

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2019-15

**JOSEPH V. YURISH,
Teacher/Head Football Coach,
Hedgesville High School**

CONCILIATION AGREEMENT

The West Virginia Ethics Commission and Joseph V. Yurish freely and voluntarily enter into the following Conciliation Agreement pursuant to W. Va. Code § 6B-2-4(t) to resolve all potential charges arising from allegations in the above-referenced Complaint.

FINDINGS OF FACT

1. Joseph V. Yurish ("Respondent") is employed by the Berkeley County Board of Education as a special education teacher and head football coach at Hedgesville High School ("High School").
2. At all times pertinent herein, Respondent was a "public employee" as defined in the Ethics Act, at W. Va. Code § 6B-1-3(j).
3. The Ethics Commission has jurisdiction over alleged violations of the Ethics Act committed by public officials and employees, such as the Respondent. W. Va. Code § 6B-1-1 through § 6B-3-11.
4. In approximately December 2017, a citizen donated sports equipment to the Hedgesville School Eagle Gridiron Gang Supporters ("Boosters' Club") for it to use or sell for the benefit of sports teams at the High School. It was a condition of the donation that

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the Boosters' Club had to remove the equipment as soon as practicable from the donor's storage unit.

5. In March 2018, several members of the Boosters' Club and other volunteers moved the sports equipment from the donor's storage unit to various locations. Some of the equipment, such as rubber sports flooring, outdoor basketball court tiles and training sleds, was taken to and stored at the High School. Other equipment was not taken to the school but was used or stored at other locations. For example, a football passing machine was taken to a football team member's house for his use during the summer of 2018 and then returned to the High School in August 2018 before the start of the football season.

6. The Respondent states that some softball equipment and a Spaulding portable basketball hoop were taken to his house. A Boosters' Club parent states that he was given the softball equipment by the donor for use by a local girls' travel softball team. The Respondent and the Boosters' Club parent state that the softball equipment was stored at the Respondent's house for the parent because the parent was in the process of building a new house.

7. The Respondent put the portable basketball hoop in his driveway and used it. The Respondent states that, to the best of his knowledge, many Boosters' Club members knew that the portable basketball hoop was at his house and he did not try to hide the fact that it was there. The Respondent states that he intended to buy the basketball hoop from the Boosters' Club, but the Respondent admits that he did not memorialize his intent to purchase the basketball hoop in writing to the Boosters' Club or to the High School's Principal or Athletic Director.

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8. In the spring of 2019, the High School Athletic Director inquired about the whereabouts of the donated equipment and directed that all the equipment be returned to the High School. The Respondent returned the portable basketball hoop and the softball equipment to the High School. The Respondent states that all the donated equipment is now at the High School except for two square softball screens which the Boosters' Club parent states he threw away because they were broken and of no use to the softball travel team.

9. The Respondent does not know the age of the Spaulding portable basketball hoop, but he states that the price of a new one is approximately \$1,300. He used the portable basketball hoop for approximately one year.

RELEVANT LEGAL PROVISION

W. Va. Code § 6B-2-5(b)(2) states, in relevant part:

Use of public office for private gain. -- (1) A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

CONCILIATION OF VIOLATION

I, Joseph V. Yurish, the Respondent, admit that I violated the private gain provision in the West Virginia Governmental Ethics Act, at W. Va. Code § 6B-2-5(b), when I kept

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for my personal use a portable basketball hoop which had been donated to the Boosters' Club for the benefit of Hedgesville High School sports teams. I have since returned the portable basketball hoop to the High School.

In order to resolve this matter, I am entering into this Agreement. I understand that for this Conciliation Agreement to be finalized, that the Ethics Commission must approve it and determine which sanctions to impose.

In consideration for the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

1. A fine in the amount of \$200 to be paid by December 15, 2019;
2. Training on the West Virginia Governmental Ethics Act, either in person or by viewing the training provided on the Ethics Commission's website, at ethics.wv.gov, before December 15, 2019. I shall provide written confirmation of the completion of this training to the Ethics Commission, and
3. Reimbursement to the Boosters' Club in the amount of \$200 for my personal use of the portable basketball hoop by December 15, 2019.

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void and the Complaint against me will proceed before the Probable Cause Review Board, where it will be processed in accordance with the West Virginia Code and the Ethics Commission's Legislative Rules.

If the Ethics Commission approves the Agreement, it will enter an Order in which it approves the Agreement and sets forth the sanctions listed above.

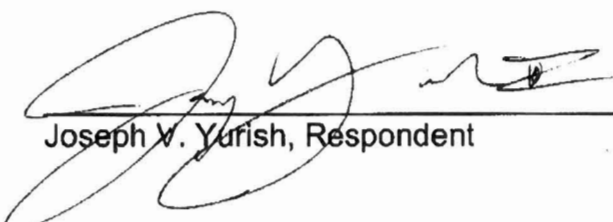
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Both parties understand that, pursuant to W. Va. Code § 6B-2-4(t), this Conciliation Agreement and Commission Order must be made available to the public.

11/7/19
Date


~~Robert J. Wolfe, Chairperson~~ Lawrence J. Tweel, Acting
West Virginia Ethics Commission Chairperson

10/24/19
Date


Joseph V. Yurish, Respondent