IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:  

Gary L. Tonn,  
Respondent  

Case No. 21719  

FINAL ORDER

The Chief Certification Officer for the State of Idaho filed an Administrative Complaint against the teaching certificate issued to Gary L. Tonn, seeking for the Professional Standards Commission to impose discipline on Mr. Tonn’s certificate. See Idaho Code § 33-1209. Because Mr. Tonn did not request a hearing within 30 days, and because Mr. Tonn was determined to be in default by a hearing/presiding officer, the allegations in the Administrative Complaint are treated as admitted, Idaho Code § 33-1209(3), and are incorporated by reference as findings of fact.

Based on these findings, the Professional Standards Commission concludes that Mr. Tonn willfully violated principles of the Code of Ethics adopted by the State Board of Education. Idaho Code § 33-1208(1)(j). The Commission specifically holds that Mr. Tonn willfully violated Principle II, which provides that “A professional educator maintains a professional relationship with all students, both inside and outside the physical and virtual classroom.” (Idaho Admin. Code r. 08.02.02.076.03.)

Under Idaho Code § 33-1208, the Professional Standards Commission orders that the following discipline (as marked) be imposed on Mr. Tonn’s certificate:

//
//
//

Final Order – 1
Gary L. Tonn
As requested in the Administrative Complaint

X The discipline requested by the Chief Certification Officer in her Request for Relief in the Administrative Complaint.

Other discipline

_____ Mr. Tonn’s certificate is revoked

_____ Mr. Tonn’s certificate is permanently revoked under Idaho Code § 33-1208(2).

_____ Mr. Tonn’s certificate is suspended for _____ years _____ months

_____ Mr. Tonn’s certificate is suspended indefinitely pending completion of the following conditions:
1. ______________________________________________________
2. ______________________________________________________
3. ______________________________________________________
4. ______________________________________________________

_____ Mr. Tonn’s certificate has the following conditions placed upon it:
1. ______________________________________________________
2. ______________________________________________________
3. ______________________________________________________
4. ______________________________________________________

_____ A letter of reprimand will be placed in Mr. Tonn’s permanent certification file

This Order is effective on the day it is signed. This Order and the Administrative Complaint, which will be attached to this Order, are public records, and may be made available on the State Department of Education or the Commission’s website.

Final Order – 2
Gary L. Tonn
Dated this 10th day of April, 2018.

Elisa Saffle, Member
Idaho Professional Standards Commission

Reconsideration and Judicial Review

This is a final order of the Professional Standards Commission. Any party may file a motion for reconsideration of this order within 14 days of the service date of this order. The agency will dispose of the petition for reconsideration within 21 days of its receipt; if not, the petition will be denied as a matter of law. See Idaho Code § 67-5246. Petitions for reconsideration may be filed by mail addressed to the Professional Standards Commission, State Department of Education, P. O. Box 83720, Boise, ID 83720-0027, or hand delivered to the Commission at 650 West State Street, Second Floor, Boise, ID 83720.

Any party aggrieved by this final order or orders previously issued in this case may seek judicial review of the orders in this case in district court. A party may do this by filing a petition for judicial review in the district court as provided in Idaho Code §§ 67-5270 and 67-5272. The petition must be filed within 28 days of the service date of this final order; or, if a motion for reconsideration is filed, within 28 days of the service of a decision on the motion for reconsideration or denial of the motion as a matter of law. Idaho Code § 67-5273. The filing of a petition for judicial review does not itself stay the effectiveness or enforcement of the agency action. Idaho Code § 67-5274.
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of April, 2018, I caused to be served a true and correct copy of the foregoing by the following method to:

Gary L. Tonn
1753 E. McKay Dr.
Meridian, ID 83642

☒ U.S. Mail
☐ Hand Delivery
☒ Certified Mail, Return Receipt Requested
☐ Overnight Mail
☐ Facsimile:
☐ Email:

Attorney for the
Chief Certification Officer
Robert A. Berry
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☐ U.S. Mail
☐ Hand Delivery
☐ Certified Mail, Return Receipt Requested
☐ Overnight Mail
☐ Facsimile: (208) 854-8073
☒ Email: robert.berry@ag.idaho.gov
        leslie.gottscht@ag.idaho.gov

Final Order – 4
Gary L. Tonn
March 30, 2018

Gary L. Tonn
1753 E. McKay Dr.
Meridian, ID 83642

Robert Berry, Deputy Attorney General
Civil Litigation Division
VIA: EMAIL: robert.berry@ag.idaho.gov

Re: In the Matter of the Certificates of Garry L. Tonn
Case No. 21719

Dear Mr. Tonn and Deputy Berry:

In my capacity as duly presiding hearing officer in the above-entitled matter, on March 20, 2018, I entered and served upon the parties a Notice of Proposed Default Order. The Notice informed Mr. Tonn that he needed to file a written response with the Professional Standards Commission (PSC) by March 28, 2018 explaining why default should not be entered against him for failing to file an Answer to the Board’s Administrative Complaint, filed December 15, 2017.

