

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the License of
Michael Swinehart

19-PPC-20

FINAL ORDER

NOW, on this 10th day of September 2019, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board). Appearing for the Board are Chairman, Kathy Busch, and members, Jean Clifford, Michelle Dombrosky, Deena Horst, Ben Jones, Jim McNiece, Ann Mah, Jim Porter, Steve Roberts, and Janet Waugh.

WHEREUPON the Professional Practices Commission (Commission) considered the matter on August 9, 2019. Michael Swinehart did not appear. The Kansas State Department of Education appeared through its attorney, Scott Gordon. After reviewing the evidence, the Commission voted **6 – 0**, to recommend the Board revoke Michael Swinehart's professional teaching license and any associated endorsements.

WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Linda Sieck, Commission Chair, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings of fact and conclusions of law by a vote of **10 – 0**.

All findings set forth in the Commission's Initial Order attached hereto are incorporated by reference and made a part of this Final Order as though fully set forth at length herein.

IT IS THEREFORE CONCLUDED by the Kansas State Board of Education that Michael Swinehart's professional teaching license and any associated endorsements are hereby revoked.

This Final Order is made and entered this 10th day of September 2019.

Kansas State Board of Education


BY: Kathy Busch, Chairman
Signed September 17, 2019

NOTICE TO LICENSEE/APPLICANT

This is a Final Order and is effective upon service.

To request reconsideration of this order, you must file a Petition for Reconsideration with the Secretary to the State Board of Education, at the address below, within 15 days after service of this Final Order. The Petition must state the specific grounds upon which relief is requested.

To request a stay of effectiveness of this order, you must file a Petition for Stay with the Secretary to the State Board of Education at the address below. A petition can be filed until the time which a petition for judicial review would no longer be timely.

To seek judicial review of a Final Order, you must file a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* within 30 days following the service of the Final Order. Filing a Petition for Reconsideration is not a prerequisite for seeking judicial review. A copy of any Petition for Judicial Review must be served upon the Secretary to the State Board of Education at the address below.

Peggy Hill
Secretary, Kansas State Board of Education
Landon State Office Building
900 SW Jackson Ave. Suite 600N
Topeka, Kansas 66612


CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of September 2019, a true and correct copy of the above and foregoing was mailed, prepaid postage to:

Michael Swinehart
405 N. Oak St.
McPherson, KS 67460.

And via interoffice mail to:

R. Scott Gordon
Kansas State Department of Education
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612



Peggy Hill, Secretary
Kansas State Board of Education

**BEFORE THE KANSAS STATE BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the License of
Michael Swinehart

19-PPC-20

INITIAL ORDER

The above-captioned case comes on for hearing before the Professional Practices Commissioner (“Commission”) of the Kansas State Board of Education (State Board) upon the Complaint filed by the Kansas State Department of Education (“KSDE”)

The hearing on this matter was held on August 9, 2019. The KSDE appeared by and through General Counsel, R. Scott Gordon. Michael Swinehart did not appear.

1. On July 9th, 2019, the Kansas State Department of Education filed a formal Complaint requesting the revocation of Mr. Swinehart’s professional license. The Complaint was mailed by certified mail to Mr. Swinehart’s last known address.
2. Mr. Swinehart did not respond to the Complaint. He filed no answer and did not request a hearing.
3. The Complaint alleges that while Mr. Swinehart was employed by USD 418 during the 2018-2019 school year, he engaged in inappropriate communication with a student in attendance at his employing high school. The communication included Mr. Swinehart sending text messages containing sexual innuendo, flirting, and a suggestion that they have dinner together.

CONCLUSIONS OF LAW

1. The Kansas State Board of Education (State Board) is responsible for the general supervision of Kansas education, including the certification and licensure of teachers. Kan. Const., Art. VI and K.S.A. 72-255.
2. One of the obvious goals of education is to “instill respect for the law.” *Hainline v. Bond*, 250 Kan. 217 (1992). An educator is a role model. *Hainline* at 224.
3. Teaching and school administration are professions with all the similar rights, responsibilities and privileges accorded other legally recognized professions. K.S.A. 72-2308.
4. Mr. Swinehart did not deny any allegations of the Complaint, nor did he provide any evidence of remorse, rehabilitation, or recognition of the wrongfulness of his actions.

5. The Kansas State Board of Education may revoke the license of any teacher for professional misconduct or other just cause. K.A.R. 91-22-1a.

THEREFORE the Professional Practices Commission recommends to the State Board, by a vote of 6-0, that Michael Swinehart's license be revoked immediately.

This Initial Order is made and entered this August 9, 2019.

PROFESSIONAL PRACTICES COMMISSION



Linda Sieck, Chairman

Order signed on August 28, 2019.

NOTICE TO APPLICANT

This Order is not a Final Order and is required to be reviewed by the Kansas State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act. The State Board will review all issues. Notice of review with the specific date and time will be provided to the parties within 15 days of the review.

You may submit to the State Board for its consideration as part of its review of the Initial Order a written brief citing legal authority as to why the above recommendation should not be accepted. You must file the brief with the State Board Secretary at the address indicated below within ten calendar days after service of the Initial Order for transmittal to the State Board. You must also make any request for oral argument at that time.

Peggy Hill
Secretary, Kansas State Board of Education
900 SW Jackson Street, Suite 600
Topeka, KS 66612

Response briefs are due within ten calendar days after service of the legal brief upon the opposing party. Any reply brief is due five calendar days after service of any response brief upon the opposing party. Any response or reply briefs must also be filed with the State Board Secretary at the address indicated above.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of August, 2019, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one

(1) copy was mailed by certified mail, return receipt requested, to:

Michael Swinehart
405 N. Oak St.
McPherson, KS 67460.

And via interoffice mail to:

R. Scott Gordon
Kansas State Department of Education
900 SW Jackson Street, Suite 102
Topeka, Kansas 66612



Gwen Kramer
Secretary, Professional Practices Commission