

INVESTIGATIVE REPORT

Unprofessional Conduct allegations against Noam Gundle and Nell Niewiadomski

Submitted by Jason Dahlberg, HR Investigator
June 10, 2015

INTRODUCTION

The Seattle Public Schools ("SPS") Human Resources Department ("HR") investigated allegations made against Ballard High School ("Ballard") teachers Noam Gundle and Nell Niewiadomski. Ballard Principal Kevin Wynkoop reported that Gundle was the lead who had organized an overnight field trip to Deception Pass for members of his Oceanography class. The field trip occurred on May 17 - 19, 2015. Eighteen (18) students and three (3) chaperones were listed on Gundle's Request for Professional Leave ("RFPL") field trip paperwork. The chaperones listed on the RFPL were Gundle, Niewiadomski, and Rachel Garcia. Members of the field trip slept in tents at camp sites at Deception Pass which were designated as either male or female sites.

It was alleged that Gundle shortened his participation in the field trip by one day so that he could attend the SEA Walk Out on Tuesday, May 19, 2015. By doing so, it is alleged that he left five (5) students at the Deception Pass campground, who remained on the field trip without a chaperone on Monday night, May 18, 2015, and returned to Seattle the following day. The complaint (Exhibit 1) was received by HR on 5/21/15.

This report is a review of findings relating to the complaint and analysis of SPS District Policy No. 5006 – Unprofessional Conduct of Staff (Exhibit 2) SPS District Policy No. 2320 – Field Trips and Excursions (Exhibit 3), SPS Administrative Procedure 2320.SP.A. - Field Trips and Excursions: General Guidelines and Procedures (Exhibit 4), SPS Administrative Procedure 2320.SP.C. - Field Trips and Excursions: Overnight Field Trip Procedures (Exhibit 5), SPS Guidelines for Volunteer Chaperones – Overnight Field Trips (Exhibit 6), Risk Management Field Trip Procedures (Exhibit 7) and SPS District Policy No. 5281 – Staff Disciplinary Action and Discharge (Exhibit 8).

The following is neither a verbatim, nor complete, account of all the information obtained during the course of the investigation. Rather, it is a summary of the information necessary to illustrate and support the findings.

SUMMARY OF ALLEGATION

Gundle obtained approval from Principal Keven Wynkoop to organize a field trip to Deception Pass for members of his Oceanography class. The trip was scheduled to be held on May 17 – 19, 2015. During the week of May 4, 2015, Gundle informed Wynkoop that he wanted to shorten the field trip by one day so that he could return to Seattle to participate in the SEA Walk Out on Tuesday, May 19, 2015. Wynkoop indicated that this was not his preference, but he would support the teacher if he wanted to shorten the field trip.

Gundle and Niewiadomski drove most of the students to Deception Pass in two approved school mini-vans. However, two (2) students, Student A and Student B, also drove their cars and transported students. Gundle did not receive approval from administration for the two students to drive or transport students.

Gundle and Niewiadomski were alleged to have taken most of the students back from the field trip after the first night. However, five (5) students remained at Deception Pass an additional night, without a chaperone present. It was reported that Gundle received permission from some of the parents of the students who remained the second night. A nineteen (19) year old boyfriend of Student C, FERPA, also arrived at the camp site and stayed the second night. He is said to have slept in a hammock outside of the tents. It is alleged that Gundle left the remaining students with the 19 year old as the "chaperone," however, FERPA was not an approved chaperone.

It was also alleged that two of Gundle's friends, Amy Mauldin and AJ Hermann, were also on the field trip on the first night. They were not listed as chaperones and were not listed on the RFPL field trip paperwork as attending, although both had been background checked.

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After the second night, both Student A and Student B transported the other students home and due to the vehicle, at least one student was not able to use a seat belt during the trip home.

SUMMARY OF FINDINGS

Based on the investigation, it was found that Gundle organized an overnight field trip to Deception Pass for two (2) nights, but decided to cut the field trip short so that he could participate in an SEA Walk Out. Thirteen (13) students returned to Seattle with Gundle and Niewiadomski on May 18, 2015, however, he allowed the five (5) remaining students on the field trip to stay an extra night at one of the camp sites without the presence of a chaperone.

