



SUPERINTENDENT OF PUBLIC INSTRUCTION

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| IN THE MATTER OF THE EDUCATION |) | |
| APPLICATION OF |) | OPP No. D05-11-127 |
| |) | |
| JEFFREY HILBURN |) | DENIAL ORDER |
| Certificate No: 390335H |) | FOR CERTIFICATION |
| |) | |

After receiving and investigating an application for a Washington State Education Certificate, and based upon the facts available as of the date of this Order, the Superintendent of Public Instruction, through his undersigned designee, institutes this proceeding and finds, as described below, that JEFFREY HILBURN (“Applicant”) lacks good moral character and personal fitness as defined in WAC 181-86-013, and does hereby DENY the application for certification based on the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Applicant was issued a Washington Education Certificate, No. 390335H, on August 16, 2001. That certificate was revoked on June 28, 2008.
2. The Applicant was employed by the Mukilteo School District.
3. On November 21, 2005, the Office of Professional Practices (OPP) within the Office of Superintendent of Public Instruction (OSPI), received a complaint letter from the Superintendent of the Mukilteo School District alleging a lack of good moral character or personal fitness, and/or a violation of the Code of Professional Conduct, Washington Administrative Code (WAC) 181–87, by the Applicant.

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4. During the 1997–1998 school year, the Applicant, then a classified employee of the Issaquah School District, resided in a house belonging to Robyn Chisholm. Ms. Chisholm, her 15-year-old daughter, E.C., and her 13 year old daughter, L.C., also resided in the house.

5. During the 1997–1998 school year, the Applicant developed and expressed romantic/emotional feelings and/or attraction towards L.C. and E.C.

6. In August 1997, Ms. Chisholm learned of the Applicant’s attraction to her daughters and ordered him out of the home. She verbally advised the Applicant to have no further contact with her daughters or son.

7. During February 1998, the Applicant delivered a Valentine’s card to the thirteen-year-old student L.C. The card, trimmed in roses, stated: “To a very good friend and a beautiful young woman from a not very secret admirer”; “2-98”; “Happy Valentine’s Day”.

8. After being warned again by Robyn Chisholm to have no more contact with her daughters, the Applicant sent L.C. a card during March of 1998, which stated: “OK, this is late or maybe it’s early for next year. After having sent and received gazillions of cards from women my own age, here’s one for someone who deserves it. Some days this longing just comes over me so that I’ll actually drive out just for a cup of something and a visit with you. See what power you have? Ah, what’s a guy to do...?” The Applicant also included two cartoons.

9. In March 1998, the Applicant was sent a written letter from Robyn Chisholm telling him to stay away from her children and not to visit L.C. at the coffee shop where she worked. She advised that she would seek to obtain a restraining order if he continued to try and contact her or her children.

10. During May 1998, the Applicant frequented the coffee shop where E.C. was employed, until he was discovered and confronted by Robyn Chisholm.

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11. On May 6, 1998, Robyn Chisholm filed for a Petition for an Order of Anti-Harassment in King County District Court, protecting herself and her three children, E.C., L.C., and Z.C., with the Applicant listed as the respondent; Case #98-3281. The Temporary Order of Anti-Harassment was granted on the same day. On May 19, 1998, the Anti-Harassment Order was made permanent, with no expiration date. The terms of the Order included, among other things: the Applicant being restrained from coming near and from having any contact whatsoever, in person or through others, by phone, mail, or any means, directly or indirectly, except for mailing of court documents, with the petitioner and the minors named in the order. The Applicant was further restrained from entering or being within 1000 yards of the petitioner's residence, place of employment, school or daycare, or minors named in the order.

12. On July 31, 1998, the Issaquah School District notified the Applicant that his employment as a classified employee would not be continued. The notification provided the following written reasons for his dismissal: “[V]erbal interactions with female students, and your failure to follow administrative guidance about placing yourself in situations where you are alone with female students. In addition, the court imposed no contact order related to you and a female student at Issaquah High School hampers your effectiveness as an employee for the district.”

13. On August 4, 1998, the Applicant wrote a letter to the Executive Director of Personnel Services for the Issaquah School District in response to his termination as stage manager for Liberty High School.

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14. On November 6, 1998, the Applicant attended an Issaquah High School football game, at Issaquah High School, while E.C. and L.C. were also at the stadium. This was a violation of the terms of Anti-Harassment Order #98-3281. The incident was reported to the Issaquah Police Department as incident # 98-8232. The case was referred to the King County Prosecutor's Office.

15. In December 1998, the Applicant sent a Christmas card to Robyn Chisholm and her children in violation of the terms of Anti-Harassment Order #98-3281. The incident was reported to the King County Sheriff's Office on January 19, 1999; King County Case # 99-19954.

16. On January 3, 1999, the Applicant attended service at Our Savior's Lutheran Church in Issaquah, which was regularly attended by Robyn Chisholm and her family. This was in violation of the terms of Anti-Harassment Order #98-3281. The Applicant sat two pews behind the Chisholm's until he was told to leave, which he did. This incident was reported to the Issaquah Police Department, case number: 99-0056. The case was not filed with the prosecutor's office.

17. On March 19, 1999, a Criminal Complaint was filed in King County District Court charging the Applicant with Violation of Anti-Harassment Order #98-3281; Case #99-019954.

18. On May 24, 1999, in King County District Court, the Applicant entered a Plea of Guilty to the charge of Violation of an Anti-Harassment Order.

19. On July 22, 1999, the Applicant was found guilty in King County District Court by plea and sentenced to: 365 days of jail, with 365 days suspended; \$5,000 fine, with \$5,000 suspended; and twenty-four months of probation; King County District Court case #99-019954.

20. On August 1, 2001, King County District Court Judge Nault found that the conditions of the case #99-019954 had been met and closed the case.

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21. On a Certificated Pre-Employment Application Form, dated September 10, 2001, for the Mukilteo School District, in the “Applicant Information and Authorization” section, the Applicant answered “No” to the question: “Have you been discharged or forced to resign from a teaching or other educational position with the past ten years?”

22. On October 10, 2001, the Applicant truthfully answered “Yes” in his application to OSPI for an emergency substitute teacher certificate, under the Character and Fitness Supplement, to the following question: “In the last 10 years, have you ever been convicted of any crime or violation of the law?” But to the question, “Have you ever been dismissed, discharged, or fired from any employment position involving children or dependent adults?”, The Applicant falsely answered “No.”

23. On March 3, 2003, the Applicant sent an email message to L.C. while she was attending Washington State University in Pullman. This was in violation of Anti-Harassment Order #98-3281. The Applicant also sent L.C. a birthday card. The incident was reported to the Whitman County Sheriff’s Office; Case # 03-W1057.

24. During the Whitman County Sheriff’s Office investigation, the Applicant exchanged numerous emails with the investigating officer/s regarding L.C. and the Chisholm family in which he admitted to sending the email to L.C; Whitman County Sheriff’s Office, Case # 03-W1057.

25. On June 4, 2003, a Criminal Complaint was filed in Whitman County District Court charging the Applicant with one count of Violation of Anti-Harassment Protection Order #98-3281; Whitman County District Court case P3-1356.

