

**BEFORE THE PROFESSIONAL STANDARDS COMMISSION
OF THE STATE OF IDAHO**

In the matter of the certificate of:)	Case No. 21917
)	
AMY HOFF,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
Respondent.)	FINAL ORDER
_____)	

1. On September 24, 2020, this matter came before a hearing panel of the Professional Standards Commission of the State of Idaho (“Hearing Panel”) for an administrative hearing. The hearing was conducted to consider allegations against Amy Hoff (“Respondent”) brought by Lisa Colón Durham, Chief Certification Officer for the State of Idaho Department of Education (“Complainant”). Complainant alleged that Respondent engaged in certain conduct in violation of the statutes and rules governing Respondent’s certificate.

2. Based upon the findings of fact and conclusions of law set forth herein, this Hearing Panel enters its Final Order stating that Respondent’s conduct or course of conduct willfully violated Code of Ethics Principle II and ordering a ten (10) month suspension of Respondent’s certificate ending on August 1, 2021, and requiring one PSC approved ethics course and one PSC approved boundaries course prior to reinstatement.

PROCEDURAL HISTORY

3. On December 12, 2019, Complainant, by and through her attorney Deputy Attorney General Robert Berry, filed an administrative complaint against Respondent. *See* Administrative Complaint. The Administrative Complaint contained one count of alleged misconduct. Specifically, the Administrative Complaint alleged Respondent’s conduct, described more fully below, violated Principle II of the Code of Ethics for Idaho Professional Educators (“Code of Ethics”), and in turn violated Idaho Code § 33-1208(1)(j).

4. On March 6, 2020, Respondent, by and through her attorney Paul J. Stark, filed her Answer to the Administrative Complaint and requested a hearing. In her Answer, Respondent denied the allegations that the electronic communications exchanged between Respondent and KMS students C.H. and J.J.M. were inappropriate. Respondent also objected to the Administrative Complaint's Exhibit A stating that the allegations from 2013 were irrelevant to the current matter.

5. On March 13, 2020, staff for the Professional Standards Commission issued a Notice of Hearing scheduling this matter for an administrative hearing on April 7, 2020.

6. Due to state-wide COVID-19 precautions and in response to the Governor's ongoing State of Emergency and Extreme State of Emergency Orders and open meeting law guidance, the hearing was cancelled.

7. On September 8, 2020, staff for the Professional Standards Commission issued an Amended Notice of Hearing scheduling this matter for an administrative hearing on September 24, 2020.

8. On September 24, 2020, an administrative hearing in this matter was conducted before the Hearing Panel. The hearing was held via a video conferencing application, with staff in person at Lewis and Clark Conference Room, Len B. Jordan Building, 650 West State Street, Boise, Idaho. During the hearing, Deputy Attorney General Robert Berry represented the Complainant. Marty Durand represented Respondent. Mikki Nuckols served as Chair for the Hearing Panel. Shari Blom and Stacey Doxey served as the other members of the Hearing Panel. Ali Breshears, Deputy Attorney General, served as legal counsel for the Hearing Panel.

9. During the hearing, the parties offered documentary evidence in the form of Complainant's Exhibits A through G, and Respondent's Exhibits 1 and 2. The parties stipulated to the admission of the exhibits, except Exhibit A. Ms. Durand objected to the admission of Exhibit

A, arguing that it was irrelevant due to the near seven (7) year gap, and included “no specific findings of wrongdoing.” Mr. Berry argued that the inclusion showed previous knowledge of the Code of Ethics, a prior admission that the prior electronic communications were poor practice, the requirement to take a boundaries course, and that previous discipline is considered for all renewals. Exhibit A was admitted over the objection of Respondent on the basis that Respondent previously was required to take an ethics course and her prior knowledge of what communications with students were appropriate. The Hearing Panel admitted all offered exhibits. The Hearing Panel also received verbal testimony from the following witnesses:

- Matt Schvaneveldt, Principle of Kimberly Middle School;
- Luke Schroeder, Superintendent of Kimberly School District;
- Tanis Maxwell, J.J.M.’s mother; and
- Amy Hoff, Respondent.

FINDINGS OF FACT

10. Respondent holds a Standard Elementary Certificate with All Subjects (K-8) Endorsement, effective September 1, 2014 through August 31, 2019. Respondent’s certificate was issued under the authority of the Idaho State Board of Education. *See* Administrative Complaint, ¶ 3.

11. Respondent previously appeared before a hearing panel of the Commission on May 15, 2013, based upon an allegation that she texted one of her male students that she was thinking of being a naughty teacher for Halloween and asking whether she could pull it off—which resulted in a written decision requiring Respondent to take an ethical boundaries course, though no specific finding of a violation of Principle II was made. *See* Administrative Complaint ¶ 7-10; Exhibit A.

In that proceeding, Respondent admitted that the text message exchange was a “poor practice.” Exhibit A, page 3.

