

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Benjamin K. Banks,

Respondent

Case No. 21507

STIPULATION

BACKGROUND

The Professional Standards Commission received an allegation of unethical conduct concerning Benjamin K. Banks. 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 Benjamin K. Banks's certificate. The Executive Committee has recommended the following Stipulation.

STIPULATION

1. This is an agreement (Stipulation) between Benjamin K. Banks (Mr. Banks) and the Executive Committee (the Executive Committee) of the Professional Standards Commission (the Commission).
2. If Mr. Banks 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 19, 2016**, unless he has been granted an extension.
3. After Mr. Banks 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. Banks holds the following certificate and endorsements:
- a. Standard Secondary Certificate with History 6-12 and Social Studies 6-12 Endorsements – effective February 24, 2014 – valid until August 31, 2019.
7. During the relevant time period, Mr. Banks was employed as a teacher by the Independent School District of Boise City, School District No. 1. He worked at Borah High School.
8. On or about January 5, 2015, a school day, and during school hours, Mr. Banks was under the influence of alcohol on school grounds; this impaired his ability to function.
9. The Executive Committee determined that probable cause exists for initiating an administrative action against Mr. Banks 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 III (Idaho Admin. Code r. 08.02.02.076.04) (“A professional educator refrains from the abuse of alcohol or drugs during the course of professional practice.”).

10. Mr. Banks, although not admitting that he violated the law and rule cited in paragraph 9, acknowledges that there is sufficient evidence to support a finding of a violation of the law and rule cited in paragraph 9.

B. Stipulated Discipline

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

- a. Mr. Banks's certificate will be suspended for **two** years (with *no* probationary period). During the suspension period, the standard drug and alcohol terms will apply, as set forth in the addendum to this Stipulation. The standard drug and alcohol terms addendum is an attachment to this Stipulation, as is the medical release.
- b. For purposes of the suspension, it will begin on the Backdated Start Date; the Backdated Start Date will be June 3, 2015.
- c. For purposes of provision 3 of the addendum, the effective date will be the Backdated Start Date. *Except that* for the requirements of provision 3(b) in the addendum, the effective date will be the date provided in the consent order, not the Backdated Start Date.
- d. For purposes of provision 4 of the addendum, the effective date will be the Backdated State Date. For the requirements of provision 4(a) of the addendum, Mr. Banks's primary medical provider will not be required to submit either the six-month or 12-month medical status report, but will still be required to provide the 18-month and 24-month medical status reports, as calculated from the Backdated Start Date.

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

13. During the pendency of this Stipulation, Mr. Banks will comply with all laws and rules governing teacher certification in Idaho.

C. Non-Compliance with this Stipulation

14. If the Commission or the State Department of Education, or its employees or agents, have reason to believe that Mr. Banks 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. Banks at his last known address (or on his attorney). After granting Mr. Banks 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. Banks completing the original stipulated discipline, or may impose other discipline as it sees fit, including suspending or revoking Mr. Banks's certificate.

D. Presentation of this Stipulation

15. Once Mr. Banks 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.

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

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

E. Waiver of Rights

18. If this Stipulation is approved by the Commission, Mr. Banks 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.

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

20. By signing this Stipulation, Mr. Banks 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. Banks ultimately rejects a modified stipulation (if Mr. Banks does). If the Commission ultimately rejects this Stipulation or if Mr. Banks ultimately rejects a modified stipulation, and Mr. Banks has requested a hearing, the 90-day hearing timeframe will begin from the ultimate rejection.

F. General Acknowledgments

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

22. 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.

23. Mr. Banks 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, Benjamin K. Banks, agrees to this Stipulation.

DATED this 15th day of September, 2016.



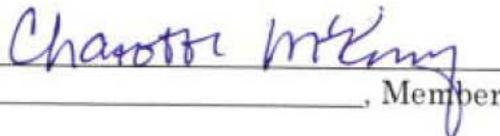
Benjamin K. Banks
Respondent

Executive Committee

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

DATED this 23 day of September, 2016.

IDAHO PROFESSIONAL STANDARDS
COMMISSION EXECUTIVE COMMITTEE


_____, Member

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Benjamin K. Banks,

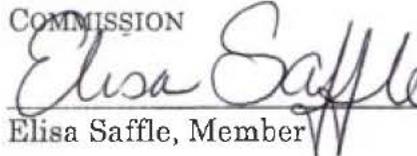
Respondent

Case No. 21507

CONSENT ORDER

The Professional Standards Commission orders that the Stipulation, entered between Benjamin K. Banks 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 23 day of September, 2016. The discipline listed in the Stipulation is imposed on Benjamin K. Banks's certificate under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Benjamin K. Banks has waived the right of judicial review.

IDAHO PROFESSIONAL STANDARDS
COMMISSION


Elisa Saffle, Member

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24 day of Sept, 2016 I caused to be served a true and correct copy of the foregoing by the following method to:

Benjamin K. Banks



- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile:
- Email:

Brian V. Church
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:
brian.church@ag.idaho.gov
leslie.gottsch@ag.idaho.gov

Shannon H. Haas
Program Specialist
Idaho State Department of Education