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26. On January 16, 2004, the Applicant entered into an Order of Continuance for Dismissal; Whitman County District Court Case, P3-1356. In the order, the Applicant stipulated to the admissibility and accuracy of the police report, agreed there is probable cause that he committed the crime, and acknowledged the Order that prohibits contact with L.C. is permanent, and continues despite her having reached the age of majority.

27. In August 2004, the Applicant sent Judge David Frazier, Whitman County District Court Judge, a letter regarding his case. In his letter, the Applicant requested third party contact through the Court by stating: "...In this agreement, (January 16, 2004) I promised not to contact her for the duration of this year and I fully expect to honor this commitment." The Applicant also stated: "What I am writing about is that I would like to be proactive in the matter that is if the court is willing. If not, there is no need to reply to this message. I cannot contact L.C. Robyn, but there is a message I would hope to get to her if acceptable." The court did not reply.

28. On January 14, 2005, a Motion and Order to Dismiss was signed by the Whitman County District Court Judge; Whitman County District Court case P3-1356.

29. In March 2005, the Applicant was asked by Elizabeth Rawlings, Youth Director at Bellevue's Saint Andrews Lutheran Church, to stop volunteering with the youth program after concerns arose over the Applicant visiting teen chat rooms, and emailing to, and making comments about, female teenage parishioners.

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30. During the first part of the 2005–2006 school year, the Applicant engaged in inappropriate conversations while at school, over the internet, and by phone with A.S., a sixteen-year-old female student at Kamiak High School in the Mukilteo School District. The recorded internet chats, using MSN Instant Messenger, totaled over thirty-six (36) hours within a nineteen (19) day period. The chat conversations included written messages, symbols, and pictures exchanged.

31. On September 6, 2005, the Applicant underwent a plethysmograph examination as part of a psychological examination by Florence Wolfe of Northwest Treatment Associate. The results of the plethysmograph “show the Applicant’s highest arousal by far was to a description of a savage attack on a female child. In fact, the two stimuli presented to him which described considerable violence against a child garnered the highest arousal of any on the entire test”. This examination was not provided to OPP until December 17, 2009.

32. On September 14, 2005, the Applicant underwent a polygraph examination as part of psychological testing conducted by Florence Wolfe. During the polygraph examination, the Applicant informed the polygraph operator that 40% of his sexual fantasies involve minor females and 50% of his sexual fantasies involve rape themes. This examination was not provided to OPP until December 17, 2009.

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33. On October 24, 2005, Florence Wolfe sent an evaluation report on the Applicant to Colleen King of Presbyterian Counseling Services. In Ms. Wolfe's report, she reiterated what the Applicant told her about his involvement with Robin Chisholm and her daughters. Among the incidents the Applicant told Ms. Wolfe are the following: The Applicant photographed 13-year-old L.C. in "rather skimpy clothing" on two separate occasions; he attempted to remove L.C. from her bed while she was sleeping; he used the underwear of one of the Chisholm girls to masturbate; and he used fantasies of wrestling with L.C. to achieve sexual arousal. This examination was not provided to OPP until December 17, 2009.

34. During late October or early November 2005, while helping the Applicant in his office with paperwork for the school's "Drama Fest", the Applicant approached A.S., pulled her close to him, gave her a hug, kissed her on the forehead, and placed his hand on her lower back.

35. On November 2, 2005, the Mukilteo School District received a complaint from a member of the community that the Applicant had developed an inappropriate relationship with the female student, A.S.

36. On November 2, 2005, the Applicant was placed on paid Administrative Leave by the Mukilteo School District. In the letter of Administrative Leave, the Applicant was advised that he was prohibited from initiating any contact with District staff or students.

37. On November 3, 2005, A.S. was interviewed by district personnel and provided them with recorded internet chat transcripts between her and the Applicant.

38. On November 15, 2005, the Applicant sent Fred Poss, Assistant Superintendent for the Mukilteo School District, a letter addressing his friendship with A.S., his interactions with A.S., and his interpretation of laws of the Code of Conduct for Professional Educators.

39. On November 20, 2005, the Applicant sent an email to A.S.

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40. On November 22, 2005, John Sutton, acting on behalf of his daughter A.S., filed a Petition for an Order for Protection Unlawful Harassment in Snohomish County District Court, with the Applicant listed as the respondent.

41. On November 23, 2005, the Applicant was issued a “Notice of Criminal Trespass” warning by the Mukilteo School District.

42. On November 23, 2005, a Temporary Protection Order and Notice of Hearing Unlawful Harassment was issued; Snohomish County District Court Case No. U05-447. The Applicant appeared in court to contest the restraining order, but the order was upheld by the court.

43. On November 27, 2005, in a letter to Dr. Marci Larsen, Mukilteo Superintendent, the Applicant addressed the complaints against him, including saying: “I lament a society in which two individuals who share common interest can’t have a platonic friendship because of their ages.” The letter later stated: “Simply, I believe I, and A.S. should have been given some clearer guidelines about what we could or could not discuss.”

44. On November 30, 2005, in lieu of being discharged, the Applicant resigned his teaching position.

45. On December 13, 2005, the Issaquah School District learned the Applicant was seeking volunteer opportunities within the Issaquah District. A letter was sent to the Applicant advising him that they would not accept his services and notified that he was not to enter district property or attend any district sponsored event, and if he violated the notice, he would be considered a trespasser and the police would be called.

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46. On June 13, 2006, the Applicant signed an employment application form with the Snoqualmie Valley School District. On the application, the Applicant answered “No” to the question: “Have you ever been dismissed, discharged, or have you separated employment in order to avoid discipline or discharge?”

47. The Applicant was hired by the Snoqualmie Valley School District for the 2006–2007 school year, starting September 2, 2006.

48. On October 18, 2006, the Applicant was placed on paid administrative leave by the Snoqualmie Valley School District.

49. On October 25, 2006, the Applicant was interviewed by an OPP investigator.

50. In an email sent by the Applicant on October 30, 2006, to the OPP investigator, the Applicant wrote, among other comments: “My boundaries of course meant never touching privates, or kissing lips, cheeks, etc. There was one day she came in wet and bedraggled after marching band practice and she was so hurting that I comforted her and yes my lips brushed the hair on the top of her forehead. My intent was to be supportive, caring and it felt as what someone one (sic) would do in a tender, compassionate moment. That was it. I stopped and it was never romantic or even remotely sexual.”

51. On January 17, 2007, the Applicant was issued a letter of probable cause for discharge from Snoqualmie Valley School District.

52. On January 24, 2007, Snoqualmie Valley School District received a letter of appeal from the Applicant, through his attorney.

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53. On February 13, 2007, OPP received a complaint letter from the Superintendent of the Snoqualmie Valley School District alleging a lack of good moral character or personal fitness, and/or a violation of the Code of Professional Conduct, Washington Administrative Code (WAC) 181-87, by the Applicant.

54. On January 26, 2007, OPP received a letter from the Applicant's attorney with an attached letter of "responses and clarifications" by the Applicant to the investigation.

