner. Mr. Kavan does joke around with students and that's what makes him a good teacher, he is approachable and hands on and gives kids a chance even when no one else will. He might have made the mistake of 'horsing around' with his students when someone got hurt but that certainly doesn't make him a criminal.

I have been truly blessed to have Mr. Kavan in my life. Regardless of the outcome of this situation, I would still like to be sure he has a part in my future. I owe him for the example and inspiration he was for me over the last few years that led me to want to someday be a teacher like him; a teacher who was respected and gave their life to teaching the next generations. I hope you take this first hand information and are able to do what is right for Mr. Kavan.

Sincerely,

Samantha Rainforth

To whom it may concern,

I have known Mr. Kavan for 5 years. During that time, I could truly see that he cared for each one of his wrestlers and saw the potential in each of them. He worked very hard to help them improve and improve their confidence. I was a student manager for the team and if I ever had a question, he made sure he explained until I understood. Mr. Kavan always knew if someone was feeling down, and went above and beyond to help ensure that person felt better. Upon my graduation, I saw just how hard Mr. Kavan worked with my brother, and is a huge reason for his improvement and success in wrestling. He saw the potential in him and made sure that my brother was reaching his goals and improving. Mr. Kavan has done a tremendous amount for the wrestling program and school. He truly cares about his students and athletes and wants to see us succeed.

Not only does Mr. Kavan care for his wrestlers in their athletic abilities, he cares for each one as a person and treats them with great respect and as if they were his own children. Mr. Kavan has always been fair and kind with the people he has come into contact with, including me. When I heard about the situation, I simply could not believe it. Anything that happened while unfortunate was clearly an accident. From hearing about the situation, what happened certainly should not have, but I truly feel that the punishment goes far above and beyond what is called for as a result of the situation. Mr. Kavan is an outstanding coach, friend, and most importantly a great person, this is a terribly unfortunate event, but I do not think it justifies the measures which have been taken. We all make mistakes and we must learn from those mistakes, but if we do not give those who make a correctable, {and in the greater scheme of things} minor mistake an opportunity to redeem themselves, than are we any better. I know in my heart that Mr. Kavan is truly remorseful for what has happened and sincerely understands his mistake and will work harder than anyone before him, to rectify the problem and ensure that it never happens not only with him again, but with anyone in the school. I please ask for your sincere and thorough consideration of reinstating Mr. Kavan as a teacher and coach at the Doniphan-Trumbull High School, this will allow him to show the students first hand, what it means to learn from ones' mistakes.

Thank you for your time,

Ashley Maurer

Ashley Maurer

I have known Coach Kavan for 5 years. He is not only been a teacher and a coach to me but a mentor. I have learned so much from him, he is a huge reason I have had so much success in wrestling, football getting better grades in school and respecting my peers. He has pushed me, he saw my potential and went above and beyond to make sure I reached it. He truly cares about us as students and athletes and wants to see us succeed. Students respect him and look up to him because he knows how to be a friend and a teacher/coach to us.

Heath Mawer

4-15-2010 To whom it may concern

Mr. Kavan

I have known Mr. Kavan for 3-4 years as a role model, staff member, and coach.

I can confirm that he is a great man of integrity, is extremely dedicated to his family and work, and is entirely peace-loving.

Futhermore, Mr. Kavan would never touch a student, while having an intention to cause pain. Also, he guides us (the students) in every sensible, moral, and right direction possible, he is determined that the students get all the education needed and beyond, Mr. Kavan's heart is there for everyone of his students, fellow teachers, and the whole community of Doniphan.

For your information, I am behind Mr. Kavan every step of the way, I have trusted him with my three other siblings, and will continue to trust him for the rest of my life.

Yours faithfully

Blaile Williams

DTPS student

RE: Mr. Dale Kavan

To whom it may concern,

The charges brought against Coach Kavan paint an awfully ugly picture of him and in no way reflects his true nature. Over the last 5 or so years we have entrusted the well being of our 4 boys with him on the wrestling mat, football field and weight room. Never once have I had a concern for their safety nor would I in the future. Coach Kavan has spent hours upon hours being committed to our boys and has never, ever been in any way neglectful or careless with them. By the way, a big share of these hours upon hours he gave voluntarily as he coordinated the youth wrestling program here at Doniphan-Trumbull the last couple of years and has numerous hours of community service as well.

As one example of Coach Kavan's concern for safety, we watched him jump from his seat during a wrestling dual with Franklin because their kids were performing a move similar to the "cement mixer". No one else thought the move was dangerous, but coach Kavan argued with the referee at length stressing the possibility of a head or neck injury. As a result, the move was scrutinized closely the remainder of the contest and no kid was hurt.

If Coach Kavan is not allowed to return as a coach and teacher, we will have lost a very inspirational, hard working and devoted person who cares deeply about the future and well being of our children.