Gundle stated that it was the students' idea to stay the extra night and, although he was skeptical, he decided to allow the students to stay with parent permission. However, Gundle did not have parent permission from Student D's parents and he obtained permission from Student G's parent while they were on the field trip. It became clear that Gundle did not effectively plan for the students to stay the extra night or have the requisite parent permissions. He also neglected to secure the school administration's approval for the students to stay the extra night without a chaperone and his field trip paperwork did not accurately reflect who was chaperoning on the field trip.

Based on the investigation, Niewiadomski also allowed the five (5) Ballard students stay an extra night on an overnight field trip without a chaperone. However, she was a first time chaperone and had assumed that lead chaperone Gundle had planned, made the necessary arrangements, and had gotten the required approvals to leave the students.

Niewiadomski stated that she had read, signed, and returned the Guidelines for Volunteer Chaperones (Overnight Field Trips). The guidelines state that students must be supervised, at all times, while at a District-sponsored event. Based on that language, Niewiadomski should have, at a minimum, questioned Gundle's decision to leave the students at the camp site without a chaperone and she neglected to do so. However, the guidelines also state that chaperones are expected to follow the directions given by the District's lead chaperone. The guidelines state that the lead chaperone will provide the chaperones with information regarding the activities planned for the field trip and the expectations for supervising students. Niewiadomski was following Gundle's direction when she allowed the five (5) students to stay the extra night without a chaperone. Gundle had been a lead chaperone on several other overnight field trips and he was the lead chaperone on this field trip, in charge of all of the decisions being made. Ultimately, as lead chaperone, it was Gundle's decision to allow the five (5) students on the field trip to stay the extra night without a chaperone.

PERSONS INTERVIEWED

- Keven Wynkoop, Principal at Ballard. Interviewed on 5/28/15 at 10:30 am at HR.
- Liz Guillory, Assistant Principal (AP) at Ballard. Interviewed on 5/29/15 at 1 pm at Ballard
- Student B, student at Ballard. Interviewed on 5/29/15 at 11:45pm at Ballard with her mother and Guillory present.
- Student C, student at Ballard. Interviewed on 5/29/15 at 12:15 at Ballard with her mother and Guillory present.
- Nell Niewiadomski, Teacher at Ballard. Interviewed on 6/1/15 at 2 pm at HR with UniServ Representative Tim Kopp present.
- Noam Gundle, Teacher at Ballard. Interviewed on 6/1/15 at 1pm at HR with UniServ Representative Tim Kopp present.

The interviews were conducted in person or by telephone and were not electronically recorded.

DOCUMENTS REVIEWED

The following documents were reviewed for the investigation and were attached as exhibits to this report.

1. Complaint summary from Wynkoop.
2. SPS District Policy No. 5006 – Unprofessional Conduct of Staff.

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3. SPS District Policy No. 2320 – Field Trips and Excursions.
4. SPS Administrative Procedure 2320.SP.A. - Field Trips and Excursions: General Guidelines and Procedures
5. SPS Administrative Procedure 2320.SP.C. - Field Trips and Excursions: Overnight Field Trip Procedures.
6. SPS Guidelines for Volunteer Chaperones – Overnight Field Trips.
7. Risk Management Field Trip Procedures.
8. SPS Superintendent Procedure 2320.SP.C and field trip request form – used as check list by Gundle.
9. RFPL fieldtrip paperwork.
10. Sample of Parent Authorization form.
11. Students' written statements.
12. Niewiadomski's written statement.
13. Gundle's written statement.
14. Email between Gundle and parent **FERPA** dated 5/16/15.

APPLICABLE POLICIES

SPS District Policy No. 5006 – Unprofessional Conduct of Staff, states in part,

"The School Board recognizes its responsibility to protect students, staff, parents/guardians, and volunteers from physical and/or emotional harm at school and at school-sponsored events.

A. CERTIFICATED STAFF

Pursuant to state law, certificated staff are required to exhibit "good moral character and personal fitness" as they teach, supervise students, or interact with others and are prohibited from engaging in unprofessional conduct. "Good moral character and personal fitness" is defined in WAC 181-86-013. Unprofessional conduct includes, but is not limited to:

...

