BEFORE THE PROFESSIONAL STANDARDS COMMISSION
OF THE STATE OF IDAHO

In the matter of the certificates of:	)	
	)	Case No. 21634
Samuel Ward Schrader,	)	
	)	**AMENDED FINDINGS OF FACT,**
Respondent.	)	**CONCLUSIONS OF LAW AND**
	)	**HEARING PANEL FINAL ORDER**

This is a teacher disciplinary case. A hearing was held on March 2 and 14, 2018. The Complainant, Lisa Colón-Durham, Chief Certification Officer for the Professional Standards Commission ("PSC"), is represented by Robert Berry, Deputy Attorney General. The Respondent, Samuel Ward Schrader ("Mr. Schrader"), is representing himself, with assistance on legal issues from attorney Kirk Melton, Worst, Fitzgerald & Stover, PLLC.[1] Roger Gabel, Deputy Attorney General, served as advisory attorney for the Hearing Panel. After careful consideration of the evidence and arguments presented at the hearing, the Hearing Panel enters this Amended Final Order.[2]

I.
SUMMARY OF THE PROCEEDINGS

Mr. Schrader was formerly an educator employed by the Blaine County School District to teach computer technology or science at Wood River High School ("WRHS") in Hailey, Idaho.

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[1] Mr. Schrader was entirely within his rights to represent himself. However, because of his unfamiliarity with the applicable rules of evidence and procedure, in doing so Mr. Schrader caused unnecessary delay and confusion in the proceedings through the extensive use of irrelevant questioning, lack of focus and coherence in his presentation, attempts to inject issues and topics beyond the scope of the Hearing Panel's authority, and confusing the functions of opening statements and closing arguments. On the other side of the coin the lack of details in the state's Complaint (e.g., failure to give relevant dates and places), the poor quality of State's Exhibits C and E (Shannon Maza's handwritten interview notes) making them virtually illegible, and the failure to call the two alleged victims to give testimony to clarify important points at issue and give the Hearing Panel a better opportunity to weight the credibility of the witnesses was not helpful to the Hearing Panel.

[2] The Panel entered an original Final Order on April 3, 2018. This Amended Final Order supplants the April 3 Final Order.

On or about April 28, 2017, a formal written Administrative Complaint was filed against Mr. Schrader by Liza Colón-Durham, the Chief Certification Officer for the PSC. The Complaint alleges violations of the State Board of Education Code of Ethics by Mr. Schrader in connection with his activities, communications and relationships with students at WRHS. On or about May 30, 2017, Mr. Schrader filed an Answer to the Complaint, through his attorneys, Paul Stark, General Counsel, Idaho Education Association, and Guy Hallam, Strindberg & Scholnick, LLC.

Thereafter, discussions between the parties to determine a mutually agreeable hearing date were unsuccessful for several months. Ultimately, an evidentiary hearing was noticed for January 31, 2018; however, on or about January 23, 2018 attorney Kirk Melton filed: (1) a Notice of Appearance indicating he was Mr. Schrader's new legal counsel, and (2) a Motion to Vacate the January 31 hearing. After considering the Chief Certification Officer's written response, the motion was granted, the January 31, 2018 hearing was vacated, and thereafter rescheduled by agreement for March 2, 2018.

Following a full day of testimony on March 2, 2018, the hearing continued on March 14, 2018 for follow-up questioning by the Hearing Panel and closing oral arguments. The three-member Hearing Panel appointed under the provisions of Idaho Code § 33-1209(4) deliberated and then unanimously voted to find a violation as to Factual Allegation No. 11 of the Complaint and to impose an appropriate sanction for the violation. This Amended Final Order memorializes that oral decision.

II.
SUMMARY OF THE TESTIMONY AND DOCUMENTARY EVIDENCE OFFERED

At the beginning of the hearing, the parties stipulated to the admission of State's Exhibits A-J and Mr. Schrader's Exhibits 1-8. During Mr. Schrader's testimony he referenced two other

documents he indicated he had just received that morning. After discussion, it was determined that one of the documents was already in the record and Mr. Schrader was permitted to read into the record from the other document that was on his computer. Neither document was further identified, discussed or admitted as a hard-copy exhibit.