12. During the 2017-2018 and 2018-2019 school years, Respondent was employed by Kimberly Middle School (“KMS”) as a 7th grade math and pre-algebra teacher. *See* Administrative Complaint, ¶ 4.

13. Matt Schvaneveldt, principle of KMS, testified that he received an email on April 10, 2018, from Nancy Hyde, the parent of KMS student C.H., regarding electronic communications on social media between student C.H. and Respondent, which were attached to the email. *See* Exhibit B. One of the communications from C.H. stated “Do you think you could get me out of this suspension thing???” and included smiling laughing emoji’s. *Id.* Respondent replied stating, “Hahahahahaha you’re funny...” and included a sideways smiling laughing emoji. *Id.* The communications also referenced the fact that Respondent lived in Twin Falls, and the television show, “the Office.” *Id.* Ms. Hyde stated in the email to Mr. Schvaneveldt, “It looks like [C.H.] did start the conversation with her about the suspension issue. To be honest, it seems like [Respondent] was just trying to help and be cheerful and encouraging—but she was on his Instagram list. I asked him to unfollow her that night, which he did—I don’t believe they’ve had conversations since then so that’s good. My daughter said that [Respondent] does follow other students and does let them follow her, though. I apologize for all the trouble! Thank you! ~Mrs. Hyde.” *Id.*

14. On April 18, 2018, Mr. Schvaneveldt and Keelie Campbell, Kimberly Middle School Program Director, met with Respondent regarding Respondent’s communications with C.H. on social media. *See* Exhibit C. Respondent testified that she stated in that meeting that there

was no policy in that district against communicating with students with whom she had a personal relationship and parental permission.

15. Respondent admitted to receiving a PowerPoint presentation regarding Ethics in Education, offered as Exhibit G, at a Staff meeting and further stated that the PowerPoint presentation was “advice” but did not feel it was exactly relevant to her situation because she “knew [her] boundaries with students.”

16. On April 23, 2018, Respondent sent Ms. Hyde an email regarding her communications with student C.H. explaining that “communicating with my students in [a social media] format is a great way to build relationships, which is so important to me as a teacher.” *See* Exhibit 2. Ms. Hyde responded on April 24, 2018, and stated “I re-read that Instagram conversation and decided it wasn’t chatty or flirty and that you were just trying to encourage Cannon and I did mention this to Mr. Schroder and Mr. Schvaneveldt—that I wasn’t that worried about anything so I am sorry if it came across that way. However, Mr. Schroeder did mention that it is not a law but that the schools do strongly encourage teachers not to communicate with students via social media because it has been a problem in other places and in this area in Idaho as well, and apparently he said there have been some recent classes about that for teachers...?” *Id.*

17. On April 25, 2018, Mr. Schvaneveldt issued Respondent a letter of directive stating that Respondent “immediately stop communicating with non-relative minor students on social media of any kind including text messages and all forms [of] technology based communication with the exception of professional communications through the use of school email accounts.” Exhibit C. It also directed Respondent to “establish and maintain appropriate professional boundaries with students. This includes, but may not be limited to unfriendly/un-following any and all of her non-relative minor students in the Kimberly School District from any and all of her

social media accounts. Going forward [Respondent] is not to friend, follow, or otherwise engage with any non-relative minor student in the Kimberly School District on social media or any other technology based communication. [Respondent]’s communication with non-relative minor students shall occur only through the use of school email accounts.” *Id.* The letter also stated that Respondent was “directed to review the Professional Educator’s Code of Ethics, specifically Principle II.” *Id.*

18. The Hearing Panel received testimony from Mr. Schvaneveldt that he received several concerns from KMS teachers about Respondent’s interactions with a particular student, including meeting with the student with the door closed in Fall 2018.

19. The Hearing Panel received testimony from Mr. Schvaneveldt, wherein he stated that in Fall and Winter 2018, Respondent approached Mr. Schvaneveldt and had several discussions about whether Respondent wanted to resign. Respondent also testified that due to difficulties related to the math curriculum, she had discussions with Mr. Schvaneveldt about resigning. Respondent submitted a letter of resignation to Mr. Schvaneveldt on February 13, 2019, effective at the end of the contract year. Exhibit D.

20. In March 2019, the KMS School Resource Officer Shane Softly approached Mr. Schvaneveldt about text messages between Respondent and KMS student J.J.M. Officer Softly provided Mr. Schvaneveldt copies of text messages.

21. During the 2018-2019 school year, Respondent repeatedly engaged in text message conversations with KMS student J.J.M., including texting outside of school hours and texting about matters not related to school. *See* Exhibit E. Examples of the texts include:

- a. Respondent texted “Goodnight” with an emoji blowing a kiss with a heart, to which J.J.M. responded “gn []” with a star emoji. Exhibit E at 7.

