



SUPERINTENDENT OF PUBLIC INSTRUCTION

RANDY I. DORN OLD CAPITOL BUILDING • PO BOX 47200 • OLYMPIA WA 98504-7200 • <http://www.k12.wa.us>

IN THE MATTER OF THE EDUCATION)	
CERTIFICATE OF)	OPP No. D07-09-084
)	
)	AGREED ORDER
Kelly Smith)	OF SUSPENSION
Certificate No. 309676E)	
)	

COMES NOW the Office of Superintendent of Public Instruction, under the authority granted by the laws of the state of Washington, having reviewed the file of the above-referenced case, and having considered the entire evidence contained therein, does hereby stipulate by and between the Office of Professional Practices (OPP), Office of Superintendent of Public Instruction (OSPI), and Kelly Smith, that the Washington Education Certificate, No. 309676E, of Kelly Smith, shall be suspended, based on the Findings of Fact and Conclusions of Law set forth below:

FINDING OF FACTS

1. Kelly Smith was issued a Washington Education Certificate, No. 309676E, on September 9, 1991. That certificate currently remains valid.
2. Kelly Smith was employed by the Warden School District.

KELLY SMITH
 AGREED ORDER OF SUSPENSION

3. On September 4, 2007, the Office of Professional Practices, within OSPI, did receive a complaint letter from the superintendent of the Warden School District alleging a lack of personal fitness, or a violation of the Code of Professional Conduct, Washington Administrative Code (WAC) 181-87, by Kelly Smith.

4. On January 11, 1999, Kelly Smith received a letter of Reprimand for throwing a basketball at a female middle school student, [REDACTED], during a basketball practice. Kelly Smith was suspended for one week of basketball, was scheduled to miss one scheduled game and had to apologize to the team.

5. During the 2002-2003 school year, Anne Bowers, Warden High School cheerleading coach and Warden School District reading specialist, observed a female student sitting on Kelly Smith's lap.

6. From the 2003-2004 school year through, and including, the 2006-2007 school year, Kelly Smith and [REDACTED], a female Warden High School student, had an inappropriate relationship.

7. During the 2003-2004 school year, Rick Bowers, Warden High School teacher and wrestling coach, spoke with Kelly Smith about rumors of a relationship between Kelly Smith and [REDACTED].

8. During the 2006-2007 girls' basketball season, Kelly Smith threw a basketball at a female student during a basketball practice. Sandra Sheldon, Warden School District Superintendent, informed Kelly Smith that this was his last year as a basketball coach.

9. In February 2007, Leonard Lusk, Warden High School Principal, spoke with Kelly Smith about rumors of an inappropriate relationship with [REDACTED]. Mr. Lusk told Kelly Smith that if he was helping [REDACTED] in his classroom, the door was to remain open and that there were rumors of Kelly Smith and [REDACTED] meeting alone outside of school and continually playing basketball. Mr. Lusk told Kelly Smith that he was not to meet with [REDACTED] after school.

10. [REDACTED] graduated from Warden High School in June 2007. [REDACTED] turned eighteen (18) years of age in the middle of July 2007.

11. In August 2007, Kelly Smith and [REDACTED] were observed alone together on his boat while on Moses Lake. While on the boat, Kelly Smith and [REDACTED] had sexual contact.

12. On August 20, 2007, Leonard Lusk informed Kelly Smith that he was being placed on administrative leave.

13. On August 24, 2007, Kelly Smith submitted his resignation with the Warden School District.

14. Kelly Smith completed a Voluntary Quit Statement form as part of an unemployment benefits claim from the Warden School District. On the form, Kelly Smith stated that the reason for leaving employment with the Warden School District was, "I had a personal involvement with a former student and needed to do what I had to do to save my marriage".

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15. On November 14, 2007, a hearing for employment benefits for Kelly Smith was conducted by the Office of Administrative Hearings for the Employment Security Department; Docket #03-2007-22209. On November 15, 2007, a decision was issued by the Office of Administrative Hearings for the Employment Security Department upholding the denial of benefits.

16. On October 1, 2008, Kelly Smith participated in an interview with an OPP investigator. On October 23, 2008, Kelly Smith submitted a sworn statement to OPP.

17. Good moral character and personal fitness is a continuing requirement to maintain a Washington Education Certificate.

CONCLUSIONS OF LAW

1. OSPI has jurisdiction over Kelly Smith and over the subject matter of this action.
2. OSPI has shown by clear and convincing evidence, that the Washington Education Certificate, No. 309676E, of Kelly Smith, should be suspended as provided for in WAC 181-86-070.
3. Kelly Smith has violated WAC 181-87-060, RCW 28A.410.090, WAC 181-86-013, and/or WAC 181-86-014.

ORDER

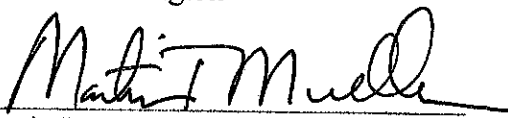
THEREFORE, it is hereby ordered and agreed that the Washington Education Certificate, No. 309676E, of Kelly Smith, be suspended for twenty (20) months from the date of entry of this Order.

REINSTATEMENT SHALL require adherence to the following stipulations: (1) successful completion of a psychological evaluation which validates Kelly Smith's ability to have unsupervised access to children, by an evaluator mutually agreed upon by the Office of Professional Practices (OPP) and Kelly Smith; (2) that Kelly Smith provide written consent for OSPI to release documents to the evaluator for purposes of completing an evaluation and course of treatment; (3) that Kelly Smith follows and complete any and all treatment recommended in the evaluation; (4) that Kelly Smith provides a release authorizing OPP to have access to records of any and all evaluation and any and all subsequent treatment undertaken; (5) that Kelly Smith attend and complete training, provided by a mutually agreed upon provider, relating to appropriate/inappropriate interactions and behavior with students; (6) and that the cost of conformance to all reinstatement requirements will be the responsibility of Kelly Smith.

AND/OR Reinstatement shall (also) require submission of a new application, including Character and Fitness Supplement, provided by OPP and having Kelly Smith's fingerprints be checked by both the Federal Bureau of Investigation (FBI) and the Washington State Patrol (WSP). Reinstatement shall be also contingent upon Kelly Smith's fingerprint background check returning with no criminal convictions that are listed in WAC 181-86-013, RCW 28A.410.090, and/or any felony convictions

DATED This 6th day of April, 2010.

RANDY I. DORN
Superintendent of Public Instruction
State of Washington


Martin T. Mueller
Assistant Superintendent
Student Support

Stipulated to and approved
For entry:


Kelly Smith, Respondent

Lewis Card, Attorney for Respondent
WSBA # 11766

KELLY SMITH
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