IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:  

Bryan S. Hess,  
Respondent

Case No. 21215

FINAL ORDER

The Chief Certification Officer for the State of Idaho filed an Administrative Complaint against the teaching certificate issued to Bryan S. Hess, seeking for the Professional Standards Commission to impose discipline on Mr. Hess's certificate. See Idaho Code § 33-1209. Because Mr. Hess did not request a hearing within 30 days, and because Mr. Hess 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. Hess willfully violated a principle of the Code of Ethics adopted by the State Board of Education. Idaho Code § 33-1208(1)(j). The Commission specifically holds that Mr. Hess willfully violated Principle II of the Code of Ethics. Principle II provided, "A professional educator maintains a professional relationship with all students, both inside and outside the classroom." Idaho Admin. Code r. 08.02.02.076.03 (2011). ¹

¹ Principle II was not modified in 2012, during which time some of the conduct took place.

Final Order – 1
Bryan S. Hess
Under Idaho Code § 33-1208, the Professional Standards Commission orders that the following discipline be imposed on Mr. Hess's certificate.

X Mr. Hess's certificate is revoked.

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

_____ Mr. Hess's certificate is suspended indefinitely pending completion of the following conditions:
1. ____________________________________________________________
2. ____________________________________________________________
3. ____________________________________________________________
4. ____________________________________________________________

_____ Mr. Hess's certificate has the following conditions placed upon it.
1. ____________________________________________________________
2. ____________________________________________________________
3. ____________________________________________________________
4. ____________________________________________________________

_____ A letter of reprimand is placed in Mr. Hess'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 4th day of November, 2016.

ELISA SAFFLE, MEMBER
Idaho Professional Standards Commission

Final Order – 2
Bryan S. Hess
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, PO 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.

Final Order – 3
Bryan S. Hess
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ___ day of November, 2016, I caused to be served a true and correct copy of the foregoing by the following method to:

Terry R. Spencer  
TR Spencer & Associates, P.C.  
140 West 9000 South, Ste. 9  
Sandy, UT 84070

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

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: (208) 854-8073  
☒ Email:  
  brian.church@ag.idaho.gov  
  leslie.gottsch@ag.idaho.gov

Shannon H. Haas  
Program Specialist  
Idaho State Department of Education

Final Order – 4  
Bryan S. Hess
BEFORE THE PROFESSIONAL STANDARDS COMMISSION OF
THE STATE OF IDAHO

In the Matter of the Certificates of: )
Bryan Hess, )
) Case No. 21215
) ) ADMINISTRATIVE COMPLAINT
Respondent. )

COMES NOW, the Professional Standards Commission for the State of Idaho ("PSC"),
by and through its Chief Certification Officer, Taylor Raney, and, pursuant to Idaho Code
Sections 33-1208 and 33-1209, charges Bryan Hess ("Respondent") with violating the statutes
and rules governing teacher certification in the State of Idaho as follows:

JURISDICTION

I.

The PSC regulates teacher certification in the State of Idaho in accordance with title 33,
chapter 12, Idaho Code.

II.

On January 2, 2007, Respondent was issued an Idaho Standard Secondary Certificate
with a Chemistry 6/12 endorsement and a Physical Science 6/12 endorsement pursuant to Idaho
Code Section 33-1201 et seq. Respondent’s teaching certificate was valid until September 1,
2012.

III.

All acts alleged herein occurred in the State of Idaho while Respondent was employed as
a teacher in the Independent School District of Boise City ("District").

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ADMINISTRATIVE COMPLAINT - 1
IV.

On or about June 6, 2012, the PSC received a complaint from the District alleging Respondent had engaged in conduct violating the statutes and/or rules governing teacher certification in the State of Idaho.

V.

On or about August 9, 2012, following a review of the allegations and information available in this case, the PSC’s Executive Committee determined there were sufficient grounds to support the allegations against Respondent and initiate administrative proceedings against Respondent’s certificates.

VI.

Respondent’s last known address on file with the PSC is 563 Canvas Back Way, Meridian, Idaho 83642.

ALLEGATIONS

VII.

Respondent served as a teacher in the District pursuant to a contract between Respondent and the District.

VIII.

In May 2012, administrators at Capital High School in Boise, Idaho, became aware of allegations that the Respondent had been engaged in a practice of inappropriate text messaging with a student. By the time the school learned of these allegations, the Respondent had resigned his teaching position to accept a position at College of Western Idaho where he still teaches students as of the date of this Complaint.

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IX.

As a result of the allegations against the Respondent, Capital High School opened an internal investigation and issued a final investigative report on May 30, 2012 (the “Investigative Report”).

X.

The Investigative Report highlighted the following alleged acts:

A. Over 28 pages of Facebook instant messages were exchanged between the Respondent and student “Jane Doe;”¹

B. Jane Doe characterized the Respondent’s conduct as “hitting on me a lot;”

C. The Respondent often singled Jane Doe out in class and gave her personal compliments regarding her appearance. It was alleged that Respondent told Jane Doe that she had “nice legs” and “should be a model because she has such a nice tight body;”

D. In February 2011, Jane Doe began dating a fellow student. It is alleged that the Respondent informed Jane Doe that he was “jealous” of her relationship with this fellow student. It has been alleged that the Respondent called Jane Doe’s boyfriend an “asshole” on at least two occasions; and

E. On another occasion Jane Doe excused herself from class to use the bathroom. Respondent followed Jane Doe out of class asking her “why don’t you talk to me?” As Jane Doe was getting a drink at a water fountain, Respondent pushed her on the shoulders with both hands and continued to ask the question. Jane Doe ignored the Respondent and went into the bathroom. At the end of class, Respondent pulled Jane Doe aside, kept asking why she would not talk to him and when she walked away, Respondent stated “I love you [Jane Doe]; you are one of my best friends.”