Please consider this and all other comments about Coach Kavan's character before making a decision that will negatively affect his dream of being a successful coach, mentor and teacher of children. It is not very often that we find people of his caliber willing to invest their time and talent to better our children.

Respectfully,
Todd Williams
Marilyn Williams
Todd and Marilyn Williams

Letter of Support for Dale Kavan

I think he is one of the best teachers at Doniphan-Trumbull, because he connects with us and you can always talk to him about anything. He messes around with kids a lot and he just went too far for about three seconds and it could ruin his career.

He has made such a impact on our school, that Thursday April 15th students and teachers wore shirts that Mr. Kavan designed to show that we need his great teaching/coaching skills. I think Mr. Kavan is the best coach at Doniphan-Trumbull, because he pushes you so you get better, and he tells you that you can do it. He would risk his job to help a student in need so standing behind him is the very least I can do for him. Some more evidence that he has made a big impact, is that one of my classmates cries herself to sleep ever since this has happened.

I stand behind Mr. Kavan 100%. I thank you for taking time out of your day to read my letter and I pray that Mr. Kavan will be seen as the great person that he is.

Sincerely,
Dylan Sullivan Doniphan-Trumbull student

To Whom It May Concern,

I am a junior at Doniphan-Trumbull High School. I have had Mr. Kavan as a P.E. teacher, and was also in contact with him through the Close-Up trip to Washington D.C. recently. He is one of the most careful, unselfish, and hardworking teachers I have ever had. While we were in Washington D.C., he was always making sure everyone was safe and having a good time, and I also learned a lot that I wouldn't have had he not been there.

Mr. Kavan would be the last person I would ever suspect of any sort of malicious or threatening activity that could possibly hurt one of his students. He is the type of teacher that cares about his students and his athletes like they were his own children, and will discipline them like he would his own. He will always go the extra mile to help someone and ensure their future. It is amazing how dedicated he is to our town, and to the people in it. His enthusiasm and energy is always noticed and appreciated.

The bottom line is that he does not deserve the future this situation could cost him. He has done so much for our school and our community already in the few years he's worked here, so I can't imagine the positive achievements he can have in the coming years. The whole situation has been blown out of proportion. I will be one in the overwhelming amount of people in Doniphan who will stand up and support Mr. Kavan one-hundred percent and ask for him to be acquitted.

Sincerely,

Erica Lienemann

Erica Lienemann

April 15, 2010

To Whom It May Concern:

I have had the great privilege to know coach Kavan for roughly the last six years of my life and I have had the amazing experience of having him as a coach in both football and wrestling my senior year of high school. I can honestly say that in the short time I had him as a coach he has both inspired me and been like a father figure to me, doing everything in his power to make sure we were prepared for our next challenge. It is not that often that you get a coach that will help you with whatever problem you bring to them and even stay after practice or classes to make sure that you get the help desired and or needed.

Coach Kavan is not one to give respect, you have to earn his respect, whether it is in the classroom, on the field, or on the mat he will always push you to your limits and beyond. He always makes sure that you are performing to the best of your abilities and doesn't let his students and athletes slack off. In the end he makes sure that you will be prepared for whatever is in front of you whether it is an opponent or life in general.

Someone once said "Opposition is a natural part of life. Just as we develop our physical muscles through overcoming opposition - such as lifting weights - we develop our character muscles by overcoming challenges and adversity." Coach Kavan is no stranger to adversity, and really knows in his heart what it takes to overcome it. Throughout my senior year Coach Kavan really helped me to do the same, and on many occasions helped me to overcome many adversities.

Coach Kavan is one individual that honestly and truly cares about his students and athletes, and it would be a true travesty for him to taken away from Doniphan. I know that both students and faculty at Doniphan-Trumbull respect Coach Kavan and think of him as a colleague, mentor, friend, and in many cases consider his like family. In summary Coach Kavan is a good hearted person who legitimately cares about the ones around him and strives to help whenever he possibly can, no matter what the costs. Coach Kavan is both a man who helps students to achieve their goals and inspires the uninspired. I have never known a teacher to go above and beyond like Coach Kavan does, and will continue to do throughout his career and life.

Sincerely,

Jake Wetovick

Jake Wetovick

Kipp Pfeiffer
908 Briarwood
Hastings, NE 68901

April 19, 2010

To Whom It May Concern:

I am writing to express my thoughts regarding coach and teacher, Dale Kavan. My children have been involved with him in both classroom studies and sports. He has had a very positive impact on them by setting an example of hard work and discipline. In my experience, he has been a positive force in the community and in the school.

It would be a travesty to ruin this man's life over this incident. It is my greatest hope and prayer, that after all the facts have been compiled, it will be known that Dale is indeed an outstanding person.