As of today’s date, Mr. Tonn has not filed a response to the Notice with the Board. Therefore, Mr. Tonn is in default and the attached executed Default Order will be filed with the Board.

Pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.702, all further proceedings in this matter will be conducted without Mr. Tonn’s participation. To this end, Deputy Berry is requested to draft a proposed Final Order containing Findings of Fact and Conclusions of Law, along with a penalty section permitting the PSC to enter an appropriate sanction. The Final Order will be presented to the PSC at its scheduled Friday, April 6, 2018 meeting.

Sincerely,

[Signature]

ROGER L. GABEL
Deputy Attorney General
Contracts and Administrative Law Division

RLG/blm

Enc.
IDAHO PROFESSIONAL STANDARDS COMMISSION

In the Matter of the Certificates of:  

Gary L. Tonn,  
Respondent.  

Case No. 21719  

DEFAULT ORDER

THIS MATTER having come before the Idaho Professional Standards Commission, Department of Education, by way of formal Complaint filed pursuant to Idaho Code §§ 33-1208 and 33-1209, and Respondent having failed to contest or otherwise respond to the Complaint or to the Notice of Proposed Default Order entered and served March 20, 2018; now, therefore,

IT IS HEREBY ORDERED that, pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.270 and .700 to .702, Respondent is in default. The Commission shall enter a Final Order disposing of the Complaint pursuant to Idaho Code §§ 33-1208, 33-1209 and 67-5246 and IDAPA 04.11.01.702 and .740.

DATED this 30th day of March, 2018.

[Signature]
ROGER L. GABEL  
Presiding Officer

DEFAULT ORDER - 1
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of March, 2018, I caused to be served a true and correct copy of the foregoing addressed as follows:

Gary L. Tonn
1753 E. McKay Dr.
Meridian, ID 83642
- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile:
- Statehouse Mail

Annette Schwab
Program Specialist
Idaho State Department of Education
650 W. State St.
Boise, ID 83702
asschwab@sde.idaho.gov
- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Email
- Facsimile:
- Statehouse Mail

Robert Berry
Deputy Attorney General
Civil Litigation Division
P.O. Box 83720
Boise, ID 83720-0010
robert.berry@ag.idaho.gov
- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Email
- Facsimile:
- Statehouse Mail

Bernice Myles
Paralegal
IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of: Case No. 21719
Gary L. Tonn, Respondent

Lisa Colón Durham, Chief Certification Officer for the State of Idaho, alleges the following against Gary L. Tonn.

GENERAL AVERMENTS

The following general averments are adopted in each count below.


2. The Chief Certification Officer is empowered to file an administrative complaint against the certificate of a teacher or other individual certified under the authority of the Idaho State Board of Education. Idaho Code § 33-1209.

3. Gary L. Tonn (Mr. Tonn) holds the following certificate and endorsements, issued under the authority of the Idaho State Board of Education:


4. During the relevant time period, Mr. Tonn was employed by Nampa School District No. 131 as a teacher, and he taught at South Middle School.

5. From approximately July 11, 2017, until July 19, 2017, Mr. Tonn and a female student at South Middle School exchanged text messages. To protect the student’s identity, she is referred to as Jane Doe. At the time of the text messages, Jane Doe was 12 years old.

6. During that eight-day period, there were a variety of topics discussed by Mr. Tonn and Jane Doe:
a. Mr. Tonn and Jane Doe requested photos of each other on multiple occasions; in one instance, Mr. Tonn requested a photo of Jane Doe in a bathing suit.
b. On multiple occasions, Mr. Tonn complimented Jane Doe, including remarking that she was beautiful, that she was special, that she made him feel good, and that he loved talking to her.
c. On at least two occasions, Mr. Tonn invited Jane Doe to participate in a tumbling or gymnastics class he was teaching for a private cheer company; in one instance, Mr. Tonn told Jane Doe he could take her home if her mom dropped her off.
d. On at least two occasions, Mr. Tonn and Jane Doe discussed her finding or having a boyfriend, and related subjects.
e. In several text messages throughout the eight-day period, Mr. Tonn asked Jane Doe to delete the text messages or to keep them private. At least twice Mr. Tonn indicated that adults may not understand the text messages or relationship that he and Jane Doe shared.

