

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Dustin R.L. Kisner,

Respondent

Case No. 22236

FINAL ORDER

The Chief Certification Officer for the State of Idaho filed an Administrative Complaint against the educator certificate issued to Dustin R.L. Kisner, seeking for the Professional Standards Commission to impose discipline on Mr. Kisner's certificate. *See* Idaho Code § 33-1209. Because Mr. Kisner did not request a hearing within 30 days, and because Mr. Kisner 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 makes the following findings and conclusions:

Mr. Kisner'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(2)(g)(the professional standards commission shall permanently revoke the certificate issued under section 33-1201 for a person who pleads guilty to lewd conduct with a child under the age of sixteen years, a violation of section 18-1508, Idaho Code.).

Under Idaho Code § 33-1208, the Professional Standards Commission orders that the following discipline (as marked) be imposed on Mr. Kisner'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. Kisner's certificates are revoked.

_____ Mr. Kisner's certificates are permanently revoked under Idaho Code § 33-1208(2).

_____ Mr. Kisner's certificates are suspended for _____ years _____ months

_____ Mr. Kisner's certificates are suspended indefinitely pending completion of the following conditions:

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

_____ Mr. Kisner's certificates have the following conditions placed upon it.

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

_____ A letter of reprimand will be placed in Mr. Kisner'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 14th day of April, 2023.



KAREN PYRON, 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.

CERTIFICATES OF SERVICE

I HEREBY CERTIFY that on this 17th day of April, 2023, I caused to be served a true and correct copy of the foregoing by the following method to:

Dustin R.L. Kisner, Respondent



Dustin R.L. Kisner
Gem County Jail
410 East First Street
Emmett, ID 83617

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

James E. ("Jim") Rice
Deputy Attorney General
PO Box 83720
Boise, ID 83720-0010
(208) 334-2400

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Facsimile:
- Email: jim.rice@ag.idaho.gov

Annette Schwab
Program Specialist
Idaho State Department of Education

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Dustin R.L. Kisner,

Respondent

Case No. 22236

ADMINISTRATIVE COMPLAINT

Bethani Studebaker, Chief Certification Officer for the State of Idaho, alleges the following against Dustin R.L. Kisner.

GENERAL AVERMENTS

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. Kisner holds the following certificate and endorsement issued under the authority of the Idaho State Board of Education:

a. Standard Instructional Certificate with Mathematics (6-12) endorsement, effective September 1, 2021, through August 31, 2026.

4. Mr. Kisner was charged with one felony count of lewd conduct with a child under the age of sixteen, a violation of Idaho Code § 18-1508, and one felony count of enticing a child through the internet or other communication device, a violation of Idaho Code § 18-1509A.

5. On September 12, 2022, Mr. Kisner plead guilty to one felony count of lewd conduct with a child under the age of sixteen, a violation of Idaho Code § 18-1508, and to one felony count of enticing a child through the internet or other communication device, a violation of Idaho Code § 18-1509A.

Count I

6. Mr. Kisner's conduct or course of conduct violated Idaho Code § 33-1208(2)(g)(the professional standards commission shall permanently revoke the certificate issued under section 33-1201 for a person who pleads guilty to lewd conduct with a child under the age of sixteen years, a violation of section 18-1508, Idaho Code).

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. Permanently revoke Mr. Kisner's certificate.
2. That if Mr. Kisner requests a hearing, a hearing be conducted before a hearing panel, where the Chief Certification Officer and Mr. Kisner may present evidence concerning the allegations in this Administrative Complaint, to aid the hearing panel in determining whether Mr. Kisner's certificate should be disciplined and, if so, what discipline should be imposed.
3. That after a hearing, the waiver of a hearing, or Mr. Kisner'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;
4. Any other relief that would be just under the circumstances.

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DATED this 20th day of December, 2022.


BETHANI STUDEBAKER
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

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 must file an answer pursuant to IDAPA rule 04.11.01.270, 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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of December, 2022, I caused to be served a true and correct copy of the foregoing by the following method to:

Dustin R.L. Kisner, Respondent



- 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
Program Specialist
Idaho State Department of Education