55. On Friday night, May 11, 2007, the Applicant returned to Kamiak High School to attend the school production of "Hello Dolly", in violation of the "Notice of Criminal Trespass" order issued by the Mukilteo School District. The Kamiak High School principal, Keith Rittel, was notified on Monday, May 12, 2005, by a district employee, Jane Leverkusn., who was unwilling to make a formal statement. Mr. Rittel also spoke with drama teacher Laurie Levine, who said she was still friends with the Applicant and was not willing to make a report to law enforcement.

56. The Applicant posted blog entries on his public "My Space" account under the user name "Red_Tail_Hawk" where he made ongoing references to the two female students from the Issaquah School District, L.C. and her sister E.C., including discussing an attempted third party contact with L.C. He also referenced the student A.S. from Mukilteo School District. The most recent blog entry referencing L.C., E.C., and A.S., was posted on August 20, 2007.

57. On September 19, 2007, OPP issued a Proposed Order of Revocation of the teaching certificate of the Applicant for violation of WAC 181-87-060, WAC 181-87-050, RCW 28A.410.090, WAC 181-86-013 and/or WAC 181-86-014.

58. On October 11, 2007, the Applicant appealed that decision to the Admissions and Professional Conduct Advisory Committee (APCAC).

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59. On April 21, 2008, OPP issued an Amended Proposed Order of Revocation of the teaching certificate of the Applicant for violation of WAC 181-87-060, WAC 181-87-050, RCW 28A.410.090, WAC 181-86-013 and/or WAC 181-86-014.

60. On May 21, 2008, APCAC issued a Final Order of Revocation of the teaching certificate of the Applicant. The Applicant did not appeal that decision.

61. On June 18, 2009, the Applicant submitted an application to reinstate his revoked Washington education certificate.

62. On the Character and Fitness Supplement, the Applicant answered "Yes" to questions 3, 4, 8, 9, 10 and 11, Section II, Professional Fitness, regarding having been the subject of a certificate or licensing investigation or inquiry by a certification or licensing agency for allegations of misconduct; having had adverse action taken on a certificate or license; having been dismissed discharged, or fired from any employment position involving children or dependent adults; having ever resigned from or otherwise left any employment while allegations of misconduct were pending; and having ever been disciplined by a past or present employer because of allegations of misconduct and currently or having ever been the subject of any investigation or inquiry by an employer because of allegations of misconduct. The Applicant also answered "Yes" to questions 1 and 2, Section III, Criminal History, regarding having been arrested for any crime or violation of the law in the last 10 years, and having been fingerprinted in the last 10 years as a result of any arrest for any crime or violation of the law.

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63. On the Character and Fitness Supplement, the Applicant falsely answered “No” to question 3, Section III – Criminal History, which states: “In the last 10 years have you ever been convicted of any crime or violation of the law?” The Applicant did put a notation of “Not Sure” next to the answer, with another notation of “My misdemeanor case was dismissed” under the question on the Character and Fitness Supplement. In fact, the Applicant entered a plea of guilty in King County District Court on May 24, 1999, and, on July 22, 1999, was found guilty by plea to the charge of Violation of an Anti-Harassment Order.

64. On the Character and Fitness Supplement, the Applicant answered “No” to all questions in Section IV – Fitness. He addressed his answers during a written explanation by stating: “I am checking ‘no’ for this section. However, as is human nature, it is possible that another person could feel differently about myself. I remain cooperative and willing to work in a constructive and appropriate manner should anyone feel differently.”

65. The Applicant submitted a written explanation to his answers to the questions on the Character and Fitness Supplement.

66. On July 22, 2009, OPP notified the Applicant that further consideration of his application for reinstatement will require him to provide documentation of a successfully completed psychological evaluation, which validates his ability to have unsupervised access to children; completion of any recommended treatment based on such evaluation; and completion of training relating to the appropriate/inappropriate interactions and behavior with students.

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67. On August 12, 2009, the Applicant emailed OPP an update. The Applicant wrote, among other things, that in the last week he had already met with Dr. “Bill” Lennon to start the evaluation process. In the email, the Applicant referred to an existing psychosexual evaluation from Northwest Treatment Associates. The Applicant asked that OPP reconsider the need for a psychological evaluation as he didn’t see a need for Dr. Lennon to spend time on a lengthy evaluation since he expected it to recommend he do the same kind of work he was already doing the previous summer (boundary issues, teacher student interactions, etc.).

68. On August 14, 2009, OPP notified the Applicant that the curriculum vitae/resume of Dr. J.W. “Bill” Lennon had been reviewed and Dr. Lennon would be considered an acceptable provider for the psychological evaluation. The consent forms authorizing release of records were signed by the Applicant on August 19, 2009.

69. On August 21, 2009, the Applicant faxed a notification to OPP suspending/rescinding the consent agreement between OPP and Dr. Lennon, pending further notice. The Applicant also emailed the OPP investigator, verifying the suspension/rescinding of the agreements. He wrote, among other comments: “He needed to establish an environment of trust with whomever chooses to work with him. He does not know Dr. Lennon and only had one 50-minute session with him. Dr. Lennon does not know him nor the background and facts of his case. People who have worked with him and those who do know him are in a much better position to evaluate. In addition, the FBI background check covering the last 10 years show more about his behavioral history than one single session with a psychologist.”

70. On September 9, 2009, OPP requested from the Applicant provide the evaluation that was previously completed through Northwest Treatment Associates. Consent forms were included with the request.

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71. On September 14, 2009, the Applicant submitted an email to the OPP investigator. The Applicant wrote, among other comments, that he had concerns with signing the consent form to release the evaluation through Northwest Treatment Associates to OPP. The Applicant also referred to another psychological evaluation he completed in 1998 with Linda Rutledge of Jay Williamson and Associates in Bellevue. The Applicant indicated he was unable to locate the evaluator to receive a copy of the evaluation. An email response from OPP was sent to the Applicant indicating that he must provide the consent forms and any additional evaluations that he may have available.

72. On October 5, 2009, OPP notified the Applicant that the curriculum vitae/resume of Dr. Kenneth Asher was reviewed and Dr. Asher would be considered an acceptable provider for the psychological evaluation. The complete file of the Applicant was mailed to Dr. Asher on October 23, 2009.

73. On October 21, 2009, the Applicant attended the “Safer Relationships for Students” training provided by the Washington Education Association.

74. On December 2, 2009, the Applicant submitted a letter to OPP inquiring as to the progress of his application. The Applicant was notified that a psychological evaluation was still being required as part of the application process and that information had not been received.

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75. On December 17, 2009, OPP received the results of a psychological evaluation completed on October 24, 2005, by Florence Wolfe with Northwest Treatment Associates, which included testing in Multiphasic Sex Inventory II (adult male form profile), a polygraph, and a penile plethysmograph assessment. The results of the polygraph testing indicate the Applicant was not being deceptive in answering the questions. The results of the plethysmograph place him in the highly deviant range. The testing showed his sexual interest to be in sadomasochistic violence and minor females. The report also showed that the Applicant has some sexual problems. The evaluator indicated concern that the Applicant's life is "immersed in activities both vocational and avocational (youth work at the church) that prominently features juveniles". The evaluator further indicated that "it is probably not wise for the Applicant to be so focused on youth activities." The evaluator offered specialized therapy and offered to refer him to other service providers.

