



SUPERINTENDENT OF PUBLIC INSTRUCTION

Chris Reykdal Old Capitol Building · PO BOX 47200 · Olympia, WA 98504-7200 · <http://www.k12.wa.us>

RE: Jacob McKinney
OSPI Case Number: D17-01-001
Document: Final Order of Suspension

Regarding your request for information about the above-named educator; attached is a true and correct copy of the document on file with the State of Washington, Office of Superintendent of Public Instruction, Office of Professional Practices. These records are considered certified by the Office of Superintendent of Public Instruction.

Certain information may have been redacted pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **None**

If you have any questions or need additional information regarding the information that was redacted, if any, please contact:

OSPI Public Records Office
P.O. Box 47200
Olympia, WA 98504-7200
Phone: (360) 725-6372
Email: PublicRecordsRequest@k12.wa.us

You may appeal the decision to withhold or redact any information by writing to the Superintendent of Public Instruction, OSPI P.O. Box 47200, Olympia, WA 98504-7200.



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IN THE MATTER OF THE EDUCATION)	
CERTIFICATE OF)	OPP No. D17-01-001
)	
JACOB McKINNEY)	FINAL ORDER
Certificate No. 532942J)	OF SUSPENSION
)	

After receiving and investigating a notification from Federal Way Public Schools (“School District”) regarding the above referenced educator, and based upon the facts available as of the date of this Proposed Order, the Superintendent of Public Instruction, through his undersigned designee, institutes this proceeding and finds, as described below, that JACOB McKINNEY (“the Educator”) engaged in acts of unprofessional conduct to include WAC 181-87-050(2) and does hereby SUSPEND the Educator’s ability to reapply for his Washington Education Certificate No. 532942J until the conditions enumerated below have been met, based on the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. On August 7, 2016, the Educator applied for a Substitute Teacher Certificate and Residency Teacher Certificate. He was issued a temporary permit pending testing on September 2, 2016, Permit No. 532942J. The permit expired on September 2, 2017.
2. Prior to moving to Washington State, the Educator was issued an Initial Teaching Certificate from Oregon on February 2, 2015, with an expiration date of August 1, 2018.

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3. On or about December 16, 2016, the Office of Professional Practice (“OPP”), within the Office of Superintendent of Public Instruction (“OSPI”), received a complaint letter from Ms. Tammy Campbell, the Superintendent of the School District, alleging the Educator violated the school board policy for unprofessional conduct.

4. On or about June 8, 2014, the Educator was returning from a trip to Canada when he was stopped at the Peace Arch crossing in Blaine, Washington at the U.S./Canada border and searched. Customs and Border Protection (“CBP”) confiscated the Educator’s hard drive on suspicions that it contained child pornography, after the Educator admitted to CBP officers that he had downloaded child pornography.

5. On or about August 13, 2014, Homeland Security Investigations (“HSI”) of the U.S. Department of Homeland Security interviewed the Educator at his home in Beaverton, Oregon. The Educator admitted to viewing and downloading child pornography for approximately five or six years.

6. On or about May 4, 2016, the Educator completed an online application seeking employment with the School District as a certificated elementary school teacher. A section in the online application included a criminal history disclosure. One of the questions in the Criminal History section was, “Are you presently under investigation in any jurisdiction for possible criminal charges?” The Educator falsely answered “No” to this question.

7. The Educator was hired as a 4th grade Teacher at Mark Twain Elementary School in the School District for the 2016–2017 school year.

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8. On or about August 7, 2016, the Educator applied for a Substitute Teaching Certificate and his Residency Teacher Certificate so he could accept the teaching position with the School District. As part of the application for certification, the Educator had to fill out a character and fitness supplement. One of the questions was, "Have you ever been or are you presently under investigation in any jurisdiction for possible criminal charges?" The Educator responded "No."

9. In or around October 2016, HSI learned that the Educator obtained a teaching license in Washington State, and that he was teaching fourth grade at Mark Twain Elementary School in Federal Way, Washington. Special Agent Glenn Dimmick contacted the School District and sent a subpoena for all records, personnel records, all disciplinary actions, all accusations, all complaints, all reviews, all correspondence, and all employee applications pertaining to the Educator.