Exhibit A consists of an e-mail exchange between Shannon Maza, the Human Resource Manager for Blaine County School District, and another employee of the District (referred to herein as "Mother") who happens to be the mother of a former student (referred to herein as "Student 1") in one of Mr. Schrader's classes, and a summary of activity and contacts relevant to Mr. Schrader, Student 1 and Mother between November 21, 2015 and April 12, 2016. Exhibit B consists of two written statements, dated May 12, 2016, from two sisters that were in one of Mr. Schrader's classes.[3] Exhibit C is hand-written notes authored by Shannon Maza during her investigation of Mr. Schrader. Exhibit D consists of an e-mail, dated May 17, 2016, from a former student of Mr. Schrader's (referred to herein as "Student 2"), to Shannon Maza, along with attached Facebook conversations between Student 2 and Mr. Schrader. Exhibit E consists of additional notes written by Shannon Maza during her investigation. Exhibit F is Mr. Schrader's June 10, 2016 written letter of resignation from his teaching position with the Blaine County School District. Exhibit G is additional e-mail correspondence, including a message from Mr. Schrader apparently sent July 12, 2016. Exhibit H is an e-mail from Mr. Schrader dated July 18, 2016. Exhibit I is a December 3, 2016 e-mail from Mother to Shannon Maza, with an attached e-mail from Mr. Schrader. Exhibit J is a March 15, 2016 e-mail from Mr. Schrader.

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[3] The statements are contained on "Voluntary Statement" forms under the Hailey Police Department letterhead. Neither sister was called as a witness. It is unclear from the record where the sisters obtained these forms and why they were used, but there is no evidence in the record indicating that these statements were given to the Hailey Police Department.

Exhibit 1 is a collection of letters or e-mail correspondence from multiple former students of Mr. Schrader's, or parents of former students. The letters are in the nature of character references and have a common theme of praising Mr. Schrader's teaching abilities and his friendship. Exhibit 2 consists of character references or recommendations from peers or professional associates of Mr. Schrader in connection with his application for a teaching position at BSU. Exhibit 3 are written statements in support of Mr. Schrader: one from Matt Wolfrom, co-president of the Blaine County Education Association, and one from Melanie Schrader, a Blaine County School District teacher and Mr. Schrader's ex-wife. Exhibit 4 consists of a variety of correspondence and materials pertaining to Mr. Schrader's relationship with the Blaine County School District. Exhibit 5 is a one-page letter from a representative at BSU to Mr. Schrader informing him that the university found no evidence to substantiate a complaint of harassment made against him by Student 2, then a BSU student. Exhibit 6 is a Teacher Performance Evaluation Form on Mr. Schrader completed in April 2015. Exhibit 7 is correspondence between Mr. Schrader and Student 1. Exhibit 8 consists of a variety of materials but is primarily communication between Mr. Schrader and others.

The state called three witnesses to testify at the evidentiary hearing: Mother, Shannon Maza and John Pearce (the current WRHS Principal). Mr. Schrader testified on his own behalf and also called his ex-wife, Melanie Schrader. Testifying as character witnesses for Mr. Schrader were a multitude of former students.

As mentioned earlier, Mother is the mother of Student 1, a former student in one of Mr. Schrader's computer classes. Mother was worried that Student 1 was not spending enough time with her peers and too much time, especially alone time, with Mr. Schrader. Mother testified that Mr. Schrader stated that his students were his only friends and Mother felt that Mr. Schrader was

crossing boundaries in having inappropriate relationships with his students. On one occasion Mother went to see her daughter at Mr. Schrader's classroom. However, when she arrived the door to the classroom was locked and the window shades drawn so no one could look in; and students in the hallway outside the door told her she should not knock on the door. Mr. Schrader and Student 1 were in the room alone. Mother testified that as a teacher herself she could not imagine why any teacher would be in a classroom alone with only one student under these circumstances. Mother believed that Mr. Schrader was essentially acting as a counselor when he should have been referring students with emotional or personal issues to the school counselor or social worker for help. After the locked classroom incident, Mother told Mr. Schrader she did not want him to be alone with Student 1. Mother also testified that Student 1told her about being alone with Mr. Schrader in a hotel room during a school sponsored event in Boston and that after the discussion Student 1 realized the contact and the relationship was inappropriate.