7. *Disregard or abandonment of generally recognized professional standard (i.e., any performance of professional practice in flagrant disregard or clear abandonment of generally recognized professional standards in the course of: (i) assessing; treating, instructing, or supervising students; (ii) evaluating personnel; or (iii) managing money or property);*

SPS District Policy No. 2320 – Field Trips and Excursions, states in part,

"Field trips which take students out of the state or are planned to keep students out of the district overnight must be approved in advance by the Superintendent or his/her designee."

SUMMARY OF RELEVANT FACTS

Wynkoop stated that Gundle had worked with Guillory to organize the field trip to Deception Pass for his Oceanography class. The overnight field trip was scheduled for May 15, 2015, through May 17, 2015. Gundle came to Wynkoop during the week of May 4, 2015, and told him that he wanted to shorten the field trip by one day so that he could return for the SEA Walk Out. Wynkoop indicated that this was not his preference, but he would support Gundle if he made this decision. Wynkoop stated that Gundle did not indicate that he was going to leave some students for an additional night and he was under the understanding that, if Gundle cut the field trip short, he would have the entire group return a day sooner.

Wynkoop learned, after the fact, some students had driven to Deception Pass, transporting other students in their vehicles. He stated that Gundle did not have authorization for students to drive to or from the field trip site. Wynkoop also learned that Gundle had let some students on the field trip stay an extra night without a chaperone. Administration did not authorize this action either, although Wynkoop added that Gundle had apparently received permission from some of the students' parents for the students to spend the extra night.

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Wynkoop received a complaint from Ballard parent [FERPA] about the field trip. Her daughter, Student D, was a member of the field trip who had stayed the second night without a chaperone. She also had been driven home by another student and, due to the vehicle she was being transported in, was not able to wear a seat belt during the trip.

Ballard Assistant Principal ("AP") Liz Guillory is in charge of field trips at Ballard and had worked with Gundle when he was organizing the field trip.

Guillory submitted the SPS Superintendent Procedure 2320.SP.C and Field Trip Request Form, used as check list by Gundle (Exhibit 8), and the RFPL field trip paperwork (Exhibit 9) that Gundle had given to her prior to the field trip. Gundle's first RFPL had Jason Hodin and Rachel Garcia listed as chaperones. He later submitted a revised RFPL that had Niewiadomski and Garcia listed as chaperones. Guillory stated that Garcia did not attend the field trip as a chaperone. Instead, two (2) friends of Gundle went on the field trip as chaperones.

Guillory also submitted a Parent/Guardian Authorization for Overnight Field Trip form for each student. The form for Student E is attached (Exhibit 10). The Mode of Transportation section of the form indicated that students would leave the Ballard High School parking lot on 5/17/15 at 7:45 am and return to the Ballard parking lot on 5/19/15 at 3pm. The statement was on each form given to the parents of the students who were going on the field trip.

Guillory stated that she obtained some of the field trip forms from Gundle electronically via email. She stated that some of the emails were delayed before she moved them into folders, so she may not have provided all the field trip forms.

After receiving the parent complaint, Guillory investigated the allegation. She obtained written statements from Gundle, Niewiadomski, and 11 students about the field trip. She interviewed several students and their accounts of the field trip were consistent.

The students' written statements (Exhibit 11) indicate that Gundle had informed them he would have to cut the field trip short by one day, due to the SEA Walk Out. Some students asked if they could stay the extra night and Gundle said that would be alright, if they had their parent's permission to stay the extra night.

The students wrote that five (5) students stayed the extra night at the camp site without a chaperone. The students that stayed were, Student A, Student C, Student D, Student G, and Student H.

Student C and Student D were interviewed by the HR Investigator and they indicated that Gundle spoke with the class about cutting the field trip short, due to the SEA Walk Out. Some students asked if they could stay and Gundle said they could if they obtained their parent's permission. They stated that the chaperones for the trip were Gundle, Niewiadomski, and two of Gundle's friends, Al and Amy.