76. On December 17, 2009, through October 2005, the evaluation completed by Florence Wolfe at Northwest Treatment Associates, was forwarded to Dr. Asher to be considered during his evaluation.

77. On June 23, 2010, the Applicant participated in a plethysmograph test at Northwest Treatment Associates. OPP was not notified of this plethysmograph until November 21, 2011.

78. On January 6, 2010, the Applicant underwent personality assessment testing and a Million Clinical Multiaxial Inventory-III (MCMI-III) test as part of an evaluation for Dr. Ken Asher. These results were received by OPP on July 17, 2013.

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79. On July 19, 2010, Florence Wolfe completed and documented the results of a psychological evaluation. In the evaluation, Ms. Wolfe states that the Applicant is “almost exclusively a hebephile”. In summary, Ms. Wolfe states, among other comments, “The Applicant is interested in sadomasochistic sexuality focused on minor females. His lack of history and success in sexual interaction with adult women suggests that his hebephilia may be an exclusive or very primary sexual drive”. This psychological examination was not provided to OPP until November 7, 2011.

80. On October 6, 2010, OPP received correspondence from the Applicant regarding his progress in receiving the required psychological evaluation. Attached to this correspondence was a copy of communication between Florence Wolfe of Northwest Treatment Associates and Norman Matzke, a certified polygraphist.

81. On October 14, 2010, OPP confirmed to the Applicant the requirement of a successfully completed psychological evaluation and provided a 60-day timeline to receive the results of the evaluation.

82. On October 26, 2010, OPP received email correspondence from the Applicant. The Applicant wrote, among other things, that he had his last meeting with Dr. Asher who was in the process of typing up the evaluation. The Applicant further indicated that one thing he knew would be required is for him to continue working with a counselor to address the issues as Dr. Asher sees fit.

83. On December 17, 2010, OPP received correspondence from the Applicant indicating that, among other things, he was attempting to contact Dr. Asher.

84. As of January 3, 2011, OPP had not received a psychological evaluation validating the Applicant’s ability to have unsupervised access to children.

85. On January 7, 2011, OPP issued a Proposed Order of Denial, which the Applicant timely appealed. On or about March 23, 2011, an Amended Proposed Order of Denial was issued.
86. On May 24, 2011, after an informal hearing, APCAC issued a Final Order of Denial of application for reissuance of the teaching certificate of the Applicant.
87. On June 20, 2011, the Applicant sent OPP a letter stating that he would not appeal APCAC's decision.
88. On September 1, 2011, the Applicant sent OPP an email, titled, "Sept. 1, 2011, checking in".
89. On October 13, 2011, OPP received a letter from the Applicant requesting reinstatement of his teaching certificate.
90. On October 17, 2011, OPP sent the Applicant an Application for Reinstatement of Suspended or Revoked Washington State Certification. The Applicant was also informed that a completed psychological examination was required prior to OPP considering his application for reinstatement and that revocation of consent allowing OPP to interact with his treatment providers may result in an issuance of denial of his application for reinstatement.
91. On October 27, 2011, the Applicant submitted an Application for Reinstatement of Suspended or Revoked Washington State Certification. On the Character and Fitness Supplement, the Applicant answered "No" to all questions in Section IV – Fitness, including the question, "Have you ever exhibited any behavior or conduct which might negatively impact your ability to serve in a role which requires a certificate, credential, or license". On his explanation of "Yes" answers, the Applicant stated his explanation for answers in Section IV.

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92. On November 7, 2011, OPP received from the Applicant a copy of the 2010 sexual deviancy evaluation completed by Florence Wolfe. The Applicant also submitted a letter espousing his personal opinion about the evaluation.

93. On November 7, 2011, an OPP investigator contacted the Applicant about his current application for reinstatement and the recently received 2010 evaluation report from Florence Wolfe. The Applicant was told that it was concerning that he had this evaluation during a time when OPP was requesting it and he did not provide the summary. The Applicant stated that he knew it, but it was embarrassing. The Applicant was informed that he could either withdraw his current application or a denial would be issued.

94. On November 16, 2011, OPP received a letter from the Applicant withdrawing his Application for Reinstatement of Suspended or Revoked Washington State Certification.

95. On November 21, 2011, OPP received a series of psychological examination and polygraph results for testing done with the Applicant from 2005 to date.

96. On December 2, 2011, OPP received a letter from Dr. Bill Lennon, Bellevue Community Services, detailing the interactions and involvement Bellevue Community Services personnel had with the Applicant in 2008.

97. On May 22, 2012, OPP received a letter from the Applicant requesting “that we re-open the process towards getting my teaching certificate reinstated”.

98. On May 23, 2012, OPP sent the Applicant a letter advising him that there was not currently an open application for reinstatement of revoked certificate and that without such application, OPP was not in the process of determining his eligibility.

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99. On June 4, 2012, OPP received an Application for Reinstatement of Suspended or Revoked Washington State Certification from the Applicant. In Section II of the Character and Fitness Supplement, the Applicant did not answer question No. 10, “Have you ever been disciplined by a past or present employer because of allegations of misconduct”. The Applicant wrote on the application, “Not sure. I was (illegible) discussed but never issued any reprimands or suspension that I can recall”. In Section IV of the Character and Fitness Supplement, the Applicant answered yes and no to the question of, “Have you ever exhibited any behavior or conduct which might negatively impact your ability to serve in a role which requires a certificate, credential, or license”. The Applicant wrote on the form, “Not that I believe, but this open to opinion”. The Applicant submitted a response to ”Yes” answers on the Character and Fitness Supplement.

100. On June 4, 2012, the Applicant was sent a letter acknowledging receipt of his application for reinstatement and advising him that he must provide a completed psychological evaluation to OPP stating that he possesses the ability to have unsupervised access to children.

101. On June 19, 2012, OPP receive the curriculum vitae of Evonne Sears, MS, Doctorate Candidate, Licensed Sex Offender Treatment Provider. Ms. Sears stated that she had been working with the Applicant.

102. On July 2, 2012, OPP sent the Applicant a letter stating that it did not appear that Ms. Sears held the appropriate licensure needed to conduct and complete a psychological evaluation to determine if he held the ability to have unsupervised access to children and requested additional information.

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103. On or about July 5, 2012, Evonne Sears informed OPP that she was not able to perform and complete a psychological evaluation to determine if the Applicant possessed the ability to have unsupervised access to children. Ms. Sears is qualified to assess sex offenders.

104. On July 18, 2012, OPP sent the Applicant a letter advising that Ms. Sears did not possess the licensure necessary to conduct and complete a psychological evaluation. The Applicant was asked to provide the name and curriculum vitae of a licensed psychologist to OPP.

