

2. Petitioner has held multiple instructor and firefighter certifications issued by DHS and the Board.

3. Petitioner has no prior disciplinary history and has consistently maintained good standing within MFD and state licensing authorities.

4. Petitioner has instructed numerous firefighter courses, including Firefighter I/II, Fire Officer Strategy and Tactics, and Rope Rescue Operations.

5. In his capacity as a captain and mentor, Petitioner routinely volunteered to assist firefighters in studying for certification exams using publicly available materials and personal instruction.

6. On March 10, 2023, DHS received an unsigned, anonymous complaint which alleged that several MFD firefighters had “cheated” on examination materials.

7. The complaint did not identify any source or provide first-hand evidence which linked Petitioner to the alleged conduct.

8. The anonymous submission contained text message screenshots and handwritten notes.

9. DHS assigned Investigator Zach Mathews to conduct an internal investigation.

10. Mathews conducted interviews with certain MFD members, collected documents from third parties, and issued a written summary report.

11. At the conclusion of the investigation, Mathews presented his report to the Firefighting Board, who unanimously voted to permanently revoke all Dulaney’s firefighting certifications which included: Fire Officer I, Fire Officer II, Firefighter I, Firefighter II, Instructor I, Instructor II/III, Strategy and Tactics, Aircraft Crash and Rescue, Confined Space Rescue Awareness, Confined Space Rescue Operations, Confined Space Rescue Technician, Hazmat First

Responder Awareness, Hazmat First Responder Operations, Incident Safety Officer, Rope Rescue Awareness, Rope Rescue Operations, Rope Rescue Technician, Structural Collapse Rescue Awareness, Swift Water Rescue Operations, Swift Water Rescue Technician, Technical Rescue Awareness, Trench Rescue Awareness, Vehicle and Machinery Rescue Awareness, Vehicle and Machinery Rescue Ops, Vehicle and Machinery Rescue Tech, and Wilderness Rescue Awareness (“Revocation Order”).

12. Following the Revocation Order, Dulaney timely filed an appeal with the Office of Administrative Law Proceedings (“OALP”).

13. The OALP appointed Administrative Law Judge Carrie Ingram to conduct a hearing under AOPA.

14. The evidentiary hearing occurred on June 27, 2024, at which multiple witnesses testified, including DHS staff, MFD firefighters, and Petitioner himself.

15. The administrative record admitted numerous pages of exhibits, including investigative reports, emails, and correspondence.

16. Multiple MFD witnesses, including training officers and subordinates, testified that Petitioner’s instructional sessions were legitimate, voluntary, and used only practice materials.

17. The ALJ found Petitioner credible and noted his consistent and forthright demeanor.

18. The ALJ found the testimony of Investigator Mathews and other DHS witnesses to be inconsistent and lacking corroboration.

19. The ALJ concluded that DHS failed to prove by a preponderance of the evidence that Petitioner violated 655 IAC 1-1-12(j)(12), 655 IAC 1-1-13(a)(4)(C), or Ind. Code § 35-43-5-4.

20. The ALJ recommended reinstatement of all certifications held by Petitioner, noting that no statutory or regulatory basis existed for suspension or revocation.

21. The Board convened on March 13, 2025, as the ultimate authority under Ind. Code § 4-21.5-3-29 to issue a Final Order.

22. The Board did not conduct a new evidentiary hearing or receive additional testimony.

23. The Board adopted selected portions of the ALJ's findings but omitted those favoring Petitioner without explanation.

24. Although the Final Order reduced the overall scope of discipline, it continued to impose the most severe sanction available by permanently revoking Petitioner's Instructor I and Instructor II/III certifications and suspending twenty-four additional certifications for three years.

25. The Final Order allows for a request for reinstatement after two (2) years; however, Petitioner is required to show remorse before that request would be considered.

26. The Board cited no new facts or evidence to justify its reversal of the ALJ's findings.

27. The Board's written order did not articulate any independent findings of fact or conclusions of law.

28. DHS appeared to accept Judge Ingram's findings under 655 IAC 1-1-13(a)(4)(C) and Ind. Code § 35-43-5-4 by declining to pursue sanctions under those provisions but appeared not to accept her findings related to 655 IAC 1-1-12(j)(12), as it proceeded with discipline on that basis.

29. DHS continued to allege that Petitioner violated 655 IAC 1-1-12(j)(12), which states that a proctor “may not discuss examination questions with a student taking the examination.”

30. DHS argued that the phrase “taking the examination” should be interpreted expansively to include any time a student is preparing for an examination, before or after the testing period.

31. DHS did not present evidence that the rule has ever been interpreted in this expanded fashion in prior disciplinary actions.

32. The language of 655 IAC 1-1-12(j)(12) has remained unchanged for multiple administrative rulemaking cycles, and DHS retains full authority to modify its language if broader application were intended.

33. The ALJ found that the plain language of the rule regulates conduct *during administration of the test*, i.e., while the examinee is actively “taking the examination,” and does not prohibit general instruction or study assistance outside that window.

