



*Before the Education Practices Commission
of the State of Florida*

IN RE: Administrative Complaint seeking
disciplinary action against the Educator's
Certificate of **Daniel Swatosh**.

FILED	
AUG 13 2009	
EDUCATION PRACTICES COMMISSION STATE OF FLORIDA	
CASE NO.	09-0428-RT
EPC INDEX NO.	09 4916 FCD

Final Order

An Administrative Complaint seeking disciplinary action against the educator's certificate of Respondent, **Daniel Swatosh**, was filed by **DR. ERIC J. SMITH**, as Commissioner of Education on, July 16, 2009.

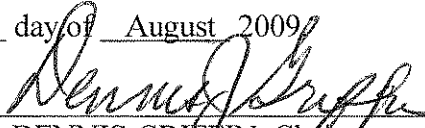
Respondent, holder of Florida educator's certificate number 889043, was served with a copy of the Administrative Complaint. Respondent has filed an answer to the Administrative Complaint stating that he did not wish to contest the charges, that he waived any further rights to due process or a public hearing, that he surrendered his certificate for permanent revocation, and that all his actions were free and voluntary.

The Administrative Complaint and the answers are incorporated as part of this Order.

In consideration of the foregoing, the Education Practices Commission, as empowered by F.S. 1012.796, hereby **PERMANENTLY REVOKES** educator's certificate number, 889043, held by, **Daniel Swatosh**.

Reapplication will not be considered.

DONE AND ORDERED this 11 day of August, 2009.


DENNIS GRIFFIN, Chairperson
Education Practices Commission

Final Order
Re: **Daniel Swatosh**
Page Two

I HEREBY CERTIFY that a copy of the foregoing Order in the matter of **DR. ERIC J. SMITH vs. Daniel Swatosh** was furnished to **Daniel Swatosh**, at 775 Bianca Drive Northeast, Palm Bay, Florida, 32905 this 13 day of August 2009, by U. S. Mail.


Kathleen Richards
Education Practices Commission

COPIES FURNISHED TO:

Office of Professional Practices

Bureau of Teacher Certification

Florida Administrative Law Reports
P. O. Box 385
Gainesville, Florida 32602

Superintendent
Brevard County Schools
2700 Judge Fran Jamieson Way
Viera, Florida 32940

Human Resource Services
Brevard County Schools
2700 Judge Fran Jamieson Way
Viera, Florida 32940

Daniel Biggins, Assistant Attorney General
The Capitol Plaza Level 1
Tallahassee, Florida 32399

Mari Presley, Esquire
Office of General Counsel
Florida Department of Education
325 W. Gaines Street, Suite 1232
Tallahassee, Florida 32399-0400

Matthew Haynes, Esquire
241 Almyra Drive
Lake Mary, Florida 32746

ELECTION OF RIGHTS

Dr. Eric J. Smith, Commissioner of Education,
Petitioner,

vs.

DANIEL WILLIAM SWATOSH
Respondent.

File No.: 078-3607

Daniel William Swatosh

Signify your election by checking the appropriate option:

- 1. **FORMAL HEARING OPTION** I dispute the allegations of the Administrative Complaint and I request a Formal Hearing before a Hearing Officer of the Division of Administrative Hearings.
The allegations I dispute are:
a.
b.
c. Attach additional sheet(s) if needed.

- 2. **INFORMAL HEARING OPTION** I do not dispute the allegations of the Administrative Complaint and request an Informal Hearing before the Education Practices Commission.
- 3. **SURRENDER OPTION** I voluntarily surrender my certificate(s) for permanent revocation.
- 4. **SETTLEMENT OPTION** I request a forty-five (45) day period of time to try to negotiate a settlement with the Office of Professional Practices Services at (850) 245-0438. If an agreement is not reached within the forty-five (45) day period, the case will be scheduled for an Informal or Formal Hearing (if Formal Hearing is checked, please list the disputed allegations in 1a, b, and c). If neither Informal nor Formal is checked above, the action will be scheduled for an Informal Hearing.

DEPT OF EDUCATION
BUREAU OF
PROFESSIONAL
PRACTICES SERVICES
2009 AUG 10 PM 11 11

I understand that I will be given notice of any date set for a Formal or Informal Hearing. I have read the Explanation of Rights, fully understand and/or have been advised of my legal rights. (If you do not understand your options, contact the Office of Professional Practices Services at (850) 245-0438.)

