IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificates of:	)	Case No. 21703
	)	
Don J. Keller,	)	**STIPULATION**
	)	
Respondent.	)	
	)	

BACKGROUND

The Professional Standards Commission received an allegation of unethical conduct concerning Don J. Keller. 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 Don J. Keller's certificates. The Executive Committee has recommended the following Stipulation.

STIPULATION

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

2. If Mr. Keller 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 July 1, 2017, unless he has been granted an extension.

3. After Mr. Keller 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. Keller holds the following certificates and endorsement:

   a. (current) Administrator Certificate with School Principal Pre-K-12 endorsement – effective September 1, 2016 – valid until August 31, 2021;

   b. (current) Standard Secondary Certificate with Biological Science 6-12 and Agricultural Science and Technology 6-12 endorsements – effective September 1, 2016 – valid until August 31, 2021.

   c. (past) Administrator Certificate with School Principal Pre-K-12 endorsement – effective September 1, 2011 – valid until August 31, 2016;

   d. (past) Standard Secondary Certificate with Biological Science 6-12 and Agricultural Science and Technology 6-12 endorsements – effective September 1, 2011 – valid until August 31, 2016.

7. During the relevant times, Mr. Keller was employed by Sage International School of Boise ("Sage") as an administrator.

Teachers of Record

8. While employed as an administrator of Sage, Mr. Keller misrepresented the teacher of record on at least three instances during the 2015-16 school year.

9. A teacher was hired to teach "Environmental Systems in Society." The teacher was credentialed for teaching math and science. Mr. Keller signed the report to the State, which designated a different teacher as the teacher of record, as opposed to the actual teacher of the class.

10. In another situation, a non-certified individual was hired to teach health. A different teacher who held a Health 6-12 endorsement was listed as a teacher of record for the course, but was not actually the teacher. Mr. Keller signed the report to the State, which designated a different teacher as the teacher of record, as opposed to the actual teacher of the class.

11. Sage allows its students to participate in an elective course taught at the Boise Community Theater. No teacher from Sage participates. Mr. Keller signed a report submitted to the State listing a teacher from Sage as the Teacher of Record of the elective course, when the teacher had nothing to do with the class. Mr. Keller signed the report to the State, which designated a teacher as the teacher of record, though they did not teach the course.

12. Mr. Keller hired a non-certified individual to teach Spanish at Sage.

Improper Reporting on Hours of Instruction

13. Idaho law requires that schools teaching grades 9-12 provide a minimum of 990 hours of instruction per year for grades 9-11, and a minimum of 979 hour for grade 12. Idaho schools are required to report to the State Department of Education all instruction hours that are taught.

14. In December of 2014, Mr. Keller proposed, and the Board of Sage approved, a change in the school calendar from a five-day week to a four-day week. In order to meet the 990 hours of instruction in a four-day week, the hours associated with zero-hour in the morning bell schedule (7:40 a.m. to 8:30 a.m.) and office hours for instructors in the afternoon (3:30 p.m. to 4:00 p.m.) were improperly counted. When actual instruction hours were subsequently re-added without including zero-hour or after school office hours, total instructional hours were approximately 100 hours short of the minimum hours required by Idaho statute.

15. Mr. Keller promoted the change to the four-day week and insisted on retaining the seven-hour day. Mr. Keller pushed for inclusion of zero-hour and office time as instructional hours. Mr. Keller did not obtain approval for or waiver from the State for including zero-hour and office time as instructional hours.

16. Mr. Keller did not advise Sage at the outset that the hours of instruction requirement was going to need waivers or exceptions from the State, or that some changes to the seven-hour day would be required to meet State law. The failure to correctly calculate instructional hours significantly overstated the required report on hours of instruction.

Misuse of School Funds

17. Idaho law prohibits public employees from misusing public monies. Sage, as a charter school, is a division of the State of Idaho. Sage has a zero tolerance policy for the use of alcohol. On several instances, Mr. Keller used school funds to purchase alcohol and/or submitted receipts for reimbursement for funds spent on alcohol.

18. The Executive Committee determined that probable cause exists for initiating an administrative action against Mr. Keller for violating the following laws and rules governing teacher certification:

a. Code of Ethics Principle I (Idaho Admin. Code r. 08.02.02.076.02) ("A professional educator abides by all federal, state, and local education laws and statutes.

b. 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. Code of Ethics Principle V (Idaho Admin. Code r. 08.02.02.076.06) ("A professional educator entrusted with public funds and property honors that trust with a high level of honesty, accuracy, and responsibility.").

19. Mr. Keller, although not admitting that he violated the laws and rules cited in paragraph 18, acknowledges that there is sufficient evidence to support a finding of a violation of the laws and rules cited in paragraph 18.

B. Stipulated Discipline

20. If this Stipulation is approved by the Commission, the following discipline will be imposed by the Commission on Mr. Keller's certificates:

a. the Commission suspend Mr. Keller's Administrator certificate for two years from the date of acceptance and that Mr. Keller complete a three credits ethics course, which cannot be used for renewal purposes. The relief sought by the Chief Certification Officer is only in relation to Mr. Keller's Administrator Certificate and does NOT affect, touch upon or relate to Mr. Keller's teaching certificate.

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

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

C. Presentation of this Stipulation

23. Once Mr. Keller 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.

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

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

D. Waiver of Rights

26. If this Stipulation is approved by the Commission, Mr. Keller 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.

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

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

E. General Acknowledgments

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

30. 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.

31. Mr. Keller 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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SIGNATURES

Respondent

The respondent, Don J. Keller, agrees to this Stipulation.

DATED this 23 day of JUNE, 2017.

Don J. Keller
Respondent

Executive Committee

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

DATED this 15 day of September 2017

IDAHO PROFESSIONAL STANDARDS
COMMISSION EXECUTIVE COMMITTEE

Charlotte McKinney, Member

RECEIVED
JUN 26 2017
Teacher Certification
State Dept. of Education

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificates of:	)	Case No. 21703
	)	
Don J. Keller,	)	**CONSENT ORDER**
	)	
Respondent.	)	
	)	

The Professional Standards Commission orders that the Stipulation, entered between Don J. Keller and the Executive Committee, is adopted as the informal disposition of this case, as permitted under Idaho Code § 67-5241. This order will be effective on the date it is signed. The discipline listed in the Stipulation is imposed on Don J. Keller's certificates under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Don J. Keller has waived the right of reconsideration and the right to judicial review.

Dated this 15th day of September, 2017.

IDAHO PROFESSIONAL
STANDARDS COMMISSION

Elisa Saffle

Elisa Saffle, Member

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30 day of Sept, 2017, I caused to be served a true and correct copy of the foregoing by the following method to:

Don J. Keller
[redacted]

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

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
- [x] Email: robert.berry@ag.idaho.gov
  leslie.gottsch@ag.idaho.gov

Shannon H. Haas
Program Specialist
Idaho State Department of Education