105. On August 6, 2012, OPP received an email from Ms. Sears. Ms. Sears stated that the Applicant had chosen Dr. Kenneth Asher. Ms. Sears also stated that regardless of whether the Applicant's education certificate was reinstated, she would like to work with him for at least two more years.

106. On August 20, 2012, OPP had an email conversation with Ms. Sears regarding the completion of a psychological evaluation for the Applicant. Ms. Sears stated that she had spoken with Dr. Asher and "Dr. Asher basically indicated that he is pretty much drained of the Applicant. The Applicant cannot continue to mental health hop until he gets the answer that he wants".

107. On September 4, 2012, OPP sent the Applicant a letter requesting signed consent allowing OPP to send documentation and information to and receive information and documentation from Dr. Asher and Ms. Sears.

108. On September 13, 2012, OPP received consent forms signed by the Applicant allowing OPP to have access to and exchange information with Evonne Sears and Dr. Kenneth Asher.

109. On January 7, 2013, OPP sent Dr. Asher a complete copy of all OPP documentation regarding the Applicant.

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110. Between January 7, 2013, and January 24, 2013, OPP spoke with Dr. Asher. Dr Asher informed OPP that he had not been retained or contacted by the Applicant to complete a psychological evaluation.

111. On January 24, 2013, OPP received an email from Ms. Sears. In the email, Ms. Sears stated that her recommendation would be that it is not conceivable that the Applicant be permitted to sub (teach).

112. On January 24, 2013, the Applicant was sent a letter notifying him that Dr. Asher had advised OPP that he had not been retained to complete a psychological evaluation. The Applicant was advised to notify OPP by February 15, 2013, that he had either retained Dr. Asher or that he had retained the services of another licensed psychologist to conduct and complete a psychological evaluation that verified his ability to have unsupervised access to children.

113. On February 5, 2013, OPP received emails from Ms. Sears stating her professional opinion on the Applicant's interactions and emotions towards minors.

114. On February 8, 2013, OPP received a letter from the Applicant stating that he had been under the assumption that Ms. Sears was corresponding with and working with Dr. Asher to complete a psychological evaluation.

115. On February 20, 2013, OPP sent Ms. Sears an email requesting a complete copy of the Applicant's treatment file.

116. On February 21, 2013, OPP received a letter from the Applicant revoking his consent allowing a sharing of information between OPP and Evonne Sears.

117. On February 25, 2013, among other emails received from Evonne Sears, Ms. Sears states that "He (the Applicant) was extremely angry with the results of the accumulated tools."

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118. On April 23, 2013, Dr. Ken Asher sent the Applicant a letter titled, “RE: Reporting psychological evaluation”. In the letter, Dr. Asher stated, among other comments, he was not able or willing to write a psychological evaluation that supported the Applicant’s attempts to have his teaching certificate reinstated.

119. On May 1, 2013, OPP received a letter from the Applicant, titled “RE: Moving Forward”. In the letter, among other comments, the Applicant asked OPP: to amend the language in the Proposed Order of Revocation, Amended Order of Revocation, and APCAC Final Order of Revocation; to “explore” ways to utilize his experience in teacher training workshops; and to assist him in developing a “Personal Conduct agreement”. The Applicant stated, among other comments, that “My issues have been boundary related, not criminal, nor psychologically deviant”.

120. On July 17, 2013, pursuant to a subpoena duces tecum and signed consent form from the Applicant, OPP received evaluation records and additional documents from Dr. Ken Asher. Within the uncompleted evaluation, Dr. Asher noted that, among other opinions:

- a. The Applicant’s responses suggest that he is satisfied with himself as he is, that he is not experiencing marked distress, and that, as a result, he sees little need for changes in his behavior;
- b. Especially notable is the Applicant’s resistance to admitting psychological problems; and
- c. The Applicant is inclined to downplay behavior that could evoke ridicule or contempt.

121. On July 18, 2013, OPP issued a Denial Order For Certification. Mr. Hillburn did not appeal that order.

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122. On August 15, 2013, OPP received a letter from the Applicant. The Applicant, in the letter, stated:

a. “Based on the information described in the order this position is certainly understandable”;

b. “Although I am not, as of this date appealing the decision to deny me my certificate, I would like to appeal the idea that I am not a person of good character and also much of the information contained in the order”; and

c. Dr. Asher and Ms. Sears “agree that I need to continue to work on making smart decisions regarding my interactions with adolescent and teenage female students”.

123. On July 21, 2014, OPP received a letter from the Applicant stating he was writing to request his certificate, which was revoked in 2007, be reinstated. The Applicant also stated:

a. “I have done a lot of work over the past several years to appreciate why this happened, and in short, I get it”;

b. “There have been no complaints by student, parent, or anyone else since 2005”; and

c. When discussing the prior diagnosis of hebephilia being removed from the American Psychiatric Association’s Diagnostic and Statistical Manual, he stated, “I, like most men, have this as a component of who I am and we learn how to manage it as part of growing up and accepting our role in the community”.

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124. From July 2014 to November 2014, the Applicant inquired with OPP about three separate mental health professionals being approved to conduct a psychological evaluation of him. Two of the medical professionals, Dr. Marcus Nemeth and Dr. William Singer, after reviewing the 2013 Order of Denial declined to take the Applicant as a client. The Applicant was informed that the third mental health professional, Robert Hirsch, MSW, lacked the professional qualifications OPP required.

125. On January 25, 2015, the Applicant sent OPP a letter. In the letter, the Applicant discussed Dr. Singer and their collaboration. The Applicant also made the following comments:

a. "I would very much like to be able to work again as a substitute teacher, and I believe I have made the changes necessary"; and

b. "So, yes, if your office has specific concerns about any area of my fitness or would like me to do anything specifically to address these concerns, we would like to have some guidance."

126. On February 2, 2015, OPP spoke with Dr. Singer who unequivocally stated that the Applicant was not a client of his, was not receiving his services, and he was not working with the Applicant.

127. On February 17, 2015, after receiving correspondence from the Applicant, OPP sent the Applicant a letter advising him that for any application for reissuance of his revoked education certificate he must undergo and complete a psychological evaluation, that OPP did not wish to be kept apprised of his updates on speaking with differing mental health professionals, and that OPP was not working with him in his attempts to regain an education certificate.

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128. In February 2016, OPP received correspondence from Robert Hirsch, stating he was unwilling to continue working with the Applicant. The Applicant also contacted OPP and stated he met with Mr. Hirsch one time recently and a couple of times previously; however, he never completed an evaluation with or received any treatment from Mr. Hirsch.

129. In March 2016, the Applicant authorized OPP to provide his OPP file to Dr. William Lennon for purposes of completing a psychological evaluation to determine his ability to have unsupervised access to students.

