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Clark Corbin  
Idaho Education News  
555 Bannock St.  
Boise, ID 83702  
CCorbin@idahoednews.org

Dear Mr. Corbin:

I'm Dan Blocksom, an attorney for Rep. Ryan Kerby – we spoke earlier today. To say that I'm dismayed by your article tonight regarding Rep. Kerby's case would be an understatement. As an attorney who must abide by a set of professional standards, I understand that you as a journalist must abide by a set of ethics as well. Through this letter, I encourage you to do some soul-searching regarding your article as well as your approach to your profession.

My understanding is that journalists are supposed to seek out truth and accuracy above all else. Furthermore, my understanding is that journalists are to provide fairness and impartiality in their work, acknowledging the fact that there are two sides to every story. The mission statement of Idaho Education News, the organization for which you work, is "to produce independent, comprehensive and thoughtful journalism about public education policy and practice in Idaho." Your article today fails these journalism standards as well as the mission statement of your organization. This letter will point out to you the opportunities that you missed today to seek truth and accuracy, to provide fairness and impartiality, and to produce independent, comprehensive, and thoughtful journalism.

Your first paragraph is a "hook," which I understand, but your article never fully explains the context of Rep. Kerby's charges. The article's first paragraph explains that the review panel found that Rep. Kerby violated state ethics rules because his school turned in data that turned out to be inaccurate. You brush aside with little to no explanation that in the 2014-15 school year, the undisputed evidence showed (a) that he took no actions to turn in the data, (b) that he was not involved in any way with what data was turned in, and (c) that he had no knowledge of what had been turned in for months afterwards because he retired from the New Plymouth School District several weeks later.

Your quote of Rep. Kerby in paragraph four is taken out of context. Your article quotes Rep. Kerby stating that he "wouldn't do anything different." What your article does not say is that Rep. Kerby specifically told you that if he were in the same situation again **with the same information he had at the time**, then he would not have done anything different. One of Rep. Kerby's central defenses in this case is that neither the Idaho Department of Education nor the Professional Standards Commission ("PSC") provided him with any guidance or feedback as to how to deal with the quandary in which he found himself. The PSC's own response to Rep. Kerby's subpoena for records acknowledged that no guidance had been provided to Rep. Kerby regarding how to address the specific problem with which he was faced. Similarly, the evidence at the hearing about the lack of guidance was uncontroverted, and the panel's final order acknowledges as much. The undisputed evidence in the record at the hearing was that Rep. Kerby would have happily re-uploaded the finalized scores if he had simply known that doing so was expected of him. By ignoring all of this context for this quote, you instead portray an entirely misleading picture that Rep. Kerby is being intransigent, and would still defy state rules and regulations

if given the opportunity today. If this is not a violation of journalistic ethics, I do not know what would be.

You re-insert in this article a quote from Rep. Kerby which you previously took out of context in another of your articles. Specifically, the quote is regarding Rep. Kerby's sentiments about whether the state should know all individual teacher data. Rep. Kerby explained at length in both his affidavit (which you have) and in his pleadings (which you also have) how you took this very quote out of context. The hearing panel specifically stated in its final decision that it did not take your article into consideration in reaching its final determination, probably because of the undisputed testimony at Rep. Kerby's hearing from multiple witnesses that the Idaho Education News is known to be biased. You don't include any acknowledgment that the validity of this quote – without its proper context – was contested at the hearing, and that the panel decided to ignore it altogether. Instead, you re-insert it again as if it were undisputed.

Your article demonstrates that your mind is clearly made up without examining the validity of Rep. Kerby's defenses. Instead of giving his explanations a good faith examination, you characterize all of them as "sought to shift the blame in several directions." Among those "blame-shifting" attempts was Rep. Kerby's belief that payments for the school district would be withheld if evaluations were not submitted by the end of May. What you fail to include anywhere in your article is that the undisputed evidence at the hearing was that multiple school superintendents across the state were under that same impression. Instead, you jump straight to the panel's decision.

You also mischaracterize Rep. Kerby's defense as saying that "he wasn't responsible for the evaluations because ..." Rep. Kerby has *never* asserted that he wasn't responsible – in fact, he has stated numerous times that he wish that he knew these expectations so that he could have done this over again. His defense, which has been consistent throughout the entire litigation, has been that whether he acted *responsibly* is an *entirely* separate inquiry from whether he acted *ethically*.

Your use of the term "bogus teacher evaluations" is concerning for many reasons. The undisputed evidence at trial showed that none of the teachers in the 2014-15 school year received a score lower than a "3" or "proficient." Because of the conflicting deadlines, the New Plymouth School District – entirely without Rep. Kerby's involvement – uploaded "3"s for all of its teachers because the student achievement data was not yet ready. When the student achievement data did come in, the teacher scores were finalized, and some of the scores were updated to become "4"s. Rep. Kerby and the District did not know that these finalized scores were supposed to be re-uploaded. What you call "bogus" was a conservative estimate for placeholder data by the District – that was also undisputed at the hearing. I don't know what incentive a school district would have to try to conceal who its top-performing teachers were. If a school district were trying to conceal its low-performing teachers, then perhaps it would make a little sense – that is not what happened here.

The haste with which you published this article also raises several concerns. You apparently didn't talk with Ms. Irene Trunnell, the "star witness" for the PSC, who roundly contested any notion that Rep. Kerby was trying to misrepresent anything. You didn't take time to investigate our very real concerns that that this entire process was a politically motivated witch hunt, as indicated to us by Mr. Pete Koehler, the chief deputy superintendent with the Idaho Department of Education (even though at the hearing, he said he didn't remember saying that to Rep. Kerby). You also didn't follow up on the impressions of your own attorney, Mr. Tim Fleming, who indicated to me in my conversation with him today that something bigger was motivating this complaint against Rep. Kerby. Along these same lines,

Andy Grover, Superintendent of the Melba School District, today told Rep. Kerby that “the PSC has become so political that we need to throw them out and start over.”

I found interesting that you didn't mention anything that I told you in my conversation with you today. Although I don't remember verbatim what I said, I specifically told you that I could count the number of people that I trust on one hand, and that Ryan Kerby is one of them. I told you that all school administrators should be concerned if the panel's chosen definition of “willful” is truly the standard for ethical violations. I told you that as an attorney, in many of the other cases I have dealt with, although my client usually seems right at the very beginning, the more I find out about the incident, the more I find out what my client didn't tell me. I told you that this didn't happen with Rep. Kerby's case – the more I found out, the more all of the evidence confirmed his innocence. I told you that this is the nice thing about trustworthy people – trustworthy people tell you the truth, and truth doesn't change. I told you that representing Rep. Kerby was a lawyer's dream come true, the opportunity to represent a truly innocent and righteous man. I told you that I hope that the PSC, the panel, and the Attorney General's office are happy with themselves, because they've issued a letter of reprimand to a truly innocent man. I told you that it's a miscarriage of justice that all of those parties would have to live with on their consciences for the rest of their lives. Based on my experience working with the state legislature and as a prosecutor, I found it surprising that you did not mention any of these things.

I admittedly don't understand how your deadlines work or what type of time pressure you face. That said, I cannot help but look at all the things you took out of context and all the things that you didn't investigate, and conclude that all you really wanted was an opportunity to make Rep. Kerby look as bad as possible.

I truly hope that you take your ethical duties as a journalist more seriously in the future. If you want my help in better understanding Rep. Kerby's side of this incident, call me.

Best,

A handwritten signature in blue ink that reads "Dan T. Blocksom". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Dan Blocksom, Esq.