Shannon Maza, Blaine County School District Human Resource Director, testified about her investigation into alleged wrong-doing by Mr. Schrader. In the process of her investigation, Shannon interviewed Mr. Schrader twice. According to Shannon, Mr. Schrader stated that Student 1 was his best friend. Shannon further testified about e-mail (Exhibit D) she had received from Student 2, another former student of Mr. Schrader's, outlining what Student 2 perceived to be inappropriate communication and contacts from Mr. Schrader while she was a student at WRHS.

John Pearce, the Principal of WRHS, testified about his interactions with Mr. Schrader and the knowledge he gained about the facts at issue in this case by being a part of the investigative process. John testified about interviewing the two sisters who gave written statements (Exhibit B) alleging inappropriate contacts by Mr. Schrader with Student 1. John further testified that it appeared that Mr. Schrader was crossing lines by counseling students on personal issues and

becoming a parent figure to them. John indicated that Mr. Schrader was not willing to acknowledge that his conduct toward the students was inappropriate, that he was ignorant of his responsibilities to maintain adequate boundaries, and that he (Mr. Schrader) brushed it off as innocent behavior that others simply misunderstood.

Melanie Schrader's testimony was almost exclusively limited to reading her February 22. 2018 six-page written statement to the PSC (Exhibit 3). Much of Melanie's statement, as well as her testimony, focused on attacking the administration at WRHS as well as the school district for conducting what she perceived to be a biased, inadequate and unfair investigation and charges that she claimed were part of a concerted effort to get rid of Mr. Schrader because of his unorthodox or controversial method of teaching.

Mr. Schrader testified that making his students his friends was very important and a priority to him. He stated that school officials were hostile to his teaching methods even though they were very effective. He testified that setting boundaries is a shared responsibility between the teacher and the student. Mr. Schrader gave his version of the facts regarding his relationship and contacts with Student 1 and Student 2.

Mr. Schrader called close to a dozen former WRHS students to testify on his behalf. Some of the witnesses had also submitted written statements which became part of the contested case record. The former students had little to offer directly relevant to the actual factual allegations leveled against Mr. Schrader in the Administrative Complaint. Rather, their testimony focused on how great a teacher and friend Mr. Schrader was and how he is a moral and honorable person. Although much of this evidence was arguably irrelevant and unduly repetitious and therefore subject to exclusion (*see* Idaho Code § 67-5252(1) and IDAPA 04.11.01.600), in the interest of justice the Hearing Panel exercised its discretion and allowed the testimony.

III.
FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact

1. During the relevant time, Mr. Schrader held a Standard Secondary Certificate with Business Technology Education and Economics endorsements and an Advanced Occupational Specialist Certificate with Information/Communication Technology endorsement, all issued by the Idaho State Board of Education. Answer to the Administrative Complaint, p. 2, ¶ 1.

2. Mr. Schrader's certificates and endorsements were valid until August 31, 2017, *id.* Mr. Schrader did not renew his certificates and endorsements and they are currently invalid or inactive.

3. During the relevant time, Mr. Schrader was employed by the Blaine County School District as a teacher at Wood River High School, *id.*

4. While employed as a teacher for the District, Mr. Schrader was alone with Student 1 in a hotel room during a school sponsored overnight trip to Boston. However, the evidence shows that other students were in and out of the hotel room at various times during this period of time and there is no allegation that anything inappropriate, other than simply being alone working on school or trip related projects, occurred or was observed in the hotel room. Furthermore, the evidence shows that another teacher was fully aware that Mr. Schrader was in the room alone with the student, and although this second teacher may have expressed thoughts that this might be an awkward scenario or present an appearance of impropriety, the teacher did not confront Mr. Schrader or take any action to stop the contact, thereby demonstrating that this particular conduct was apparently not something of significance to the teacher.

5. During an overnight school trip, Mr. Schrader entered the hotel's hot tub after exercising. A female student then appeared and also entered the hot tub. The testimony is that after a few minutes (perhaps two-five minutes), Mr. Schrader existed the hot tub. There is no evidence that anything inappropriate happened in the hot tub or that Mr. Schrader pre-arranged a rendezvous at the hot tub. Although the Complaint alleges that Mr. Schrader and the same female student went swimming together, no evidence was presented to substantiate this allegation.

