



SUPERINTENDENT OF PUBLIC INSTRUCTION

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IN THE MATTER OF THE EDUCATION)	
CERTIFICATE OF)	OPP No. D18-04-037
)	
MICHAEL LEAVITT)	FINAL ORDER
Certificate No. 535348G)	OF MANDATORY
)	PERMANENT REVOCATION
)	

After receiving and investigating a complaint from Warden School District (“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 MICHAEL LEAVITT (“Educator”) lacks the good moral character and personal fitness required of certificated educators pursuant to WAC 181-86-013 and that he committed acts of unprofessional conduct pursuant to WAC 181-87-060, and does hereby PERMANENTLY REVOKE the Educator’s Washington Education Certificate No. 535348G, pursuant to RCW 28A.410.090(4)(c), based on the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. On November 07, 2016, the Educator was issued an Emergency Substitute certificate, Washington Education Certificate No. 535348G. The Educator’s certificate expired June 30, 2019.
2. During the 2017–2018 school year, the Educator was employed as a Substitute Teacher for the Warden School District.

3. On or about March 30, 2018, the Office of Professional Practices (“OPP”) within the Office of Superintendent of Public Instruction (“OSPI”) received a complaint from Dr. David B. LaBounty, the Superintendent of the School District, informing OPP that the Educator was being investigated for voyeurism and possession of child pornography by both the Warden Police Department (WPD) and the Federal Bureau of Investigation (FBI).

4. On October 19, 2017, the Educator was working as a substitute teacher at Warden Elementary School. During class time, he held his cellular telephone underneath the skirt of a 9-year-old girl (“Student A”) and surreptitiously recorded a video underneath the student’s skirt. Student A reported the incident to her mother who reported it to Warden Elementary School administration.

5. On September 18, 2018, the Educator was indicted by the United States District Court for the Eastern District of Washington for two felonies: one count of Receipt of Child Pornography, 18 U.S.C. § 2252A(a)(2)(A), (b)(1); and one count of Possession of Child Pornography, 18 U.S.C. § 2252A(a)(5)(B), (b)(2).

6. On March 14, 2019, the Educator pleaded guilty to one count of Receipt of Child Pornography, 18 U.S.C. § 2252A(a)(2)(A), (b)(1). The U.S. District Court for the Eastern District of Washington accepted the Educator’s guilty plea.

7. The Educator made several admissions in his guilty plea, including, but not limited to: that on October 19, 2017, the Educator used his cellular telephone to take pictures under the skirt of a nine-year-old girl who was in the class he was substitute teaching at Warden Elementary, that he knowingly received and possessed more than 600 images of child pornography, and that he had taken pictures of students without their knowledge and possessed numerous images of students at Warden Elementary School and other students.

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8. On June 12, 2019, the Educator was sentenced to 120 months incarceration, 10 years of supervised release, and ordered to pay \$3,000 in restitution. The court also ordered conditions of the Educator's supervised release include, but are not limited to: no contact with any child under the age of 18, including the Educator's own children, without the permission of the probation officer; and no employment in any occupation that provides access to children under the age of 18.

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.410.010; 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 Educator and the subject matter of this action.

3. Pursuant to WAC 181-86-170, WAC 181-86-013, and WAC 181-86-014, there is clear and convincing evidence the Educator has pleaded guilty to or has been convicted of a federal felony crime similar to those specified in RCW 28A.410.090(4).

4. Pursuant to WAC 181-86-170, WAC 181-86-013, and WAC 181-86-014, there is clear and convincing evidence the Educator has a behavioral problem that endangers the educational welfare and personal safety of students.

5. Pursuant to WAC 181-86-170 and WAC 181-87-060, there is clear and convincing evidence the Educator disregarded or abandoned generally recognized professional standards in his treatment and supervision of students.

6. Pursuant to RCW 28A.410.090(4) and WAC 181-86-013(1), a conviction of a felony crime against a child bars the certificate holder from any future practice as an education practitioner and requires OSPI to permanently revoke the Educator's certificate.

7. 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.

8. 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 181-86-075, RCW 28A.410.090(4), WAC 181-87-060, and WAC 181-86, the Educator's education certificate should be permanently revoked for demonstrating a lack of good moral character and personal fitness pursuant to WAC 181-86-013/WAC 181-86-014, committing acts of unprofessional conduct pursuant to WAC 181-87-060, and committing a felony crime under RCW 28A.410.090(4) which bars the Educator from any future practice as an educator.

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III. ORDER

THEREFORE, it is hereby ordered that the Washington Education Certificate No. 535348G of MICHAEL LEAVITT is **PERMANENTLY REVOKED**.

DATED this 19th day of August, 2019.

CHRIS REYKDAL
Superintendent of Public Instruction
State of Washington



Dierk Meierbachtol
Chief Legal Officer