

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Michael A. VanDyke,

Respondent

Case No. 22006

FINAL ORDER

The Chief Certification Officer for the State of Idaho filed an Administrative Complaint against the educator certificate issued to Michael A. VanDyke, seeking for the Professional Standards Commission to impose discipline on Mr. VanDyke's certificate. *See Idaho Code § 33-1209.* Because Mr. VanDyke did not request a hearing within 30 days, and because Mr. VanDyke 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. VanDyke's conduct or course of conduct willfully violated a principle of the Code of Ethics adopted by the Idaho State Board of Education. Idaho Code § 33-1208(1)(j). Specifically, Mr. VanDyke 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.").

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

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

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

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

1. _____

2. _____

3. _____

4. _____

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

1. _____

2. _____

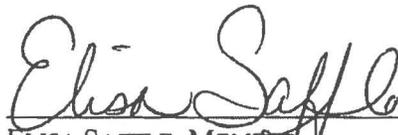
3. _____

4. _____

_____ A letter of reprimand will be placed in Mr. VanDyke'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 17 day of June, 2021.



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 23rd day of June, 2021, I caused to be served a true and correct copy of the foregoing by the following method to:

Michael A. VanDyke
C/O Jedidiah Bigelow
428 Park Ave.
Idaho Falls, ID 83402

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Email: jedbigelow@hopkinsroden.com

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



STATE OF IDAHO
PROFESSIONAL STANDARDS COMMISSION
STATE DEPARTMENT OF EDUCATION
PO BOX 83720
BOISE, IDAHO 83720-0027

OFFICE
650 W State Street
PHONE
(208) 332-6884
FAX
(208) 334-2228
SPEECH/HEARING IMPAIRED
(800) 377-3529

RE: Michael A. VanDyke
Professional Standards Commission Case No. 22006

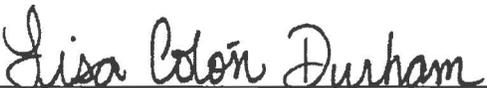
LETTER OF REPRIMAND

The Professional Standards Commission issues a formal reprimand to Michael A. VanDyke.

The Executive Committee found that probable cause existed to warrant the filing of an administrative complaint against Mr. VanDyke's certificate by the Chief Certification Officer. In lieu of filing an answer, Mr. VanDyke entered into stipulated discipline. The full Professional Standards Commission considered his case and adopted the discipline recommended by the Executive Committee, which was incorporated into the stipulated discipline. Accordingly, a letter of reprimand is now issued based upon Mr. VanDyke's failure to maintain a professional relationship with students through the use of inappropriate profane language. The Code of Ethics Principle involved in this letter of reprimand is Code of Ethics Principle II. Mr. VanDyke is hereby reprimanded for such behavior. The Chief Certification Officer is directed to issue and place this letter of reprimand in Mr. VanDyke's certification file.

Dated this 21 day of June, 2021.

IDAHO STATE DEPARTMENT OF EDUCATION



Lisa Colon Durham, Chief Certification Officer

c: Robert A. Berry, Attorney for the Chief Certification Officer

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Michael A. VanDyke,

Respondent

Case No. 22006

ADMINISTRATIVE COMPLAINT

Lisa Colón Durham, Chief Certification Officer for the State of Idaho, alleges the following against Michael A. VanDyke (“Respondent”).

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. VanDyke 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, 2019, through August 31, 2024.

4. Mr. VanDyke was employed by Taylor’s Crossing Public Charter School (Charter School) in Idaho Falls, Idaho for the 2019-2020 school year as a Mathematics teacher at the High School.

5. Mr. VanDyke had previously been warned on October 1, 2019, by the Charter School administrator about his use of inappropriate language with students; namely, that use of profane language was inappropriate and not to be repeated.

6. On November 14, 2019, Mr. VanDyke noticed that a catsup smiley face had been drawn on a table in the High School commons area.

7. Mr. VanDyke was able to determine who drew the catsup smiley face through review of camera footage.

8. Mr. VanDyke obtained permission from the Charter School administrator to take the student who had drawn the smiley face out of the classroom to chastise him before sending him to the administration office for discipline.

9. However, instead of just taking that particular student from the classroom, Mr. VanDyke also took those students who were part of the basketball team out of class.

10. Mr. VanDyke proceeded to verbally reprimand not just the one student who had drawn the smiley face, but all of the other basketball team members who had been called out of class.

1. Despite just being warned in October not to use profanities with students, the verbal reprimand consisted of unprofessional profane language, including calling the students “fucking lazy shits,” “fucking screw-ups,” “assholes,” “douche bags,” “damn pieces of shit,” and “fucking worthless.”

2. The verbal chastisement lasted approximately three-minutes.

3. The student who drew the smiley face was told to clean up the smiley face, which he did.

4. Mr. VanDyke received a letter of reprimand and was suspended for one day.

Count I

5. Mr. VanDyke’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. VanDyke 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.”)

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:

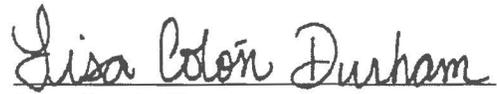
1. Issue a letter of reprimand;
2. Mr. VanDyke must undergo and complete anger management counseling by a licensed and certified counselor and the counselor must issue a report upon completion to the PSC.
3. That if Mr. VanDyke requests a hearing, a hearing be conducted before a hearing panel, where the Chief Certification Officer and Mr. VanDyke may present evidence concerning the allegations in the Administrative Complaint, to aid the hearing panel in determining whether Mr. VanDyke’s certificate should be disciplined and, if so, what discipline should be imposed.
4. That after a hearing, the waiver of a hearing, or Mr. VanDyke’s failure to file an Answer to the Administrative Complaint, the hearing panel issue findings of fact and conclusions of law finding the violations of law alleged herein.
5. Any other relief that would be just under the circumstances.

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DATED the 17 day of December, 2020.



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

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. The 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 the administrative complaint will be treated as admitted under Idaho Code § 33-1209(3).**

In response to the 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 the 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.

The 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

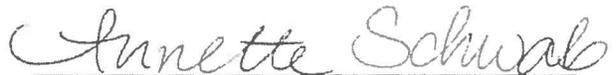
I HEREBY CERTIFY that on the 18th day of December, 2020, I caused to be served a true and correct copy of the foregoing by the following method to:

Michael A. VanDyke, Respondent
C/O Jedidiah Bigelo
428 Park Ave.
Idaho Falls, ID 83402

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile: (208) 344-1606
- Email: jedbigelow@hopkinsroden.com

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.gottsich@ag.idaho.gov



Annette Schwab
Program Specialist
Idaho State Department of Education