10. On or about October 20, 2016, Mr. David Brower, Performance Management Chief for the School District, sent the Educator a letter, placing him on administrative leave with pay, citing the action was "based on an inquiry from [the Department of] Homeland Security".

11. On or about November 14, 2016, the Educator participated in an interview with the School District. The Educator admitted to being investigated by the Department of Homeland Security on allegations of possession of child pornography.

12. On or about December 8, 2016, Officer Pauline Renick of the Bellingham Police Department was contacted by Assistant U.S. Attorney ("AUSA") Matthew Hampton. Mr. Hampton informed Officer Renick that the AUSA's office was not planning to pursue charges, but was referring the case to the county in which the crime occurred. Officer Renick referred this case to Senior Deputy Prosecuting Attorney Eric Richey.

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13. On or about January 9, 2017, the Educator entered into a Separation from Service Agreement with the School District, voluntarily resigning his teaching contract with the School District with an effective date of December 31, 2016. The School District agreed to pay the Educator the remainder of his base contract salary paid through June 2017.

14. On or about June 28, 2017, Officer Renick contacted Whatcom County Deputy Prosecutor Brandon Waldron, and she was informed that the Prosecutor's Office was not pursuing the case because the statute of limitations had run out.

15. On or about August 2, 2017, OPP conducted an interview with the Educator. OPP's investigator, Mr. Shaun Harman, asked the Educator why he answered "No" to the School District application question "Are you presently under investigation in any jurisdiction for possible criminal charges?" The Educator stated, "This is going to sound like I'm splitting hairs. It did not ask, 'Have you ever been'". Mr. Harman then informed the Educator that that is what the question asks. Further in the interview, Mr. Harman asked if the Educator thought about the Homeland Security investigation when he was filling out the application, to which the Educator stated, "Of course". The Educator also stated that he did not believe he would have been given a certificate if he said "yes" to that question.

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II. 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.410.090; RCW 28A.410.010. Chapters' 181-86 and 181-87 of the Washington Administrative Code (WAC) further implement OSPI's authority.

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

3. The Educator committed acts of unprofessional conduct pursuant to WAC 181-87-050(2) when he deliberately misrepresented and/or omitted material facts on his application to obtain a teaching certificate in Washington State.

4. There is clear and convincing evidence that the Educator committed acts of unprofessional conduct pursuant to WAC 181-86-170.

5. 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.

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6. 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 181-86-070, and WAC 181-87-050(2), the Educator's ability to apply for an education certificate should be suspended for unprofessional conduct.

III. ORDER

THEREFORE, it is hereby ordered that the ability for JACOB McKINNEY to reapply for his Washington Education Certificate, No. 532942J be **SUSPENDED. The Educator may not request reinstatement of his education certificate for at least six (6) months from the effective date of this order.** .

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REINSTATEMENT of Jacob McKinney's education certificate shall require:

- (1) The Educator must complete and submit a Psychosexual Evaluation by a mutually agreed upon licensed Psychiatrist, and successful completion of any and all recommended treatment. The Educator cannot seek reinstatement until after treatment is deemed complete and successful by the original evaluator, and the Educator is determined to be safe to be with children in an unsupervised capacity;
- (2) The Educator must submit a new application, including a Character and Fitness Supplement, provided by OPP;
- (3) The Educator must complete a fingerprint-based criminal background check through both the Federal Bureau of Investigation (FBI) and the Washington State Patrol (WSP);
- (4) The Educator's fingerprint background check must return with no criminal convictions, occurring after the date of issuance of a Final Order of Suspension, that are listed in WAC 181-86-013, RCW 28A.410.090, or any felony convictions;
- (5) The Educator shall assume all costs of complying with the requirements of this Order.

DATED This 7th day of March, 2018.

CHRIS REYKDAL
Superintendent of Public Instruction
State of Washington

Signed: Dierk Meierbachtol
Chief Legal Officer