130. On June 21, 2016, Dr. Lennon issued the Applicant's Sexual Deviancy Evaluation. Within the evaluation, Dr. Lennon's professional opinions and comments include:

a. The details of the official version of the Applicant's involvement with A.S, Mukilteo School District student, and the Applicant's version are somewhat inconsistent;

b. The Applicant's results from the Minnesota Multiphasic Personality Inventory, Second Edition (MMPI-2) showed that, among other results, the clinical profile may underestimate the Applicant's psychological problems and individuals with his MMPI-2 clinical profile are usually marginal candidates for psychotherapy;

c. Indications from the MMPI-2 are that the Applicant is hedonistic in nature and immature, overly sensitive to rejections, and has a tendency to blame others for his difficulties;

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d. Testing indicated that there were areas of concern with sexual preoccupation/compulsivity, antisocial personality disorder or psychopathy, emotional congruence with children, lack of emotionally intimate relationships with adults, resistance to rules and supervision, and grievance/hostility. A significant issue noted was any deviant sexual interest where the Applicant had demonstrated a fantasy level that is hebephillic in nature and fetish (female underwear) responses as well as an interest in being dominated;

e. A risk assessment used to measure “stable” dynamic factors associated with sex offender recidivism labeled The Applicant as low risk;

f. In the Conclusions of the Assessment, Dr. Lennon noted the Applicant had utilized his services on two prior occasions. The first time was in 2008 when asking for counseling regarding his issues with a compulsive interest in adolescent females and the second in 2011 when he requested counseling and a statement that he was safe to be with adolescent females;

g. Included within the report are notes from the 2005 evaluation which references an evaluation conducted in 1998 when the Applicant had discussed E.C. with the evaluator;

h. Since the Applicant’s compulsion towards adolescent females extends back to at least 1998, it depicts an entrenched hebephillic arousal pattern;

i. On the Multiphasic Sex Inventory II (MSI-II) test, the Applicant responded as if he had no interest in sex, as a defense strategy to appear safe. He did acknowledge sexual arousal to rape;

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j. “The Applicant tends to be an individual of above average intelligence, with significant feelings of inadequacy, with strong dependency needs to be tied to a pro-social institution (such as a school district) while at the same time a powerful drive to not comply with rules (authority conflicts). The Applicant appears to have limited skills and abilities to develop an intimate, nurturing relationship with an age appropriate adult and has in the past sought to meet these deficits with minor females”;

k. Referring to the evaluation by Florence Wolfe in 2005, “Basically, he experiences an internal sexual arousal system which is most aroused toward sadomasochistic activities with minor females. He has no internal drive towards adult females. Thus, there is no ‘appropriate’ sexual interest to counterbalance the deviant interest. He has sought illegal pedophilic pornography on the internet. Although he has not found any hardcore kiddie porn, it appears he has utilized pictures of partially clad minor females from the internet for stimulation”;

l. Dr. Lennon noted, “Although the Applicant appears to have curtailed his inappropriate activities, I do not see the psychological changes needed to receive this kind of recommendation (ability to have unsupervised access with minor females). I cannot make that recommendation at this time”;

m. The Applicant displays to a moderate degree cognitive distortions that are typically seen in untreated sex offenders;

n. Dr. Lennon listed fourteen (14) directives for The Applicant should he choose to engage in a sex offender treatment program; and

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o. In closing, Dr. Lennon wrote, “Understanding the psychological issues The Applicant deals with, (poor self-esteem, dependency needs, authority conflicts, arousal template oriented toward adolescent females) the risk of placing him in a power position (teacher) over adolescent females appears to be too great for this evaluator to recommend.”

131. On June 2, 2017, OPP received a letter from the Applicant requesting to have his education certificate reinstated. In the letter, the Applicant stated that he had completed recommended work with Florence Wolfe for two months when “it became clear there that there was no longer anything for me to accomplish. Since I had never been charged with any criminal behavior regarding students, and am not engaging in deviant behaviors, there was not much to work on other than what I had already accomplished”.

132. On June 5, 2017, OPP replied to the Applicant and informed him that in order to consider a reinstatement of his revoked education certificate, he must provide a completed application for reinstatement and a current completed psychological evaluation from a licensed psychologist that states he is safe to have unsupervised access to students.

133. On June 14, 2017, OPP received a letter from the Applicant. Within the letter, the Applicant provided his viewpoint that he had addressed the fourteen directives from Dr. Lennon’s 2016 psychological evaluation.

134. On July 26, 2017, the Applicant sent OPP an email. The email included correspondence with mental health professionals in which the Applicant questioned if he would need to undergo another plethysmograph test as a part of a psychological evaluation or part of the 2016 evaluation directives, stating, “I am a 59-year-old guy and certainly not virile any more, if I ever was. So it seems possible that I have aged out of this test.”

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135. From June 2017 to November 2017, OPP received correspondence from the Applicant regarding differing mental health providers and his self-determined work/progress on the fourteen directives from Dr. Lennon’s 2016 psychological evaluation.

136. On January 29, 2018, OPP received an email from the Applicant. In the email, the Applicant stated, among other things:

a. “It has been some time since I have turned my attention to my quest for the reinstatement of my teaching certificate...In my last communication from Dr. Lennon’s office, he stated that it is appropriate for me to contact you again and see what else you would require”;

b. “The bottom line remains that since 2005, there have been no complaints from any student, parent or other official regarding my behavior around students”;

c. “Also, that there has never been any overt sexual or violent interaction with any student. I am indeed guilty of being a heterosexual male and all that entails”; and

d. “I would like to have my teaching certificated reinstated and resume working as an educator. Because there is no criminal record or real evidence of immoral behavior that should mean something.”

137. On January 30, 2017, OPP replied to the Applicant stating that he must provide a recently completed psychological evaluation from a Washington licensed psychiatrist who specializes in sex offender treatment, which validates his ability to have unsupervised access to students.

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138. On January 31, 2018, OPP received a copy of an email the Applicant sent to Dr. Lennon's office. In the email, the Applicant state:

- a. "I have tried and done what I could at Northwest Treatment Associates, but eventually we reached a point where we could not proceed";
- b. "In my reading of the evaluation I see it as showing me 'low risk' to the community. So is there something else that needs to be addressed here";
- c. "If there are indeed still questions about my behaviors and interactions with students, then is there someone at BCS that I can work with to get this addressed"; and
- d. "Please, if you have evidence of problem behavior or anything on my part, let me answer those concerns."

139. From February 2018 through August 2018, the Applicant referred three separate mental health professionals to OPP for approval to conduct psychological evaluations to determine his ability to have unsupervised access to students. One, Dr. Christmas Covell, was approved by OPP. Dr. Covell, after discussion with the Applicant and a review of his 2013 Order of Denial, declined to conduct the evaluation and work with the Applicant.

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140. On March 19, 2019, the Applicant emailed OPP and asked “for some clarification on details of what you need to see from him before I can apply for reinstatement.” The Applicant also stated:

- a. He was including Dr. Jennifer Wheeler “because I have described to her the background of my case and we are not interested in wasting time and effort on unnecessary work, specifically work that may have been the result of faulty speculation by others”;
- b. “The last time I was subject to a student related complaint that OPP had to act on was 2005 by the Mukilteo School District. This was regarding an unprofessional friendship with a student, even though she was not a student of mine”;
- c. “In fact, there has never been a criminal charge of inappropriate conduct with a minor. There have, indeed been broken friendships and hurt feelings and I share in that responsibility”;
- d. “Regarding the 2016 evaluation: I completed testing that placed me in the ‘low risk’ category as well as passing a polygraph regarding potential misconduct. That is why his recommendations at the end seem so disconnected from reality”;
- e. “There are currently no legal restrictions on my fitness to work with students, also, as far as I am aware, no complaints of investigations that would prevent me from working successfully as an educator, work I was trained to do”; and
- f. “I am under the impression that it is up to the psychologist to review information and determine if there is a legitimate concern. Based on the time passed and lack of any complaint I hope that I can state that I am indeed fit to work again as a teacher.”

