

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificates of:

Scott M. Smith,

Respondent

Case No. 21934

STIPULATION

BACKGROUND

The Professional Standards Commission received an allegation of unethical conduct concerning Scott M. Smith. 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 Scott M. Smith's certificates. The Executive Committee has recommended the following Stipulation.

STIPULATION

1. This is an agreement (Stipulation) between Scott M. Smith (Mr. Smith) and the Executive Committee (the Executive Committee) of the Professional Standards Commission (the Commission).
2. If Mr. Smith 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 or before **February 10, 2020**, unless he has been granted an extension.
3. After Mr. Smith 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 Idaho.
6. Mr. Smith holds the following certificate and endorsements issued under the authority of the Idaho State Board of Education:
 - a. Standard Secondary Certificate with Mathematics (6-12), Natural Science (6-12), Biological Science (6-12), Physical Science (6-12), Chemistry (6-12), and Physics (6-12) endorsements, effective September 1, 2014, through August 31, 2019.
 - b. Interim Standard Instructional Certificate with Mathematics (6-12), Natural Science (6-12), Biological Science (6-12), Physical Science (6-12), Chemistry (6-12), and Physics (6-12) endorsements, effective October 2, 2019, through August 31, 2022.
7. Mr. Smith was employed by the Wilder School District (“District”) for the 2018-2019 school year as a teacher at Wilder High School.
8. On February 8, 2019, Mr. Smith was issued a letter of directive that directed him to refrain from opening any test or quiz for another teacher of a course where he was not the teacher of record; follow building procedures related to the board approved level system for students in his classroom at all times; increase the engagement of learning in his classroom; increase options for student voice and choice; provide a detailed report on student movement from semester 1 to semester 2 for each course; provide a detailed report on all individual student progress for the year; and provide appropriate mentoring for student engagement.

9. Mr. Smith failed to comply with these directives during the remainder of the 2018-2019 school year.

10. On two occasions after February 8, 2019, Mr. Smith opened two science tests for students where he was not the teacher of record for the science tests.

11. It was later determined that two students cheated on the science tests.

12. In regards to tracking student movement, Mr. Smith provided a stack of unreadable spreadsheets, although administration was subsequently able to determine that 27 of the 81 students were given semester credits for work that had not been completed, graded, or even started for some students. Many students were given an 80% on a cumulative tests where the test was not even graded.

13. Mr. Smith was subsequently informed on February 20, 2019, that students were not to be left unattended in the classroom.

14. Students were subsequently left unattended on multiple occasions by Ms. Smith, including leaving the class unattended for up to fifteen minutes, and leaving to interrupt another class at another end of the building.

15. On April 11, 2019, Mr. Smith allowed students to play inappropriate games through Kahoot.

16. However, before several students entered the class-room on that day, he told them, “If you’re a snitch, get out.”

17. Mr. Smith allowed the Kahoot game to be based on categories such as car crimes, sexual diseases, “memes” and an “are you gay test.”

18. He allowed players to use inappropriate names, such as, “Cherry stealer”, “Druggo”, and “Methhead”.

19. The Kahoot game caused discomfort in many students.
20. On that same day, two students came to get their belongings.
21. Mr. Smith shut the classroom door and then stated several profanities to them and instructed them to get out of his classroom.
22. Shortly afterwards, Mr. Smith was seen slamming materials into the iPad cart and expressing several profanities.
23. The Executive Committee determined that probable cause exists for initiating an administrative action against Mr. Smith for violating the following laws and rule governing teacher certification:
 - a. Mr. Smith's conduct or course of conduct willfully violated a principle of the code of ethics that was adopted by the Idaho State Board of Education. 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"). Specifically, Mr. Smith violated 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.").
 - b. Mr. Smith's conduct or course of conduct willfully violated a principle of the code of ethics that was adopted by the Idaho State Board of Education. 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"). Specifically, Mr. Smith violated Code of Ethics Principle IV (Idaho Admin. Code r. 08.02.02.076.05) ("A professional educator exemplifies honesty and integrity in the course of professional practice.").
 - c. Mr. Smith's conduct or course of conduct willfully violated a principle of the code of ethics that was adopted by the Idaho State Board of Education. 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"). Specifically, Mr. Smith violated Code of Ethics Principle X (Idaho Admin. Code r. 08.02.02.076.11) ("A professional educator ensures just and equitable treatment for all members of the profession in the exercise of academic freedom, professional rights and responsibilities while following generally recognized professional principles.").

24. Mr. Smith admits that he violated the laws and rules cited in paragraph 23 and acknowledges that there is sufficient evidence to support a finding of a violation of the laws and rule cited in paragraph 23.

B. STIPULATED DISCIPLINE

25. If this Stipulation is approved by the Commission, the following discipline will be imposed by the Commission on Mr. Smith's certificate:

- a. The Commission will suspend Mr. Smith's certificate for two years following entry of the consent order.
- b. Mr. Smith must take a Commission approved boundary course that may not be used for renewal purposes.
- c. Mr. Smith must take a Commission approved ethics course that may not be used for renewal purposes.

26. Any costs associated with Mr. Smith's compliance with the terms of this Stipulation are his responsibility.

C. PRESENTATION OF THIS STIPULATION

27. Once Mr. Smith 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.

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

29. If the Commission modifies this Stipulation, it must receive Mr. Smith's approval on any modification before the Stipulation is effective.

D. WAIVER OF RIGHTS

30. If this Stipulation is approved by the Commission, Mr. Smith knowingly, 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.

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

32. By signing this Stipulation, Mr. Smith agrees to waive any requirement for a hearing under Idaho Code § 33-1209(3) to be conducted within 90 days of a 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. Smith ultimately rejects a modified stipulation (if Mr. Smith does). If the Commission ultimately rejects this Stipulation or if Mr. Smith ultimately rejects a modified stipulation, and Mr. Smith has requested a hearing, the 90-day hearing timeframe will begin from the ultimate rejection.

F. GENERAL ACKNOWLEDGMENTS

33. This Stipulation contains the entire agreement between the parties, and Mr. Smith is not relying on any other agreement or representation, whether verbal or written.

34. 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.

35. Mr. Smith 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.

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35. Mr. Smith 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, Scott M. Smith, agrees to this Stipulation.

DATED this 5 day of February, 2020.



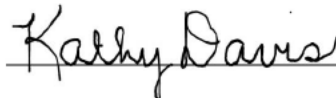
Scott M. Smith
Respondent

Executive Committee

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

DATED this 13th day of April, 2020.

IDAHO PROFESSIONAL STANDARDS COMMISSION
EXECUTIVE COMMITTEE



Kathy Davis, Member

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Scott M. Smith

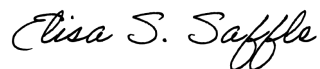
Respondent

Case No. 21934

CONSENT ORDER

The Professional Standards Commission orders that the Stipulation, entered between Scott M. Smith 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 24 day of April, 2020. The discipline listed in the Stipulation is imposed on Scott M. Smith's certificate under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Scott M. Smith has waived the right of judicial review.

IDAHO PROFESSIONAL STANDARDS COMMISSION



Elisa Saffle, Member

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of ~~April~~ ^{May}, 2020, I caused to be served a true and correct copy of the foregoing by the following method to:

Scott M. Smith, Respondent



- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile: (208) 344-1606
- Email:

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

- U.S. Mail
- Hand Delivery
- 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
Idaho State Department of Education