

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Jason L. Benjamin,

Respondent

Case No. 21802

FINAL ORDER

The Chief Certification Officer for the State of Idaho filed an Administrative Complaint against the teaching certificate issued to Jason L. Benjamin, seeking for the Professional Standards Commission to impose discipline on Mr. Benjamin's certificate. *See* Idaho Code § 33-1209. Because Mr. Benjamin did not request a hearing within 30 days, and because Mr. Benjamin 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. Benjamin willfully violated the following 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. Benjamin willfully violated Principle II of the Code of Ethics that provides, "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.

The Commission specifically holds that Mr. Benjamin willfully violated Principle X of the Code of Ethics that provides, "Any conduct that seriously impairs the Certificate holder's ability to teach or perform his professional duties." Idaho Admin. Code r. 08.02.02.076.11.a.

The Commission specifically holds that Mr. Benjamin's conduct or course of conduct violated Idaho Code § 33-1208(1)(a). ("Gross neglect of duty.")

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

As requested in the Administrative Complaint

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

Other discipline

Mr. Benjamin's certificate is revoked.

Mr. Benjamin's certificate is permanently revoked under Idaho Code § 33-1208(2).

Mr. Benjamin's certificate is suspended for _____ years _____ months

Mr. Benjamin's certificate is suspended indefinitely pending completion of the following conditions:

1. _____
2. _____
3. _____
4. _____

Mr. Benjamin's certificate has the following conditions placed upon it.

1. _____
2. _____
3. _____
4. _____

A letter of reprimand will be placed in Mr. Benjamin'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.

DATED this 4 day of April, 2019.


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 10th day of April, 2019, I caused to be served a true and correct copy of the foregoing by the following method to:

Jason Benjamin



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

Robert A. Berry
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Facsimile:
- Email: robert.berry@ag.idaho.gov
leslie.gottsch@ag.idaho.gov



Annette Schwab
Program Specialist
Idaho State Department of Education

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

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Respondent

Case No. 21802

ADMINISTRATIVE COMPLAINT

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

GENERAL AVERMENTS

The following general averments are adopted in each count below.

1. The Professional Standards Commission (Commission) regulates teacher certification in Idaho.
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. Mr. Benjamin holds the following certificate and endorsements issued under the authority of the Idaho State Board of Education:
 - a. Standard Secondary certificate with History (6-12) and Mathematics (6-13) endorsements – effective September 1, 2016 – valid until August 31, 2021.
4. Mr. Benjamin was employed by Twin Falls School District No. 411 for the 2017-2018 school year as a middle school math teacher.
5. He was thirty-nine years old during the relevant times.
6. Mr. Benjamin had previously been a teacher at Canyon Ridge High School for the 2016-2017 school year.

7. On or around September 16, 2017, Mr. Benjamin encountered one of his former female students from Canyon Ridge High School.

8. The former female student was seventeen and still a high-school student on or around September 16, 2017.

9. After this encounter, the female student asked Mr. Benjamin to be friends on Facebook and the two began to communicate through Facebook Messenger and through texts.

10. Approximately one week later, the female student told Mr. Benjamin that she had a crush on him.

11. Mr. Benjamin continued to communicate with the female student after being informed that she had a crush on him.

12. The female student would also send him pictures of herself in her underwear.

13. The female student also began to visit Mr. Benjamin's residence. The visits occurred approximately five times.

14. During these visits, the two would sit in the living room on his couch, watch movies, kiss, and "grind" with their clothes on.

15. On one occasion, Mr. Benjamin made the female student breakfast and they then entered his bedroom where they proceeded to kiss on his bed.

16. On October 12, 2017, the female student came to Mr. Benjamin's apartment.

17. Before she came to his apartment, she had messaged Mr. Benjamin of her intent to have a sexual encounter.

18. On one prior occasion, the female student had expressed her intent to have a sexual encounter, but was then rebuffed by Mr. Benjamin.

19. Mr. Benjamin did not rebuff the female student on October 12, 2017.

20. On that date, the two kissed and Mr. Benjamin proceeded to digitally penetrate (“finger”) the female student.

21. Mr. Benjamin then performed oral sex on the female student.

22. Mr. Benjamin and the female student then proceeded to have sexual intercourse without protection until he ejaculated in her.

23. Approximately one week later, the female student ended the relationship.

24. Mr. Benjamin was aware during this time that the female student was seventeen years old.

COUNT I

25. Mr. Benjamin’s conduct or course of conduct willfully violated a principle of the code of ethics that was adopted by the Idaho State Board of Education. Idaho Code § 33-1208(1)(j) (“Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education”). Specifically, Mr. Benjamin violated Code of Ethics Principle II (Idaho Admin. Code r. 08.02.02.076.03) (“A professional educator maintains a professional relationship with all students, both inside and outside the physical and virtual classroom.”).

COUNT II

26. Mr. Benjamin’s conduct or course of conduct willfully violated a principle of the code of ethics that was adopted by the Idaho State Board of Education. Idaho Code § 33-1208(1)(j) (“Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education”). Specifically, Mr. Benjamin violated Code of Ethics Principle X.a (Idaho Admin. Code r. 08.02.02.076.11.a) (“Any conduct that seriously impairs the Certificate holder’s ability to teach or perform his professional duties.”).

COUNT III

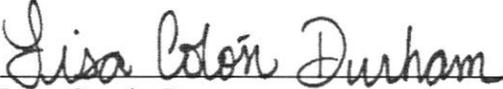
27. Mr. Benjamin's conduct was a gross neglect of duty in violation of Idaho Code § 33-1208(1)(a).

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. Revoke Mr. Benjamin's certificate.
2. That if Mr. Benjamin requests a hearing, a hearing be conducted before a hearing panel, where the Chief Certification Officer and Mr. Benjamin may present evidence concerning the allegations in this Administrative Complaint, to aid the hearing panel in determining whether Mr. Benjamin'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 14th day of December, 2018.


LISA COLÓN DURHAM
Chief Certification Officer

Attorney for the
Chief Certification Officer
Robert A. Berry
Deputy Attorney General
PO Box 83720
Boise, ID 83720-0010
(208) 334-2400
robert.berry@ag.idaho.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of December, 2018, I caused to be served a true and correct copy of the foregoing by the following method to:

Jason Benjamin
[REDACTED]
[REDACTED]

- 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.gottsch@ag.idaho.gov

Annette Schwab

Annette Schwab
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 permits 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.