

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Joseph C. Swainston,

Respondent

Case No. 22328

FINAL ORDER

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

1. Mr. Swainston’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)(“Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education.”). Specifically, Mr. Swainston violated Code of Ethics Principle II Idaho Admin Code r. 08.02.02.076.02 (“A professional educator abides by all federal, State, and local education laws and statutes.”).

2. Mr. Swainston’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)(“Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education.”). Specifically, Mr. Swainston 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. Swainston’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, which is revocation.

Other discipline

_____ Mr. Swainston’s certificates are revoked.

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

_____ Mr. Swainston’s certificates are suspended for _____ years _____ months.

_____ Mr. Swainston’s certificates are suspended indefinitely pending completion of the following conditions:

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

_____ Mr. Swainston’s certificates have the following conditions placed upon it.

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

_____ A letter of reprimand will be placed in Mr. Swainston’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 20 day of September, 2024.


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 25th day of September, 2024, I caused to be served a true and correct copy of the foregoing by the following method to:

Joseph Swainston, Respondent



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

Kyle Grigsby
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: kyle.grigsby@ag.idaho.gov

Annette Schwab
Coordinator
Idaho State Department of Education

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In the matter of the certificate of:

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ADMINISTRATIVE COMPLAINT

Cina Lackey, Chief Certification Officer for the State of Idaho, alleges the following against Joseph C. Swainston.

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. Swainston holds the following certificate and endorsements issued under the authority of the Idaho State Board of Education:

a) Interim Standard Instructional Certificate endorsed All Subjects (K-8) effective September 3, 2021, through August 31, 2024.

4. Mr. Swainston was employed by the Wendell School District during the 2022-2023 school year.

5. On information and belief, the following occurred during Mr. Swainston's employment.

6. Mr. Swainston pled guilty to three counts of “Minors-Disseminating Material Harmful to Minor,” a misdemeanor.

7. Upon information and belief, Mr. Swainston sent at least one inappropriate picture of his genitals to at least one minor.

8. The Professional Standards Commission may learn additional facts related to Mr. Swainston’s actions as it investigates circumstances related to this Administrative Complaint.

COUNT I

9. Mr. Swainston’s conduct or course of conduct described in paragraphs 5-6 willfully violated a principle of the code of ethics that was adopted by the Idaho State Board of education. Idaho Code § 33-1208(1)(“Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education.”). Specifically, Mr. Swainston violated Code of Ethics Principle I Idaho Admin Code r. 08.02.02.076.02 (“A professional educator abides by all federal, State, and local education laws and statutes.”).

10. Mr. Swainston’s conduct or course of conduct described in paragraphs 5-6 willfully violated a principle of the code of ethics that was adopted by the Idaho State Board of education. Idaho Code § 33-1208(1)(“Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education.”). Specifically, Mr. Swainston 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.”).

11. The Commission may learn additional facts related to Mr. Swainston’s actions as investigates circumstances related to this Administrative Complaint.

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. That Mr. Swainston's certification be revoked.
2. That if Mr. Swainston requests a hearing, a hearing be conducted before a hearing panel, where the Chief Certification Officer and Mr. Swainston may present evidence concerning the allegations in this Administrative Complaint, to aid the hearing panel in determining whether Mr. Swainston'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 6 day of May, 2024.


Cina Lackey
Chief Certification Officer

*Attorney for the
Chief Certification Officer*
Kyle D. Grigsby
Deputy Attorney General
PO Box 83720
Boise, ID 83720-0010
(208) 334-4127
kyle.grigsby@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 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:

Debbie Critchfield
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 6th day of May, 2024, I caused to be served a true and correct copy of the foregoing by the following method to:

Joseph Swainston



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

*Attorney for the
Chief Certification Officer*
Kyle D. Grigsby
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: kyle.grigsby@ag.idaho.gov
laura.kauffmann@ag.idaho.gov

Annette Schwab
Coordinator
Idaho State Department of Education