- b. J.J.M. texted Respondent an image of a person plugging in a USB device with the caption “USB goes in the right way on the first try,” and “Pornhub.” Exhibit E at 14. Respondent replied with a crying laughing emoji.
- c. Respondent texted J.J.M. “Merry Christmas by the way []” with an emoji blowing a kiss with a heart, to which J.J.M. responded “merry christmas,” followed by an emoji with stars for eyes. Exhibit E at 21.
- d. J.J.M. texted Respondent an image of former President Barack Obama hugging President Trump with the caption, “Shhh! You fucked up... This is what happens when you’re not qualified.” Exhibit E at 29.
- e. J.J.M. texted Respondent “are you still at school” and “and if you are then find some way to get into the band room and get my trumpet then bring it to my house tomorrow (if you can get the trumpet though).” Exhibit E at 37. Respondent replied “Sorry sweetie I’m not at school” and “I didn’t get a chance to say goodbye to you.” *Id.*
- f. Respondent texted J.J.M. an image of a her pet black cat, to which J.J.M replied “:))))))))))))))))69.” Exhibit E at 39.

22. The Hearing Panel received testimony from Respondent during the hearing, wherein Respondent stated that she did not use school email to correspond with J.J.M. because the nature of the conversations was not school related.

23. The Hearing Panel also received testimony from Respondent that she wanted her students to feel as if she was a “friend” and feel open to communicate problems in their lives beyond the assignments with her.

24. The Hearing Panel finds that the extent and nature of some of the electronic communications described in Exhibit B and E, and in Paragraphs 13 and 21 were inappropriate and did not maintain a professional relationship with the students.

CONCLUSIONS OF LAW

25. This Hearing Panel has authority under Idaho Code § 33-1208 and § 33-1209 to hear this contested case initiated by Complainant against Respondent.

26. The Hearing Panel has authority under Idaho Code § 33-1208 and § 33-1209 to revoke, suspend, issue a letter of reprimand, or place reasonable conditions on any certificate for violations of the statutes and rules governing Idaho professional educators.

27. The Hearing Panel finds that the electronic communications exchanged between Respondent and the KMS students C.H. and J.J.M. were inappropriate for an Idaho professional education and that such conduct rises to the level of violating Principle II of the Code of Ethics.

FINAL ORDER

IT IS THE FINAL ORDER of this Hearing Panel, based upon the findings of facts and conclusions of law set forth herein, that Complainant's conduct or course of conduct willfully violated Code of Ethics Principle II (IDAPA 08.02.02.076.03) ("A professional educator maintains a professional relationship with all students, both inside and outside the physical and virtual classroom.").

The Hearing Panel orders that Ms. Hoff's certificate be suspended for ten (10) months or until the start of the 2021-2022 school year beginning on August 1, 2021. Reinstatement shall be conditioned upon Ms. Hoff completing one PSC approved ethics course and one PSC approved boundaries course, both of which may not be used for renewal purposes. Respondent will be

eligible for reinstatement of her Idaho Educator Certification after August 1, 2021 if she completes the two ethics courses and submits proof to Complainant after the suspension ending.

Dated on this 12 day of October, 2020.

Mikki Nuckols
Mikki Nuckols
Hearing Panel Chair

NOTIFICATION OF PROCEDURAL RIGHTS

THIS IS A FINAL ORDER OF THE HEARING PANEL. Any party may file a Petition for Reconsideration of this Final Order within fourteen (14) days of its service date. The Hearing Panel is required by law to dispose of a Petition for Reconsideration within twenty-one (21) days of its filing or the Petition for Reconsideration will be considered to be denied by operation of law. *See Idaho Code § 67-5243(3).*

Petitions for Reconsideration of this Final Order may be filed by mail addressed to the Professional Standards Commission, Department of Education, Statehouse, Boise, ID 83720-0027, or may be delivered to the Department of Education, Len B. Jordan Building, Room 200, 650 West State Street, Boise, Idaho, and must be received within fourteen (14) days of the service date of this Final Order.

Pursuant to Idaho Code §§ 33-1209(8), 67-5270, and 67-5272, any party aggrieved by this Final Order or by another Order previously entered in this Contested Case may obtain Judicial Review of this Final Order and of all previously issued Orders in this Contested Case by filing a Petition for Judicial Review in the District Court as provided by those sections.

A Petition for Judicial Review must be filed within twenty-eight (28) days of the service date of this Final Order, or, if a Petition for Reconsideration is timely filed, within twenty-eight (28) days of the service date of a decision on the Petition for Reconsideration or denial of the Petition for Reconsideration by operation of law. *See Idaho Code §§ 67-5246 and 67-5283.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of October, 2020, I caused to be served a true and correct copy of the preceding as follows:

Amy Hoff c/o Marty Durand Herzfeld & Piotrowski P.O. Box 2864 Boise, ID 83701	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: Marty@idunionlaw.com
Robert Berry, Deputy Attorney General Office of the Attorney General Statehouse Boise, ID 83720-0010	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: Robert.Berry@ag.idaho.gov
Annette Schwab State Department of Education Professional Standards Commission 650 West State Street, Second Floor PO Box 83720 Boise, ID 83720-0027	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail, Return Receipt Requested <input checked="" type="checkbox"/> E-mail: ASchwab@sde.idaho.gov



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