(EXECUTION BEFORE A NOTARY PUBLIC NOT REQUIRED IF CHOOSING OPTION 1)

Daniel William Swatosh
Signature of Respondent

STATE OF FLORIDA
COUNTY OF Brevard
The foregoing instrument was acknowledged before me this 3rd day of August, 2009.

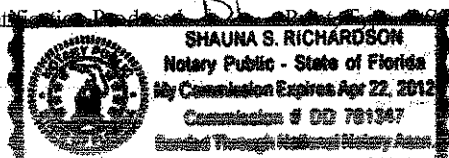
Street Address 775 BIANCA DR NE
PALM BAY FL 32905
City

by Daniel W. Swatosh
(Print Respondent's Name)

Telephone No. _____

Shauna S. Richardson
Signature of Notary Public

Personally Known or Produced Identification Type of Identification D Produced Comp
Commissioned Name of Notary Public _____



**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

**DR. ERIC J. SMITH, as
Commissioner of Education,**

Petitioner,

vs.

CASE NO. 078-3607

DANIEL WILLIAM SWATOSH,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Dr. Eric J. Smith, as Commissioner of Education, files this Administrative Complaint against DANIEL WILLIAM SWATOSH. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to Sections 1012.315, 1012.795, and 1012.796, Florida Statutes, and pursuant to Rule 6B-1.006, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida, said sanctions specifically set forth in Sections 1012.795(1) and 1012.796(7), Florida Statutes.

The Petitioner alleges:

JURISDICTION

1. The Respondent holds Florida Educator's Certificate 889043, covering the area of Social Science, which is valid through June 30, 2010.
2. At all times pertinent hereto, the Respondent was employed as a Social Studies Teacher at Southwest Middle School in the Brevard County School District.

MATERIAL ALLEGATIONS

3. On or about May 28, 2008, Respondent engaged in inappropriate and unprofessional conduct in violation of the use agreement he signed with the school district when using school-issue computer equipment. Respondent viewed inappropriate and indecent material consisting of nude, sexually explicit and pornographic pictures of females on a laptop computer while on duty in the classroom. At least two minor female students observed Respondent engaging in this conduct and both were exposed to the photographs. Effective June 4, 2008, Respondent resigned his position with the school board.
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The Petitioner charges:

STATUTE VIOLATIONS

COUNT 1: The Respondent is in violation of Section 1012.795(1)(d), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude as defined by rule of the State Board of Education.

COUNT 2: The Respondent is in violation of Section 1012.795(1)(g), Florida Statutes, in that Respondent has been found guilty of personal conduct which seriously reduces his effectiveness as an employee of the school board.

COUNT 3: The Respondent is in violation of Section 1012.795(1)(j), Florida Statutes, in that Respondent has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

RULE VIOLATIONS

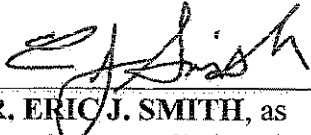
COUNT 4: The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(3)(a), Florida Administrative Code, in that Respondent has failed to make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental health and/or physical health and/or safety.

COUNT 5: The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(3)(e), Florida Administrative Code, in that Respondent has intentionally exposed a student to unnecessary embarrassment or disparagement.

(SIGNATURE ON FOLLOWING PAGE)

WHEREFORE, based on the reasons set forth herein and in accordance with the Explanation of Rights and Election of Rights forms attached to and made a part of this Administrative Complaint, Petitioner respectfully recommends that the Education Practices Commission impose an appropriate sanction against the Respondent's educator's certificate pursuant to the authority provided in Sections 1012.795(1) and 1012.796(7), Florida Statutes. The sanctions imposed by the Education Practices Commission may include, but are not limited to, any one or a combination of the following: issuing the Respondent a written reprimand; placing the Respondent on probation for any period of time; restricting the Respondent's authorized scope of practice; assessing the Respondent an administrative fine; directing the Respondent to enroll in the Recovery Network Program; suspending the Respondent's educator's certificate for a period of time not to exceed five years; revoking the Respondent's educator's certificate for a period of time up to 10 years or permanently; determining the Respondent to be ineligible for certification; or barring the Respondent from reapplying for an educator's certificate for a period of time up to 10 years or permanently.

EXECUTED on this 16th day of July, 2009.



DR. ERIC J. SMITH, as
Commissioner of Education
State of Florida