BACKGROUND

The Professional Standards Commission received an allegation of unethical conduct concerning Charles ("Nick") Clements. Following an investigation, the Executive Committee of the Professional Standards Commission reviewed the information before it and determined that probable cause exists for initiating an administrative action against Mr. Clements’s certificate. The Executive Committee has recommended the following Stipulation.

STIPULATION

1. This is an agreement (Stipulation) between Mr. Clements and the Executive Committee (the Executive Committee) of the Professional Standards Commission (the Commission).

2. If Mr. Clements wishes to agree to this Stipulation, he must sign and return this Stipulation and any attachments to the Commission by 5:00 p.m. (Mountain Time) on September 31, 2017, unless he has been granted an extension.

3. After Mr. Clements and the Executive Committee agree to and sign this Stipulation, the Stipulation must be approved by the Commission, and the Commission must enter the attached consent order, before this Stipulation resolves the matter.
4. A signed copy of this Stipulation may be submitted via mail or fax to:

Professional Standards Commission  
650 West State Street, 2nd Floor  
P.O. Box 83720  
Boise, ID 83720-0027  
Fax: (208) 334-2228  
(Attn: Professional Standards Commission)

A. Stipulated Facts and Law

5. The Commission regulates teacher certification in the State of Idaho.

6. Mr. Clements holds the following certificate and endorsement:

7. During the relevant times, Mr. Clements was employed by the Independent School District of Boise City, serving as a teacher at Boise High School.

8. For the fall and spring semesters of the 2015-2016 school year, Mr. Clements served as a music teacher.

9. During the 2015-2016 school year, Mr. Clements was a teacher to a female student at Boise High School, who was in her senior year, and also privately taught her music lessons at a residence in Boise.

10. During her time as a student of Mr. Clements, Mr. Clements the female student exchanged communications, including texting and Facetiming with many of the texts and communications becoming personal, emotional and sexual in nature.

11. Mr. Clements and the female student kissed on more than one occasion after she reached the age of majority in or around December 2015.
12. Mr. Clements and the female student danced together and hugged one another.

13. Mr. Clements made various comments of a personal nature to the student during the spring of 2016, including compliments about her appearance, which comments continued after her graduation from Boise High School and into the summer of 2016.

14. The Executive Committee determined that probable cause exists for initiating an administrative action against Mr. Clements for violating the following law and rule governing teacher certification:

a. Idaho Code § 33-1208(1)(j) ("Willful violation of any professional code or standard of ethics or conduct, adopted by the state board of education").

b. Code of Ethics Principle II (Idaho Admin. Code r. 08.02.02.076.03) ("A professional educator maintains a professional relationship with all students, both inside and outside the physical and virtual classroom.").

15. Mr. Clements, although not admitting that he violated the law and rule cited in paragraph 14, acknowledges that there is sufficient evidence to support a finding of a violation of the law and rule cited in paragraph 14.

B. Stipulated Discipline

16. If this Stipulation is approved by the Commission, the following discipline will be imposed by the Commission on Mr. Clements certificate:

a. Mr. Clements's certificate will be revoked.

17. Any costs associated with Mr. Clements' compliance with the terms of this Stipulation are his responsibility.
18. During the pendency of this Stipulation, Mr. Clements Mr. Coffman will comply with all laws and rules governing teacher certification in Idaho.

C. Non-Compliance with this Stipulation

19. If the Commission or the State Department of Education, or its employees or agents, have reason to believe that Mr. Clements Mr. Coffman has not complied with the terms of this Stipulation, the Chief Certification Officer may file a Notice of Non-Compliance with the Commission. This Notice of Non-Compliance will be personally served or be served by certified mail on Mr. Clements at his last known address (or on his attorney). After granting Mr. Clements an opportunity to respond, the Commission may order that he complete the discipline in the original stipulated discipline, may order further discipline in addition to Mr. Clements completing the original stipulated discipline, or may impose other discipline as it sees fit, including suspending or revoking Mr. Clements’ certificate.