6. It is alleged that Mr. Schrader removed articles of clothing in front of the same female student that entered the hot tub. The actual clothing allegedly removed and when and where the event occurred is unspecified. Assuming that the Complaint is referring to the hot tub "incident," no evidence was presented to substantiate this allegation and it is inconsistent with the testimony of Mr. Schrader that he was already in the hot tub when the student showed up and presumably there was no clothing to be removed at that point since Mr. Schrader was in his bathing suit.

7. While a teacher, Mr. Schrader was in his classroom alone with Student 1. The classroom door was locked and the window shades or blinds out to the hallway were either down or drawn closed. However, the unrefuted testimony is that other windows facing outside or to common areas of the campus where persons could look into the classroom were not covered. Furthermore, the evidence shows that as soon as Mother knocked on the door it was opened.

8. The Complaint alleges that Mr. Schrader continued communicating and interacting with Student 1 after Mother expressed her concerns about the one-on-one time Mr. Schrader was spending with Student 1. In other words, Mr. Schrader allegedly ignored Mother's request that he not have interaction or communication with Student 1 without other students or persons present. The evidence shows that after Mother conveyed her concerns, Mr. Schrader did discontinue the

regular Saturday one-on-one meetings he was having with Student 1, but that he was still likely having some other alone time contact with her.

9. The Complaint alleges that Mr. Schrader engaged in intimate communications with a female student through the use of electronic media. The conversations allegedly included discussions about his marriage and his relationships with the student, as well as other students. The Hearing Panel understands that these allegations relate to the two e-mails Student 2 sent Shannon Maza during her investigation (Exhibit D). The e-mails were sent in May 2016 but make allegations of improper conduct by Mr. Schrader years before when Student 2 was a student at WRHS.

Frankly, the Hearing Panel has serious reservations about the veracity of Student 2's statements. Unfortunately, she was not called as a witness to testify at the evidentiary hearing. The timeline given in the statements just seems to be wrong and the panel is left with the definite impression that Student 2 may have been unduly influenced by outside pressure or other factors making her statements suspect. In short, the panel is left with a sense that Student 2's statements are simply not reliable and carry little weight in determining the actual relevant facts in this case. The panel finds the testimony of Mr. Schrader and his ex-wife Melanie more credible as to these particular allegations and, therefore, finds that the factual allegations made in "General Averments No. 10" of the Administrative Complaint have not been proven.

10. The final factual allegation made in the Administrative Complaint is that "Mr. Schrader sent private messages by Facebook to a female student that discussed masturbation and the student's relationship with her parents/father." General Averment No. 11. The panel finds that this allegation has been proven.

While no further details are provided in the Complaint, the evidence clearly shows that Mr. Schrader and Student 2 communicated by way of Facebook postings and that Mr. Schrader did indeed make these alleged improper comments in his communication to Student 2. *See* Exhibit D, pp. 2-3. And, the panel finds that the communication was made while Student 2 was a student.

B. Conclusions of Law

1. This Hearing Panel has authority under Idaho Code §§ 33-1208 and 33-1209 to hear this contested case. Persons with teaching certificates are subject to the requirements of title 33, chapter 12, Idaho Code, and to the requirements of the Rules Governing Uniformity promulgated by the Board of Education, codified at IDAPA 08.02.02; specifically, Rule 76 (Code of Ethics for Idaho Professional Educators).

2. Findings of Fact in this administrative contested case must be proven by a preponderance of the evidence; that is, more likely than not. Northern Frontiers, Inc. v. State ex rel. Cade, 129 Idaho 437, 926 P.2d 213 (1996). The Findings of Fact stated in this decision are supported by the preponderance of the evidence.

3. Mr. Schrader's statements and actions discussed in Finding of Fact No. 10 constitute "[i]nappropriate contact with any minor or any student regardless of age using electronic media." Code of Ethics Principle II - Educator/Student Relationship, paragraph 03.h. (IDAPA 08.02.02.76.03.h.).