Student C and Student D said that Gundle and Niewiadomski drove two mini vans, carrying most of the students to the camp site. They stated that Student D drove her vehicle, with Student E and Student F, to the camp site on Sunday morning. They drove home that evening and did not spend the night. Student C and Student D said that Student A drove himself to the camp site on Sunday. Student C said that her boyfriend [FERPA], drove her and Student G to the camp site on Sunday evening. She stated that Gundle knew they were coming late and may have known [FERPA] was driving them.

Student C and Student D reported that Gundle and Niewiadomski left in the mini vans, with most of the students, on Monday night, around 8:30 pm. They said that they stayed the extra night along with Student A, Student G, Student H and [FERPA]. They said there was no adult chaperone on Monday night.

Student C and Student D stated that Gundle made no official announcement when he left on Monday night. He did not indicate that the field trip was officially over.

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Student C and Student D said that when Gundle left they all stayed in their tents that evening. They confirmed there was a girl tent site and a boy tent site and a main camp site area. Student C stated that she had her tent pitched in the main camp site area and that FERPA slept in a hammock in the main camp site area.

Student C said that Gundle spoke with her mother on 5/16/15, and obtained permission for her to spend the extra night. Student C's mother FERPA confirmed this during the interview. Student C stated that she assumed Gundle had also received permission from the parents of the other students who stayed the extra night. She stated that Gundle had Student G call his mother, while they were on the field trip, to obtain permission from his parent to spend the extra night.

Student C said that FERPA drove her and Student G home on Tuesday, 5/19/15. She stated that Student A drove Student D and Student H home. She was not aware if Gundle knew this or not.

Student D said that Gundle had asked her to ask her parents for permission to spend the additional night. She stated that she had asked her mother, who said it was okay to stay the extra night. Her mother, FERPA confirmed that Student D had asked her for permission to spend the extra night, but her daughter had not mentioned that Gundle and the other chaperones were leaving and that the students who were remaining the second night would be without a chaperone. FERPA stated that she would not have allowed her daughter to stay, under those conditions, and she assumed that Gundle had planned to stay for the entire field trip.

Niewiadomski submitted a written statement (Exhibit 12) which was consistent with the student's account of the field trip. She confirmed the information in her written statement.

Niewiadomski was a chaperone for the field trip. She stated that she was asked by Gundle to be a chaperone about two weeks before the field trip because another female chaperone had backed out. Niewiadomski stated that Gundle was the lead chaperone and he had organized the field trip. She had no decision-making authority on the field trip and she did nothing but chaperone and drive students in a van. She said that she had nothing to do with the planning of the field trip. Niewiadomski stated that she had read, signed, and returned the Guidelines for Volunteers (Overnight Field Trips) to Gundle and Guillory.

Niewiadomski was aware that Student A and Student B had driven themselves to the camp site, but she stated that she believed that Gundle had worked out all the details for that earlier. She was aware that some students were staying overnight the next day, but she believed that Gundle had worked out all the details for that as well. She confirmed that Student A, Student C, Student D, Student G and Student H all stayed at the campsite when she and Gundle left with the other students. Niewiadomski said that the students who remained had no chaperone.

Niewiadomski stated that, before they left, she did not witness Gundle make an announcement to the group of students who were spending the extra night. She said that she did not have any concern about the students who were spending the extra night, as she believed that Gundle had made all the necessary arrangements. Therefore, she did not say anything to Gundle about it when they left the camp site. She added that she thought it was odd when FERPA showed up just prior to their departure, but again, believed that Gundle must have known that FERPA was coming to the camp site.

Gundle submitted a written statement (Exhibit 13) about the field trip that he led to Deception Pass. He wrote that he had to cut the trip short by one day so that he could attend the SEA Walk Out, which was set for Tuesday, 5/19/15. Gundle wrote that students came to him and asked if they could stay the extra day. Gundle wrote that he was skeptical and was not sure it was a good idea. Gundle wrote that he told the students who wanted to stay that they would only be able to stay if they had parent approval. Gundle wrote that he also made it clear to the students who stayed the extra night that they would be "on their own" when he and the other chaperones left on Monday night.

Gundle wrote that this was a unique situation and that he, perhaps, should have told the students "No" when they requested to stay the extra day. He wrote that this would have been the safest option, but he believed that he had covered all his bases and had considered the matter carefully. Gundle ended his written statement by writing that he was open to any feedback as to how he could have dealt with the matter differently.