7. On July 27, 2017, Mr. Tonn submitted a letter to the Nampa School District informing the district that he was retiring from his teaching position as of that date.

COUNT I

8. Mr. Tonn's conduct or course of conduct willfully violated a code of ethics principle, adopted by the Idaho State Board of Education. Idaho Code § 33-1208(1)(j). Specifically, Mr. Tonn violated Code of Ethics Principle II (Idaho Admin. Code r. 08.02.076.03) (“A professional educator maintains a professional relationship with all students, both inside and outside the physical and virtual classroom.”).
REQUEST FOR RELIEF

The Chief Certification Officer requests that the Commission grant the following relief, as permitted under Idaho Code §§ 33-1208 and 33-1209.

1. That if Mr. Tonn does not request a hearing, the Commission revoke Mr. Tonn's certificate.

2. That if Mr. Tonn requests a hearing, a hearing be conducted before a hearing panel, where the Chief Certification Officer and Mr. Tonn may present evidence concerning the allegations in this Administrative Complaint, to aid the hearing panel in determining whether Mr. Tonn's certificate should be disciplined and, if so, what discipline should be imposed.

3. Any other relief that would be just under the circumstances.

DATED this 15 day of December 2017.

LISA COLÓN DURHAM
Chief Certification Officer

Attorney for the
Chief Certification Officer
Brian V. Church
Deputy Attorney General
PO Box 83720
Boise, ID 83720-0010
(208) 334-2400
brian.church@ag.idaho.gov
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15 day of December, 2017, I caused to be served a true and correct copy of the foregoing by the following method to:

Gary L. Tonn
1753 E. McKay Dr.
Meridian, ID 83642

Attorney for the
Chief Certification Officer
Brian V. Church
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

U.S. Mail
Hand Delivery
Certified Mail, Return Receipt Requested
Overnight Mail
Facsimile:
Email:

U.S. Mail
Hand Delivery
Certified Mail, Return Receipt Requested
Overnight Mail
Facsimile: (208) 854-8073
Email:
brian.church@ag.idaho.gov
leslie.gottsch@ag.idaho.gov

Shannon H. Haas
Program Specialist
Idaho State Department of Education
NOTIFICATION OF PROCEDURAL RIGHTS

The Professional Standards Commission wishes to notify you of the following rights.

An administrative action has been initiated against your certificate(s). Under Idaho Code § 33-1209, if you wish to contest the allegations set forth in the administrative complaint, you must request a hearing. This request must be (1) made not more than 30 days after the date of service (mailing) of the administrative complaint, (2) in writing, and (3) addressed to the state superintendent of public instruction. If you do not request a hearing or do not comply with the requirements for requesting a hearing, the allegations in this administrative complaint will be treated as admitted under Idaho Code § 33-1209(3).

In response to this administrative complaint, you may file an answer to this administrative complaint, but you must file the answer at least 30 days prior to the day of the hearing.

You have the right to be represented by legal counsel, at your own expense, during this administrative proceeding. In addition, you are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, and other things relevant to the proceedings.

This administrative proceeding is governed by provisions of the Idaho Code, including the Idaho Administrative Procedure Act, and by provisions of the Idaho Administrative Code, including the Idaho Rules of Administrative Procedure of the Attorney General that have been adopted by the Board of Education. You may access these laws and rules online or via the Idaho State Law Library.

To request a hearing, you must deliver your request to the following address or fax number:

Sherri Ybarra  
Superintendent of Public Instruction  
Re: Professional Standards Commission Hearing  
650 West State Street, Room 200  
P.O. Box 83720  
Boise, ID 83720-0027  
Telephone: (208) 332-6800  
Facsimile: (208) 334-2228

The State Department of Education receives mailed or hand-delivered documents between the hours of 8:00 a.m. and 5:00 p.m. (mountain time) except Saturdays, Sundays, and holidays. The State Department of Education does permit the filing of facsimile copies of documents that do not exceed ten pages, provided that the facsimile transmission is legible and is received before 5:00 p.m. on its due date. It shall be the responsibility of the filing party to verify with the staff of the State Department of Education that any facsimile transmission is successfully received and legible in its entirety.