4. Willful violation of a Board Code of Ethics is grounds for discipline. Idaho Code § 33-1208(1)(j). The Hearing Panel expressly finds and concludes that Mr. Schrader's willful misconduct/acts amounts to a willful violation under the statute.

5. Under Idaho Code §§ 33-1208(1) and 33-1209(6), the PSC, through this Hearing Panel, has the authority to suspend or revoke Mr. Schrader's certificates, order reasonable conditions be placed on the certificates, or enter a letter of reprimand for the proven violation.

6. Mr. Schrader may very well be a fine teacher. The evidence demonstrates that he is certainly loved and respected by many of his former students. However, he walked a very fine line in attempting to set himself up as a father figure to the students, in exercising poor judgment by putting himself in potentially compromising situations where his integrity and character may be questioned, and in offering what some perceive as counseling beyond his area of expertise to the students. Clearly he stepped over that line when he engaged in the inappropriate electronic media communication that is referenced in General Averment No. 11 and Finding of Fact No. 10. Under the facts and legal standards applicable to this case, sanctions are warranted.

FINAL ORDER

IT IS THE FINAL ORDER of this Hearing Panel that the Chief Certification Officer enter a letter of reprimand and place it in Mr. Schrader's PSC file. The letter of reprimand must state, at a minimum, that Mr. Schrader violated Code of Ethics Principle II, paragraph 03.h. (IDAPA 08.02.02.03.h.) by sending inappropriate communications to a student through the use of electronic media.

IT IS FURTHER ORDERED THAT before his teaching certifications and endorsements may be reinstated or any new certificates and endorsements issued Mr. Schrader must:

1. Take a three-credit course on setting appropriate boundaries in the teacher/student environment. The selection of the course must be pre-approved by the Chief Certification Officer and may not be used for renewal purposes;

2. Take a three-credit ethics course. The selection of the course must be pre-approved by the Chief Certification Officer and may not be used for renewal purposes; and

3. Upon completion of the two courses mentioned above, write and submit to the Chief Certification Officer a four to five page paper explaining how the courses will help in the classroom.

IT IS SO ORDERED.

Dated this 5 day of April 2018.

Dan Sakota

DAN SAKOTA
Hearing Panel Chair

REVIEW OF FINAL ORDER

THIS IS A FINAL ORDER OF THE HEARING PANEL. Any party may file a Petition for Reconsideration of this Final Order within fourteen (14) days of its service date. The Hearing Panel is required by law to dispose of a Petition for Reconsideration within twenty-one (21) days of its filing or the Petition for Reconsideration will be considered to be denied by operation of law. See Idaho Code § 67-5243(3).

Petitions for Reconsideration of this Final Order may be filed by mail addressed to the Professional Standards Commission, Department of Education, Statehouse, Boise, ID 83720-0027, or may be delivered to the Department of Education, Len B. Jordan Building, Room 200, 650 West State Street, Boise, Idaho, and must be received within fourteen (14) days of the service date of this Final Order.

Judicial Review

Pursuant to Idaho Code §§ 33-1209(8), 67-5270, and 67-5272, any party aggrieved by this Final Order or by another Order previously entered in this Contested Case may obtain Judicial Review of this Final Order and of all previously issued Orders in this Contested Case by filing a Petition for Judicial Review in the District Court as provided by those sections.

A Petition for Judicial Review must be filed within twenty-eight (28) days of the service date of this Final Order, or, if a Petition for Reconsideration is timely filed, within twenty-eight (28) days of the service date of a decision on the Petition for Reconsideration or denial of the Petition for Reconsideration by operation of law. See Idaho Code §§ 67-5246 and 67-5283.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of April 2018, I caused to be served a true and correct copy of the preceding AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND HEARING PANEL FINAL ORDER by the method(s) indicated below and addressed to the following:

Kirk Melton Worst, Fitzgerald & Stover, PLLC P. O. Box 1428 Twin Falls, ID 83303-1428	☒ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☒ E-mail: kam@magicvalleylaw.com
Robert Berry, Deputy Attorney General Office of the Attorney General Statehouse Boise, ID 83720-0010	☐ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☒ E-mail: robert.berry@ag.idaho.gov
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