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Gundle was interviewed by the HR Investigator and confirmed the information in his written statement. Gundle said that he has led and organized several overnight field trips over the years. He confirmed that the field trip to Deception Pass was scheduled for 5/17/15 through 5/19/15, but he had cut the field trip short by one day due to the SEA Walk Out.

Gundle stated that the chaperones for the field trip were Niewiadomski, Al Hermann, and Amy Mauldin. When asked why his RFPL paperwork had the chaperones listed as Jason Hodin and Rachel Garcia, Gundle stated that he had filled out the RFPL paperwork months before the field trip was to take place and some chaperones were not able to come, so he had scrambled to find chaperones. Gundle stated that he did not inform Ballard school administration about the chaperone changes and, when asked why, said he did not think they needed to know. Gundle added that the new chaperones had completed background checks, but were not listed on his field trip paperwork. Wynkoop later confirmed that chaperones Al Hermann and Amy Mauldin had completed their background checks.

Gundle reported that the five (5) students had asked to stay the extra night. He did not initiate the idea. He said he originally thought it was a bad idea. Gundle said it was not his best idea to entertain and approve the students staying the extra night. Gundle said that he spoke with Student C's mother, FERPA, at length about the students staying the extra night and, after their conversation, believed it was okay to allow the students to stay. Gundle stated that, at the time, he thought it was a good decision.

Gundle reported that Student A, Student C, Student D, Student G, and Student H stayed at the camp site the extra night. Gundle was reminded that, in his written statement, he had stated that he had received permission from each student's parent for the student to spend the extra night. Gundle also stated that the parents knew the students would be staying without a chaperone, except for Student D's parents. Asked how he obtained the permissions, Gundle stated the following:

Student A: Gundle said Student A is 19 years old, lives by himself, and signed his own parent permission slip. He did not believe he needed parent permission for Student A.

Student C: Gundle stated that he spoke with Student C's mother, FERPA, and obtained her permission. He stated that Ms. FERPA knew that FERPA was staying the extra night, as well.

Student D: Gundle stated that he cannot remember if he spoke with Student D's mother or not. He stated that he talked with Student D and he remembered that she told him that her mother said it was okay for her to stay the second night. Gundle stated that this was a miscommunication on his part.

Student G: Gundle stated that he spoke with Student G's mother on Monday, while they were at the camp site. She gave permission for Student G to stay the extra night.

Student H: Gundle stated that he spoke with Student H's legal guardian, FERPA, who gave permission for Student H to stay the extra night.

Gundle stated that, if he were able to have done this over again, he would have obtained better, clearer permissions from the parents and would have documented the permissions.

Gundle submitted an email thread (Exhibit 14) between him and Student D's mother, FERPA, dated 5/16/15 and 5/20/15. FERPA emailed him on Saturday, 5/16/15, at 11:06 pm, the night before the field trip. Gundle stated that he did not open the email until he returned from the field trip. In the email FERPA expressed her concerns about the field trip and the possibility that the students staying behind would be without a chaperone. FERPA said in her email that this would be ethically wrong. Gundle responded to the email on 5/20/15 and explained his rationale for his decision. Gundle did not discuss in his email to FERPA that no chaperones were present when the students spent the extra night.

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Gundle stated that everybody met at Ballard High School on Sunday morning, 5/17/15, and he and Niewiadomski drove most of the students to Deception Pass in two mini vans, however, two students (Student A and Student B) drove themselves to the camp site. Student A was going to stay the extra night and Student B had a track meet on Monday that she needed to come back for, so she drove her own vehicle.

Gundle stated that Student B drove herself and Student E and Student F back home from the camp site on Sunday, 5/17/15. He did not indicate whether the parents of Student E and Student F were aware that their daughters were being driven home from the field trip by a student.

Gundle was asked if he had addressed the group of students who were spending the extra night before he and the other chaperones were leaving and he said he did not. He said that he had individually told each student that the field trip was "over" and they were on their own after that. Gundle said that he also reminded the students of the gender sleeping arrangements.

