

STATE OF INDIANA  
BEFORE THE BOARD OF FIREFIGHTING PERSONNEL  
STANDARDS AND EDUCATION

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IN RE:	)	CAUSE NO.
ROSS, K.	)	DHS-1713-BFPSE-001
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	)	
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FINAL ORDER

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Pursuant to the authority of IC 4-21.5-3-6 and IC 22-12-7-7(4), The Board of Firefighting Personnel Standards and Education (the "Board") acting as the ultimate authority in this proceeding, issues this Final Order pursuant to the Indiana Administrative Orders and Procedures Act, codified at IC 4-21-5-3.

The Board hereby accepts and Amends the non-final order of the Administrative Law Judge (ALJ) issued on September 14, 2017. The Board amends the non-final order of the ALJ and issues this **FINAL ORDER** whereby the Board permanently revokes the Instructor II/III certifications of **KEITH ROSS** (Petitioner) and suspends the Instructor I certification of Petitioner during the time period of March 16, 2017 through October 2, 2017 after which the Petitioner shall be placed on probation for the duration of his current Instructor I certification until September 16, 2018 and will be on probation for a subsequent Instructor I cycle until September 16, 2020. Petitioner is also ordered to take the Fire Board Rules Exam before he is authorized to instruct, evaluate, or proctor a certification course.

I.

**FINDINGS OF FACT AND PROCEDURE**

As set forth by the Board.

1. The Petitioner, PSID #2670-4764, held instructor I, II/III certifications.
2. On January 23, 2017 a complaint was filed with the Advanced Fire Service Training Manager for the Indiana Department of Homeland Security ("IDHS") alleging that Petitioner proctored a "ropes test" during which Petitioner allowed the students to take the test "open book" and that Petitioner gave answers to at least one student during the test.
3. IDHS investigated the complaint and determined that there was evidence Petitioner was a participant of fraudulent certifications for multiple course participants in violation of 655 IAC 1-1-7(a), 655 IAC 1-1-7(b)(3), 655 IAC 1-1-12(j)(12), and 1-1-13(a)(4)(C).

4. A Board meeting was held on February 27, 2017 at which Petitioner was invited to appear. Petitioner did not appear or present evidence as he was out of town and unable to attend the meeting on this date.
5. On that date, the Board gave due consideration to the findings of IDHS's investigation and facts presented and voted to revoke Petitioner's Instructor I and II/III certifications indefinitely in the State of Indiana.
6. On March 16, 2017 the Board issued a Findings and Order stating that Petitioner had violated Indiana Administrative Code and that Petitioner's Instructor I, II/III certifications were revoked.
7. On March 22, 2017, Petitioner submitted a timely request for administrative review of the Board's Order.
8. Both the Board and Petitioner submitted briefs to the ALJ.
9. On September 14, 2017, the ALJ issued a non-final order suspending Petitioner's Instructor I certification for one year and then placing Petitioner on probation for one year in the event the Petitioner's Instructor I was recertified or reinstated.
10. In the ALJ's Findings of Fact, it was found that Petitioner did provide assistance to two students during a Rope Rescue Operations Test on January 14, 2017 by discussing the questions and answers with students during a test Petitioner was proctoring.
11. A Board meeting was held on October 2, 2017 during which the Board considered the findings of the ALJ and heard testimony from Petitioner.
12. On October 2, 2017, the Board voted in a 4-3 vote to accept and amend the non-final order of the ALJ by way of maintaining a period of suspension and probation but modifying the duration and adding an additional condition. The Board's Final Order is further defined in Section II.

## II. FINAL ORDER

The Instructor I certification of **KEITH ROSS** shall be suspended for the time period of March 16, 2017 through October 2, 2017. Starting October 3, 2017. Petitioner shall be placed on probation for the duration of his current Instructor I certification, which ends September 16, 2018. Petitioner is ordered to take the Fire Board Rules Exam before he is authorized to instruct, evaluate, or proctor any certification course. In the event Petitioner's Instructor I certification is recertified and/or maintained for another cycle after his current cycle, then Petitioner shall be on probation during his Instructor I certification period of September 17, 2018 through September 16, 2020.

## III. EFFECTIVE DATE AND APPEAL RIGHTS

All administrative actions and remedies are exhausted. Pursuant to IC 4-21.5-3-31, this Final Order will become effect thirty (30) days after the Board has served it.

Petitioner may file with the Board a petition for a stay of effectiveness of this Final Order prior to the Final Order becoming effective. Petitioner may file with the clerk of the court a petition for judicial review of this Final Order within thirty (30) days after the date this notice of Final Order is served. To determine in which venue to file a petition see IC 4-21.5-5-6. Petitions for judicial review are governed by IC 4-21.5-5 *et seq.*

Any petition must set forth the minimum requirements defined in IC 4-21.5-5.7, which include setting forth specific facts to demonstrate that the petitioning party has been prejudiced by one or more grounds as described in IC 4-21.5-5-7. The burden of demonstrating the invalidity of the Board's Final Order is on the party that asserts the Final Order was invalid. In addition to filing the petition with the clerk, the party petitioning for judicial review shall serve a copy of the petition upon: (1) the Board (2) the administrative law judge (3) the attorney general; and (4) each party to the proceeding before the Board. Service on the Board may be presented in person or sent by mail to:

Indiana Department of Homeland Security  
Board of Firefighting Personnel Standards and Education  
c/o Secretary re: Appeal  
302 W. Washington Street, Rm. E208  
Indianapolis, IN 46204

If Petitioner has any questions regarding this Final Order, please contact IDHS Legal Counsel, Michelle Allen, by phone at (317) 233-4928 or by email at [MiAllen@dhs.in.gov](mailto:MiAllen@dhs.in.gov). Should you wish to discuss any substantive matters of this order you must either hire an attorney or elect to represent yourself pro se.

SO ORDERED.

  
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10/06/2017

By: Donna Saine  
Staff, Board of Firefighters Personnel Standards and Education  
Indiana Department of Homeland Security

Date

Distributed:

Hon. Chelsea Smith, Administrative Law Judge  
Keith Ross, Petitioner  
John Buckman, IDHS