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141. On March 19, 2019, in an email, OPP replied to the Applicant and reiterated that, in order to consider a request for reinstatement of his revoked education certificate, a completed psychological evaluation affirming he was safe to have unsupervised access to students and a completed application for reissuance, which includes a character and fitness Supplement and fingerprint based criminal history check, were required.

142. On April 3, 2019, the Applicant contacted OPP regarding an application for reinstatement of his revoked education certificate. The Applicant discussed consent forms for release of his OPP file to a psychologist and stated, “Obviously, if there were any current behavioral or legal issues I wouldn’t even be inquiring in the first place.”

143. On April 4, 2019, OPP emailed the Applicant an application for reinstatement of his revoked education certificate and a character and fitness Supplement. OPP again advised the Applicant that he must submit to a fingerprint based criminal history check.

144. On April 10, 2019, OPP received the Applicant’s completed and signed application for reinstatement and Character & Fitness Supplement and a copy of a recent Washington State Patrol WATCH report. Regarding the WATCH report, the Applicant wrote, “If this is not sufficient and a fingerprint level search is needed, then of course I will supply that as soon as possible.” The Applicant completed a fingerprint-based background check through both the Washington State Patrol and the Federal Bureau of Investigation on April 16, 2019.

145. In Section II-Professional Fitness of the Character and Fitness Supplement for the application for reinstatement, the Applicant answered “Yes” to seven of the nine questions.

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146. In Section III-Criminal History of the Character and Fitness Supplement for the application for reinstatement, the Applicant falsely answered “No” to the question “Have you ever been or are you currently under investigation in any jurisdiction for possible criminal charges?”

147. In Section IV-Fitness of the Character and Fitness Supplement for the application for reinstatement, the Applicant answered “Yes” to the question, “Have you ever exhibited any behavior which might negatively impact your ability to serve in a role which requires a certificate, credential, or license?”

148. Any “Yes” answer to a question in the Character and Fitness Supplement for the application for reinstatement requires a written explanation. The Applicant provided a written response to his “Yes” answers for Section II. His response, in part, states, “The last time there was a complaint about my interaction with a student was with the Mukilteo School District in 2005. This information centered around the online communications with my teaching assistant, a 16-year-old student. Our mutual conversations developed into an unprofessional friendship, albeit nothing criminal. Had I received instructions from anyone, parent, administrator, or colleague that what we were doing was inappropriate I would have ceased. It was my intent to keep the conversations on a solely appropriate level and to be as supportive as possible.”

149. The Applicant failed to provide a written response to his “Yes” answer for the Section IV question. “Have you ever exhibited any behavior which might negatively impact your ability to serve in a role which requires a certificate, credential, or license?”.

150. On May 21, 2019, an electronic copy of the Applicant’s OPP file was sent to Jennifer Wheeler, PhD, for her use in a psychological evaluation of the Applicant to determine his ability to have unsupervised access to students.

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151. On June 5, 2019, OPP was included in an email string conversation between Dr. Wheeler and the Applicant. The email string included the following:

- a. An email from the Applicant to Dr. Wheeler on May 28, 2019. Within this email, the Applicant informed Dr. Wheeler that “review work is what is really needed and to discuss whether or not any specific testing or work is relevant still and something to be done”;
- b. Dr. Wheeler’s reply, on May 29, 2019, that she cannot agree in advance to any modification to her normal evaluation procedures and if he is seeking some other type of assessment, she is unable to assist; and
- c. The Applicant’s reply to Dr. Wheeler, on June 5, 2019: “In the best case scenario a clean background check should be sufficient, or at the very least of what I was hoping for was that I could complete the very last step of what Dr. Lennon recommended and then be done with it. That, combined with the background check, would seem sufficient to demonstrate good character”.

152. On June 5, 2019, OPP sent the Applicant an email responding to his June 5, 2019, email to Dr. Wheeler. Among other statements, OPP again informed the Applicant that he was required to undergo and submit a completed psychological evaluation, based on evaluations and testing determined by Dr. Wheeler, and that OPP could not accept anything less.

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153. The Applicant replied to OPP on June 6, 2019. Within the email, the Applicant made the following comments, among others:

- a. “One of the major issues from my point of view is that I am not sure what behavioral problem there is to be evaluated in the first place”;
- b. “There is little point in wasting the time and energies of Dr. Wheeler or any other professional when there is nothing to be worked on”;
- c. “If OPP can point to any particular area of concern, please share that with Dr. Wheeler”;
- d. “As has been mentioned many times, there has never been violence, sexual, drugs, alcohol issues of a criminal nature. These, I believe, are the types of issues that would cause a need for real concern”;
- e. “I believe it should be with cause that any evaluation work is done. As of this date, I do not know of cause”; and
- f. “If OPP has evidence of current behavioral issues, please share them with Dr. Wheeler.”

154. On June 10, 2019, the Applicant replied to OPP inquiring if he would be completing an evaluation with Dr. Wheeler. The Applicant stated:

- a. That due to Dr. Wheeler being unavailable, he had not talked with her, but if “OPP is asking for a standard psych based on the evidence in the file, she may refer me elsewhere. If there is evidence of a specific problematic behavior that fits her expertise then please share that with her”; and
- b. “I have also not ruled out getting legal advice because to me the real issues is the accuracy of what was written by others and included in the file.”

155. On June 11, 2019, OPP replied to the Applicant. The Applicant was told:
- a. As part of the application for reinstatement process, he was required to obtain a psychological evaluation. If he opted not to participate in Dr. Wheeler’s evaluation process, OPP would determine that he had not satisfied that requirement for the application process;
 - b. Since 2007, he has had opportunity to seek legal counsel to challenge the veracity of the information in the OPP file and had not done so; and
 - c. To notify OPP by July 1, 2019, whether he had either begun the evaluation process with Dr. Wheeler or declined to do so.
156. On June 12, 2019, Dr. Wheeler replied to the Applicant that she would proceed with an evaluation but would not agree in advance to any kind of “reduced” or “modified” evaluation, and, if he retained her, he would undergo the evaluation process as determined by her and consistent with OPP requirements.
157. On June 12, 2019, the Applicant replied to Dr. Wheeler and OPP. The Applicant stated that it had “never been the nature of the tests or questions required. I am willing to do what is appropriate given the issue.” The Applicant also raised the issue that the cost of the evaluation is a concern and factor for him participating in an evaluation process.
158. On June 14, 2019, the Applicant contacted OPP and requested that Dr. Lisa Trifiletti be approved as an evaluator to conduct the psychological evaluation.
159. On June 17, 2019, OPP contacted Dr. Trifiletti. Dr. Trifiletti was sent a copy of the Applicant’s 2013 Denial of Application for reinstatement, informed of the electronic size of the OPP file she would review for the evaluation, and informed of the Applicant’s recent discussions with Dr. Wheeler.