34. The ALJ further found that DHS presented no reliable evidence that Petitioner communicated with any examinee during the actual testing period.

35. The Board, in reversing the ALJ, adopted DHS’s broader interpretation without legal analysis, without any finding that the rule was ambiguous, and without following rulemaking procedures required for a change in interpretation.

36. No witness from DHS testified to a written policy or guidance document stating that 655 IAC 1-1-12(j)(12) always applies, nor did DHS produce evidence that this interpretation had ever been communicated to certified instructors prior to this proceeding.

37. The administrative record before this Court contains no credible, corroborated, or substantial evidence that Petitioner engaged in any misconduct or violated any applicable rule, law, or ethical standard.

38. The evidence supports the ALJ's finding that Petitioner's actions were consistent with proper instructional conduct, that he acted in good faith, and that DHS failed to meet its burden of proof.

CONCLUSIONS OF LAW

1. This Court has jurisdiction under Ind. Code § 4-21.5-5-2 to review final agency actions.

2. Pursuant to Ind. Code § 4-21.5-5-14(d), the Court may grant relief if the agency action is arbitrary, capricious, contrary to law, more than authority, procedurally defective, or unsupported by substantial evidence.

3. "A decision is arbitrary and capricious if it is made without any consideration of the facts and lacks any basis that may lead a reasonable person to make the same decision made by the administrative agency." *Ind. State Bd. of Health Facility Adm'rs v. Werner*, 841 N.E.2d 1196 (Ind. Ct. App. 2006).

4. The Board reversed the ALJ without identifying any error in her factual findings, without citing contrary evidence, and without providing a reasoned explanation for departure from the ALJ's credibility determinations. Such conduct constitutes arbitrary and capricious action under Ind. Code § 4-21.5-5-14(d)(1).

5. 655 IAC 1-1-12(j)(12) prohibits a proctor from "discussing examination questions with a student taking the examination." The plain language applies to conduct occurring while the student is actively taking the examination, not before or after.

6. DHS argued the rule applies “at all times,” including during general study or instructional periods. Nothing in the regulation contains such language, nor has DHS amended or interpreted the rule as such through formal rulemaking.

7. DHS, as drafter of the rule, could have expanded its scope to apply beyond the testing window but did not do so. The agency cannot now rewrite the rule through enforcement.

8. The ALJ correctly applied the plain-language interpretation of the rule and found no violation because no witness testified that Petitioner discussed questions with any student who was actively taking an exam.

9. The Board’s reversal, based on a broader meaning not found in the text of the rule and not adopted through administrative procedure, exceeded the permissible scope of interpretation, and constitutes legal error under Ind. Code § 4-21.5-5-14(d)(3).

10. The administrative record contains no competent or corroborated proof that Petitioner disclosed, distributed, or used secure examination materials, nor that he communicated with any student during administration of an examination. The Board’s findings are therefore unsupported by substantial evidence.

11. A final order must contain findings of fact and conclusions of law sufficient to permit judicial review. Ind. Code § 4-21.5-3-27(c). The Board’s Order contains neither a legal analysis nor an articulation of its reasoning.

12. Indiana Code Section 4-21.5-3-28(g) required the Final Order to “identify any differences between the final order and the nonfinal order issued by the administrative law judge...” The Final Order provides no explanation for the differences between its sanction and the ALJ's recommended sanction.

13. The absence of any explanation for the Board's deviation from the ALJ's findings and recommendation leaves only speculation as to the Board's reasoning and renders its action arbitrary and capricious. By failing to provide written findings and conclusions supporting its departure from the ALJ's recommended decision, the Board acted without observance of procedure required by law. *Ind. State Bd. of Health Facility Adm'rs v. Werner*, 841 N.E.2d 1196, 1205 (Ind. Ct. App. 2006).

14. The OALP Decision was legally correct, supported by substantial evidence, and consistent with AOPA.

15. Under Ind. Code § 4-21.5-5-15, the Court may reverse and remand with instructions when an agency action is unlawful or unsupported by the record. Here, reversal and reinstatement are required.

16. The Court therefore concludes that the Board's Final Order was arbitrary, capricious, unsupported by substantial evidence, issued more than statutory authority, and contrary to law.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. Petitioner Troy D. Dulaney's Petition for Judicial Review is **GRANTED**.
2. The Final Order of the Indiana Department of Homeland Security, Board of Firefighting Personnel Standards and Education, dated March 13, 2025, is **REVERSED** in part.
3. The Indiana Department of Homeland Security, Board of Firefighting Standards and Education are **ORDERED** to immediately reinstate all firefighting certifications previously held by Petitioner and to expunge any record of revocation or suspension from agency files.
4. The Indiana Department of Homeland Security, Board of Firefighting Personnel Standards and Education authority to remove Petitioner as a proctor is **AFFIRMED**.

SO ORDERED this 17th day of March, 2026.

A handwritten signature in black ink, appearing to read "Clayton Graham", written over a horizontal line.

Clayton Graham, Judge
Marion Superior Court 4

Distribution List:
All parties of record.