Sincerely,

Kipp Pfeiffer

To Whom It May Concern:

This letter is in support for Mr. Dale Kavan. Mr. Kavan has been both of my boy's teacher and coach for several years. Mr. Kavan has inspired my children to be the best that they can be. He has built up their self esteem and supported them in the classroom, on the field as well as other areas. I have never witnessed Mr. Kavan in any way shape or form be inappropriate with a student or hurt a student. I continue to hold him in the highest regard and would trust my children with him at any time in any setting.
It would be a shame to not have Mr. Kavan continue to work in our school systems. In speaking with him, you can see his face light up when talking about his students. He has put his heart and soul into the Doniphan-Trumbull school system and helping build the students into good people.
Mr. Kavan is a good person and a great teacher and coach.
My family is very concerned about his future so please take my views into consideration.

Sincerely,

Michele Henke
15 Sonja Drive
Doniphan, NE 68832

April 17, 2010

In the Matter of Coach Dale Kavan
Doniphan Trumbull High School

To Who it May Concern:

I am writing this letter in support of Coach Dale Kavan. As a parent of a student of Doniphan Trumbull High School there have been certain teachers that I would place in the **Above and Beyond** category. Coach Dale Kavan is definitely on that list.

I appreciate his kindness and support to my daughter Emily Tully as she has had to cope with losing her father to a terminal illness. Also, I trusted Mr. Kavan to take good care of my daughter on their recent class trip to Washington, D.C.

We have been part of the Doniphan Trumbull school community since 2001. We need good teachers for our children. Perhaps we should go back to long ago when teachers are revered and respected. Sloppy parenting and blaming the teacher seems to be the norm these days instead holding kids responsible for their own actions.

Please don't ruin the reputation and take away the teaching license of a great teacher, Coach Dale Kavan.

Sincerely,

Deanna Bosselman
10550 South Buffalo Road
Doniphan, Nebraska 68832
308-380-4169
Almostheaven_3@yahoo.com

To whom it may concern:

I want to provide some information on Dale Kavan from Doniphan. Dale has been a part of this community for a short time but has made an impact during this time. Dale has a way to get the kids in our local school and community to be involved and put forth the best effort they can. Dale has created the expectations in the kids to always give your best and work hard. I have seen first hand as a stats keeper for the high school football team on Friday nights how Dale works with the players during the game to make adjustments. Dale is encouraging and positive with the players on the side line but continues to ask for the best effort from each player. He has the same drive for the kids to do their best in the classroom also. He asks the kids to give just a little more to help move them out of their comfort zone and realize their potential. Once kids experience that success, for example, in weight lifting, they too begin to believe in themselves and what they can do. He truly empowers kids to believe anything is possible.

Dale has had a positive impact on my three kids. My oldest Dale has taught and coached. Riley showed a tremendous amount of emotion when he shared with us about what had happened with Dale. My son was hurting along with many other students. Dale has my son and others motivated to each week day lifting weights. Riley is an eighth grader and truly believes he is doing this to first to "Protect the Family" as Dale uses this statement to motivate kids and second with a little more effort Riley can be a better player. The "Protect the Family" statement to my son means he wants to do what is best for the team. In today's world too many people want to see what is best for me not the team. Dale is doing a great job of teaching the kids the bigger picture. When my son hurt his knee in the summer of 2009, Dale helped Riley rehab his knee and kept Riley motivated to work hard on his knee. Riley is a stronger person today because of the help and encouragement Dale gave him.

My other two kids have not had Dale directly as a teacher or coach but have witnessed first hand his positive character at school by being respectful to other teachers and student at school. They also have been outside our home when Dale comes by and Dale will stop and talk to them. He even went sledding with the kids at our dump here in Doniphan during a snow day this last winter. Not a lot of teachers will spend time with kids on a day off. Dale did and made sure they were staying warm and were safe. The kids have talked about that day several times.

I have personally known Dale for about two years now. Later with encouragement and guidance from Dale, I have been working out at the school to improve my physical condition. When Dale first started working with me, he wanted me to list my goals. I told him I was 45 years old and wanted to lose some weight. Dale said that was fine but what else do you want to do. He asked me to write down 3 to 5 goals so I did. That was helpful to me to make my plan. Dale has used those goals to help motivate me to work hard. More then once he has said "You can do a little more Scott". He was right; I can do a little more.

No matter who Dale is around, young or old, he is going to push them to do their best. I know what Dale has taught the kids of our community will make those kids better today and in the future. Dale truly cares about the kids and wants them to have success. We need more Dale Kavan's in our school systems and communities. We need people like Dale that care and that push so we do not settle for just being there and going through the motions. We should always expect to give our best effort and that effort will help "Protect the Family" rather it be a student giving his best effort in the classroom on a test, or the high school athletic event, or myself as a parent, spouse and employee.

This incident with Dale has had a very big impact on our community. People know Dale is not the type of person this is making him to be. Dale is a positive role model for the kids and residence of the Doniphan and Trumbull communities. I hope he can continue to impact lives in our school district. Thank you for your time.

Sincerely,

Scott E. Wiltfong

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