¹ A fictitious name is used to protect the identity of what may be a minor.
XI.

Respondent’s conduct described above violated the following laws and/or rules governing teacher certification in the State of Idaho:

A. Ethics Principle II(a) (committing any act of child abuse, including physical or emotional abuse);

B. Ethics Principle II(e) (soliciting, encouraging, or consummating a romantic or inappropriate relationship (whether written, verbal, virtual, or physical) with a student, regardless of age);

C. Ethics Principle II(f) (using inappropriate language including, but not limited to, swearing and improper sexual comments (e.g., sexual innuendoes or sexual idiomatic phrases);

D. Ethics Principle II(h) (inappropriate contact with any minor or any student regardless of age using electronic media);

E. Ethics Principle II(j) (conduct that is detrimental to the health or welfare of students);

F. Ethics Principle X(a) (Any conduct that seriously impairs the Certificate holder’s ability to teach or perform his professional duties); and

G. Idaho Code Section 33-1208(1)(j) (willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education).

XII.

The PSC may deny, revoke, suspend or place reasonable conditions on any certificate issued or authorized under the provisions of Idaho Code Section 33-1201, upon any violation of the provisions of Idaho Code Section 33-1208(1).
REQUEST FOR RELIEF

WHEREFORE, pursuant to Idaho Code Sections 33-1208 and 33-1209, the PSC respectfully requests the following relief be granted:

1. That a hearing be conducted before a hearing panel to allow the PSC and Respondent to present evidence on this Administrative Complaint’s allegations;

2. That after a hearing, the waiver of a hearing, or Respondent’s failure to file an Answer to this Administrative Complaint, the hearing panel issue findings of fact and conclusions of law finding the violations of law alleged herein;

3. That it be determined whether Respondent’s certificates should be suspended, revoked or otherwise disciplined; and

4. Any other or further relief deemed just and equitable under the circumstances.

DATED this ___ day of October, 2014.

IDAHO STATE DEPARTMENT OF EDUCATION
PROFESSIONAL STANDARDS COMMISSION

By: Taylor Ramsey
Chief Certification Officer
NOTIFICATION OF PROCEDURAL RIGHTS

Pursuant to Idaho Code Section 33-1209 and IDAPA 04.11.01.270, if you wish to contest the charges set forth in this Administrative Complaint, you must: (1) file with the state superintendent of public instruction a written Answer to the allegations contained herein within thirty (30) days after the date of service of this Administrative Complaint and (2) request an evidentiary hearing on the charges. The hearing will be conducted pursuant to Idaho Code Section 33-1209, the provisions of the Administrative Procedure Act codified at title 67, chapter 52, Idaho Code, and the Idaho Rules of the Administrative Procedure of the Attorney General, promulgated at IDAPA 04.11.01.

You are further notified that if you fail to answer, request a hearing and/or fail to appear at a scheduled hearing, the allegations in the Administrative Complaint shall be deemed admitted pursuant to Idaho Code Section 33-1209(3).

You also 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.

Copies of the Administrative Procedure Act and of the Idaho Rules of Administrative Procedure of the Attorney General may be obtained at the Idaho State Law Library and at many county law libraries. The Idaho Administrative Procedure Act is available on the internet at:

http://www3.state.id.us/idstat/TOC/67052KTOC.html.

The Idaho Rules of Administrative Procedure are available on the internet at:


All original official documents must be filed with or mailed to the Idaho State Department of Education at the following address:

Tom Luna
State Superintendent
Idaho State Department of Education
650 West State Street, Room 200
P.O. Box 83720
Boise, ID 83720-0027
Telephone: (208) 332-6800
Facsimile: (208) 334-2228

All original official documents must be received by the Idaho State Department of Education between the hours of 8:00 a.m. and 5:00 p.m. except Saturdays, Sundays, and holidays. The Idaho 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 received during the hours of 8 a.m. and 5 p.m. except Saturdays, Sundays, and holidays and is legible in
its entirety. It shall be the responsibility of the filing party to verify with the staff of the Idaho State Department of Education that any facsimile transmission is successfully received and legible in its entirety.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this \_ day of October, 2014, I caused a true and correct copy of the foregoing ADMINISTRATIVE COMPLAINT to be forwarded with all required charges prepaid, by the method(s) indicated below, in accordance with the Idaho Administrative Procedure Act, to the following person(s).

Bryan Hess

[Redacted]

Terry R. Spencer, Esq.
TR Spencer & Associates, P.C.
140 West 9000 South, Ste. 9
Sandy, UT 84070

Scott W. Hulbert
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

\[\text{\checkmark} \quad \text{U.S. Mail} \]
\[\text{\checkmark} \quad \text{Certified Mail, Return Receipt Requested} \]
\[\text{\checkmark} \quad \text{Email: scott.hulbert@ag.idaho.gov} \]
\[\text{\checkmark} \quad \text{leslie.gottsch@ag.idaho.gov} \]

Shannon H. Haas
Program Specialist
Idaho State Department of Education