Gundle stated that FERPA was at the campsite when he left on Monday night. He did not know if FERPA stayed the night, but assumed he did. Gundle stated that he allowed this because it was outside of school hours. He said he did not know if the parents of the other students spending the extra night knew if FERPA was there. Gundle said, in hindsight, he knows that might not have been a good decision.

Gundle stated that he did not inform Ballard school administration that he was allowing students to stay an extra night on the field trip without a chaperone. He stated that he did not think it was necessary. He stated that the situation happened quickly and, in hindsight, he would have done things differently.

FINDINGS

Based on the investigation, it was found that Gundle allowed five (5) Ballard students to spend an extra night on an overnight field trip to Deception Pass, without a chaperone present, after the teacher decided to cut the field trip short so that he could participate in the SEA Walk Out.

Gundle stated it was the students' idea to stay the extra night and, although he was skeptical, he decided to allow the students to stay with parent permission. However, Gundle did not have parent permission from Student D's parents and he obtained permission from Student G's parent while on the field trip. Gundle did not effectively plan for the students to spend the extra night, he hadn't obtained permission from all of the parents for their child to spend the extra night, and it was uncertain whether or not the parents knew that the students would be unchaperoned if they stayed the extra night.

Gundle stated that the students who stayed the extra night were all very well aware that they were on their own and that the field trip was over. However, Student C and Student G both stated that Gundle made no official announcement before he departed and never indicated that the field trip was officially over.

Gundle did not obtain school administration's approval to leave the students to spend an extra night at the Deception Pass campsite without a chaperone. Principal Wynkoop knew that Gundle was considering cutting the field trip short, but was not aware that Gundle was allowing some students to stay an extra night without a chaperone, nor was he aware that students were transporting other students to and from Seattle. Wynkoop had also assumed that, if Gundle cut the field trip short, he would return to Seattle with all the students.

Gundle did not have a correct list of chaperones on his field trip paperwork, and two chaperones on the field trip, Amy Mauldin and Al Hermann, were not listed on the RFPL request forms. The two chaperones did, however, have proper background checks.

Gundle allowed two students, Student A and Student B, to drive their own vehicles to Deception Pass. Student B also drove other students home from the field trip. The student drivers were not approved by school administration, nor were the parents of the two students who Student B drove home aware a student driver was transporting their children.

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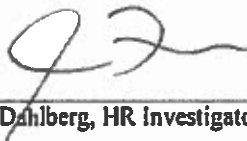
Gundle was aware a former Ballard student, 19 year old FERPA, was present at the field trip and stayed overnight after the chaperones left the camp site.

Gundle was not aware how the students who spending the extra night would be transported home from the field trip. He said he had no part in planning their return trip, but assumed that Student A and FERPA would be driving the students back. He did not inform the parents how the students would be transported home.

FERPA drove Student C and Student G back home from the field trip. Student A drove Student D and Student H back home from the field trip. On the return trip Student D did not have a seat belt available to her, as Student A drove a pickup that did not have a third seat belt.

Based on the investigation, Niewiadomski also allowed the five (5) Ballard students to stay an extra night on the field trip without a chaperone. This was the first time she had chaperoned a field trip and had assumed that the lead chaperone (Gundle) had planned, gained approval, and made the necessary arrangements to leave the students the extra night.

Niewiadomski stated that she signed and returned the Guidelines for Volunteer Chaperones (Overnight Field Trips). The guidelines state that students must be supervised at all times while at a District-sponsored event. Based on this language Niewiadomski should have, at a minimum, questioned Gundle's decision to leave the students at the camp site without a chaperone and she did not. However, the guidelines also state that chaperones are expected to follow the directions given by the District's lead chaperone. The guidelines state that lead chaperones will provide the other chaperones with information regarding the activities planned for the field trip and the expectations for supervising students. Niewiadomski was following Gundle's direction when she allowed students to stay an extra night without a chaperone. Gundle has been a lead chaperone on several overnight field trips, was the lead chaperone on this field trip, and was in charge of decision-making. Ultimately, it was Gundle's decision to allow students to stay an extra night on an overnight field trip without a chaperone.



Jason Dahlberg, HR Investigator

6/10/15

Date