160. On June 19, 2019, Dr. Trifiletti declined to conduct the evaluation of the Applicant.

161. On June 25, 2019, the Applicant sent an email to OPP and Dr. Wheeler. Within the email, the Applicant included the following comments:

a. “Since there are no criminal issues and unauthorized practice that leaves only the behavioral question. Am I wrong in this? It is my concern that things such as being a single, never married heterosexual male is being used as a significant factor”;

b. “When I completed Dr. Lennon’s evaluation in 2016, one that was accepted by OPP, his most significant concern was that I would attempt to form an inappropriate relationship with a student. I do understand that and it is something I am more vigilant about”;

c. “These concerns come from my 1998 interaction with EC and the 2005 communications with AS at Kamiak”;

d. “In both instances, my motivations were based on compassion and mutual interests; however, they could easily have been viewed in other ways”;

e. “Another concern arose in 2005 during a PPG (penile plethysmograph). I was shown stimuli that reminded me of LC. She was 21 years old at the time and bore a striking resemblance to my most significant partner/friend, DG, in life”;

f. “Given this fact, and also that LC was the person who most challenged me emotionally it was not surprising that I responded”; and

g. “So yes, I would like to have my certificate reinstated.” ...“And if not in teaching, then I would at least like to be able to work in education in some capacity.”

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162. On June 26, 2019, the Applicant replied to OPP, reiterating that, as part of the reinstatement application process, he must complete a psychological evaluation. The Applicant stated, “I do believe in equal education and professionalism, just like most people. And to this day, if anyone has a problem with my behavior, I hope they will talk to me, just as they would to anyone.”

163. On July 19, 2019, OPP received an email with an attached letter sent by the Applicant to Dr. Wheeler.

a. Within the email, the Applicant made statements including:

1. “Recent email from OPP is the core issue is my fitness to work in unsupervised settings with students and a concern I have a behavioral problem with minor females”;
2. “I can be empathetic to this but I do not believe it to be true”;
3. “There is nothing I am aware of in my life history that has put the safety of a student at risk”;
4. “If there is something in my make-up that makes me anything different from a normal heterosexual male then I am asking OPP to point it out”; and
5. “To my belief, everything in the file has already been answered to and there is not really anything more to be evaluated”.

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- b. Within the letter, the Applicant made statements including:
1. “I want to be upfront and state again that I don’t believe another evaluation is warranted based on the facts”;
 2. “The primary reason my certificate was not reinstated in 2013 is because of the fact I had not completed one by an approved psychologist. This was remedied in 2016 by Dr. Lennon”;
 3. “Dr. Lennon shortly dismissed all of his treatment recommendations except for #4, that I investigate potential sexual deviancy”;
 4. “My position is that from way back when Wolfe first wrote her evaluation (2005) there were some misunderstandings between us about my intentions and actions”; and
 5. “So, am I safe to work in an educational community? Of course, I am.”

164. On July 19, 2019, Dr Wheeler replied to the Applicant and stated that until she received signed forms and a retainer, she would not be reviewing any materials.

165. The Applicant replied to Dr. Wheeler that same day that “it seems I would need to find a lawyer” unless she was willing to take modified payments and provided “OPP can identify any actual problem or behavior.”

166. On July 23, 2019, OPP sent the Applicant an email reiterating the events of 2019 to date regarding his process of seeking a psychological evaluation. The Applicant was advised that since he had failed to obtain a psychological evaluation or start the process, his application for reinstatement of a revoked education certificate would be denied.

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167. On July 24, 2019, the Applicant replied to OPP. Within the email the Applicant:
- a. Stated that he was unhappy with OPP's July 23, 2019, correspondence and many individuals have encouraged him to seek legal counsel and, "I just want to see the right thing done in the long run and yes, I feel life has dealt me a raw deal in this matter. I do know that OPP doesn't care about people's personal welfare and I do wish that was not the case";
 - b. Said in regards to his prior evaluations, "to me it seems I have shown a willingness to address issues with the psych professionals I have met with";
 - c. Discussed the cost of obtaining a psychological evaluation and his inability to pay, and claimed "these lack of funds have nothing to do with good character and fitness"; and
 - d. Discussed Dr. Lennon's professional opinions from the 2016 evaluation, stating:
 1. "I have no idea what he means about dependency issues. I enjoy relationships with my friends and associates";
 2. He cites authority conflicts. "I do respect authority as long as it is exhibited fairly and with empathy"; and
 3. "Finally he cites an arousal template centered around adolescent females. It is important to point out that Dr. Lennon never requested that I be tested for this issue. I do not know why. Therefore, there is no current data or evidence to support this conclusion".
168. Good moral character and personal fitness is a requirement to attain a Washington education certificate pursuant to WAC 181-86-013.

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CONCLUSIONS OF LAW

1. Chapter 28A.410 RCW gives the Professional Educator Standards Board the authority to develop regulations determining eligibility for and certification of personnel employed in the common schools of the state of Washington. OSPI acts as the administrator of those statutes and regulations and has the authority to issue, reprimand, suspend, and revoke education certificates. RCW 28A.410.010; RCW 28A.410.090. Chapters 181-86 and 181-87 of the Washington Administrative Code (WAC) further implement OSPI's authority.

2. OSPI has jurisdiction over the Applicant and the subject matter of this action.

3. Pursuant to WAC 181-86-080, eleven factors, at a minimum, are to be considered to determine the appropriate level and range of educator discipline:

- (1) The seriousness of the act(s) and the actual or potential harm to persons or property;
- (2) The person's criminal history including the seriousness and amount of activity;
- (3) The age and maturity level of participant(s) at the time of the activity;
- (4) The proximity or remoteness of time in which the acts occurred;
- (5) Any activity that demonstrates a disregard for health, safety or welfare;
- (6) Any activity that demonstrates a behavioral problem;
- (7) Any activity that demonstrates a lack of fitness;
- (8) Any information submitted regarding discipline imposed by any governmental or private entity as a result of acts or omissions;
- (9) Any information submitted that demonstrates aggravating or mitigating circumstances;
- (10) Any information submitted to support character and fitness; and
- (11) Any other relevant information submitted.

4. Based on the foregoing facts and considering them in light of the eleven factors enumerated in WAC 181-86-080, and in light of WAC 181-86-050, WAC 181-86-013, and WAC 181-86-170, The Applicant has failed to provide clear and convincing evidence of his good moral character and personal fitness.

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JEFFREY HILBURN
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ORDER

THEREFORE, it is hereby ordered that the application for certification of The Applicant is denied.

DATED this 6th day of October, 2020.

CHRIS REYKDAL
Superintendent of Public Instruction
State of Washington



Dierk Meierbachtol
Chief Legal Officer

JEFFREY HILBURN
FINAL ORDER OF DENIAL