D. Presentation of this Stipulation

20. Once Mr. Clements signs this Stipulation and timely returns it to the Commission, and the Executive Committee signs this Stipulation, the Deputy Attorney General assigned to the Commission will present this Stipulation to the Commission at the Commission’s next business meeting.

21. The Commission may accept, reject, or modify the Stipulation.

22. If the Commission modifies this Stipulation, it must receive Mr. Clements’ approval on any modification before the Stipulation is effective.
E. Waiver of Rights

23. If this Stipulation is approved by the Commission, Mr. Clements Mr. Coffmanknowingly, intelligently, and voluntarily waives the following rights:

a. the right to a hearing;
b. the right to confront and cross-examine witnesses;
c. the right to present evidence or to call witnesses, or to testify at a hearing;
d. the right to reconsideration of the Commission's orders;
e. the right to judicial review of the Commission's orders; and
f. other rights accorded by the Idaho Administrative Procedure Act, and the law and rules governing teacher certification in the State of Idaho.

24. If this Stipulation is approved by the Commission, the Commission may impose discipline upon Mr. Clements' certificate without further process.

25. By signing this Stipulation, Mr. Clements agrees to waive any requirement for a hearing under Idaho Code § 33-1209(3) to be conducted within 90 days of his request for a hearing. This waiver applies to any hearing request made before the Commission ultimately rejects this Stipulation (if it does) or before Mr. Coffman Mr. Clements ultimately rejects a modified stipulation (if Mr. Clements does). If the Commission ultimately rejects this Stipulation or if Mr. Clements ultimately rejects a modified stipulation, and Mr. Clements has requested a hearing, the 90-day hearing timeframe will begin from the ultimate rejection.

F. General Acknowledgments

26. This Stipulation contains the entire agreement between the parties, and Mr. Clements is not relying on any other agreement or representation, whether verbal or written.
27. This Stipulation, if approved by the Commission, or modified and approved, resolves a contested case. If approved, the Stipulation, consent order, and any attachment are public records. And if approved, the Commission may make available through its or the State Department of Education’s website a copy of the Stipulation, consent order, and any attachment, and may report any discipline to the national clearinghouse for teacher certification.

28. Mr. Clements agrees that he has read this Stipulation, has had the opportunity to discuss it with legal counsel, if he so chose, and understands that by signing below, he will be agreeing to the terms of this Stipulation.
SIGNATURES

Respondent

The respondent, Charles ("Nick") Clements, agrees to this Stipulation.

DATED this 12 day of October, 2017.

[Signature]

Charles ("Nick") Clements
Respondent
Executive Committee

The Executive Committee recommends that the Commission enter an Order based upon this Stipulation.

DATED this _ day of _ , 2017.

IDAHO PROFESSIONAL STANDARDS COMMISSION EXECUTIVE COMMITTEE

[Signature]

____________________, Member
The Professional Standards Commission orders that the Stipulation, entered between Charles ("Nick") Clements and the Executive Committee, is adopted as the informal disposition of this case, as permitted under Idaho Code § 67-5241. It will be effective on the ___ day of ______, 2017. The discipline listed in the Stipulation is imposed on Charles ("Nick") Clements's certificate under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Charles ("Nick") Clements has waived the right of judicial review.

Elisa Saffle, Member
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of April, 2018, I caused to be served a true and correct copy of the foregoing by the following method to:

Charles ("Nick") Clements
4900 Blodgoff Ln, Apt 201
Boise, ID 83705

☑ U.S. Mail
☑ Certified Mail, Return Receipt Requested

☑ Hand Delivery
☑ Certified Mail, Return Receipt Requested
☑ Overnight Mail
☑ Facsimile:
☑ Email:

Attorney for the
Chief Certification Officer
Robert A. Berry
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☑ U.S. Mail
☑ Certified Mail, Return Receipt Requested
☑ Overnight Mail
☑ Facsimile: (208) 854-8073
☑ Email: robert.berry@ag.idaho.gov
leslie.gottsch@ag.idaho.gov

Annette Schwab
Program Specialist

CONSENT ORDER – 2
Charles ("Nick") Clements