IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificates of: ) Case No. 21619
 ) STIPULATION
Kirby S. Young, )
 ) Respondent.
 )

BACKGROUND

The Professional Standards Commission received an allegation of unethical conduct concerning Kirby S. Young. 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 Kirby S. Young's certificates. The Executive Committee has recommended the following Stipulation.

STIPULATION

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

2. If Mr. Young 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 August 30, 2017, unless he has been granted an extension.

3. After Mr. Young 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

STIPULATION - 1
Kirby S. Young
5. The Commission regulates teacher certification in the State of Idaho.

6. Mr. Young holds the following certificates and endorsement:

7. During the relevant times, Mr. Young was employed by the Kimberly School District No. 414, and Mr. Young taught at Kimberly High School.

8. On or about December 4, 2015, a school day, district staff were informed that Mr. Young, who was on school grounds, smelled of alcohol.

9. Subsequently, Mr. Young met with school district personnel on December 4, 2015 where school district personnel could smell alcohol upon Mr. Young’s entry to an office, saw that Mr. Young’s behavior was atypical, and noted that Mr. Young was slurring his words.

10. Mr. Young admitted to school district personnel that he had consumed alcohol before going to sleep the night before, and also submitted to a breathalyzer test, which displayed the presence of alcohol.

11. Mr. Young also indicated that he would seek assistance, and on or about December 7, 2015, Mr. Young provided school district personnel with a letter from a treating physician, acknowledging that Mr. Young was under a treatment plan for alcoholism.

12. The Executive Committee determined that probable cause exists for initiating an administrative action against Mr. Young 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.”)

STIPULATION - 2
Kirby S. Young
13. Mr. Young, although not admitting that he violated the law and rule cited in paragraph 12, acknowledges that there is sufficient evidence to support a finding of a violation of the law and rule cited in paragraph 12.

B. Stipulated Discipline

14. If this Stipulation is approved by the Commission, the following discipline will be imposed by the Commission on Mr. Young’s certificates:

a. Mr. Young’s certificate will be suspended from December 4, 2015 (the Backdated Start Date) through the date the enclosed consent order is entered. Following his suspension, Mr. Young’s certificate will be on probation for five years from the date the consent order is entered. During any suspension and probation period, the standard drug and alcohol terms will apply, as set forth in the addendum to this Stipulation, but as modified in the paragraphs below. The standard drug and alcohol terms addendum is an attachment to this Stipulation, as is the medical release.

b. For provisions 1 and 2 of the addendum, the effective date will be the date of the consent order.

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.

e. For purposes of provision 4(a) of the addendum, the effective date will be the Backdated State Date. For the requirements of provision 4(a) of the addendum, Mr. Young’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 (or as close as practical) and 24-month medical status reports, as calculated from the Backdated Start Date.

15. Any costs associated with Mr. Young’s compliance with the terms of this Stipulation are his responsibility.

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

C. Presentation of this Stipulation

17. Once Mr. Young 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.

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

19. If the Commission modifies this Stipulation, it must receive Mr. Young’s approval on any modification before the Stipulation is effective.

D. Waiver of Rights

20. If this Stipulation is approved by the Commission, Mr. Young 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.

21. If this Stipulation is approved by the Commission, the Commission may impose discipline upon Mr. Young’s certificates without further process.

22. By signing this Stipulation, Mr. Young 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 or before Mr. Young ultimately rejects a modified stipulation. If the Commission ultimately rejects this Stipulation or if Mr. Young ultimately rejects a modified stipulation, and Mr. Young has requested a hearing, the 90-day hearing timeframe will begin from the ultimate rejection.

E. General Acknowledgments

STIPULATION - 4
Kirby S. Young
23. This Stipulation contains the entire agreement between the parties, and Mr. Young is not relying on any other agreement or representation, whether verbal or written.

24. 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.

25. Mr. Young 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, Kirby S. Young, agrees to this Stipulation.

DATED this 24 day of August 2017.

Kirby S. Young
Respondent

Executive Committee

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

DATED this 15 day of Sept 2017.

IDAHO PROFESSIONAL STANDARDS
COMMISSION EXECUTIVE COMMITTEE

Charlotte McKinney
Member

STIPULATION - 6
Kirby S. Young
STANDARD DRUG AND ALCOHOL CONDITIONS – ADDENDUM

The following standard drug and alcohol conditions apply to Kirby S. Young (Mr. Young).

1. **Medical release.** Within 30 days of the effective date of this Stipulation, Mr. Young will submit to the Commission a copy of a signed medical release form that has been prepared by the Commission (attached to this Stipulation). A signed copy of this form must be given to his primary medical care provider and each medical provider he visits for drug- or alcohol-related diagnosis, consultation, or treatment.

2. **Drug and alcohol evaluation.** Within 30 days of the effective date of this Stipulation, Mr. Young will submit to his primary medical provider a recent (within 30 days or less), comprehensive drug and alcohol evaluation completed by a qualified, Commission approved evaluator. Compliance with this section will be included in Mr. Young’s primary medical provider’s first status report to the Commission.

3. **Drug and alcohol testing.** Mr. Young agrees to participate in random urinalysis (UA) testing. For 24 months following the effective date of this Stipulation, he will be required to submit to at least 12 random UA tests. At the end of 24 months, he will be required to submit to quarterly random UA tests for the remaining probationary term. Further:

   a. Mr. Young will not miss any UA to which he has been asked to submit, or provide a sample that is insufficient, for any reason, for testing purposes. If this occurs, he will be considered to have failed the test.

   b. In furtherance of these requirements, Mr. Young will enroll and participate in the Professional Health Monitoring testing program run by FirstLab now known as First Source Solutions, within 30 days of this Stipulation’s effective date, unless he can provide documentation that a sufficient number of random UA tests are already being conducted by a medical provider or other facility as part of his treatment plan, and that the results will be made available to the Commission.

   c. The results of the UAs must be negative for alcohol or any other drug that is not prescribed by a medical provider with whom Mr. Young has an established patient-provider relationship. If a UA test is positive for any properly prescribed drug, the level must not exceed the prescribed dosage.
4. **Medical provider.** Within 30 days of the effective date of this Stipulation, Mr. Young will establish a provider-patient relationship with a primary medical provider responsible for managing all Mr. Young's care and ensure that he maintains a provider-patient relationship with his primary medical provider throughout the duration of this Stipulation. The primary medical provider will be provided a copy of this Stipulation and will be familiar with all of its terms and conditions. Mr. Young will further ensure that Mr. Young's primary medical provider submits medical status reports to Commission staff as follows:

   (1) at six months from the effective date of this Stipulation,
   (2) at 12 months from the effective date of this Stipulation,
   (3) at 18 months from the effective date of this Stipulation, and
   (4) at 24 months from the effective date of this Stipulation.

   At 24 months from the effective date of this Stipulation, Mr. Young's primary medical provider must develop an "Exit Treatment Plan" for Mr. Young, and verify the same to the Commission in the 24-month medical status report. In addition to any medications and the dosage of such medications Mr. Young should be prescribed, the Exit Treatment Plan should address any concerns the primary medical provider may have about Mr. Young's continued recovery.

5. **Documentation of active recovery.** Mr. Young will submit to his primary medical provider documentation of his active participation in a recovery program, including regular and sustained attendance at twelve-step meetings, an endorsement by his twelve-step sponsor, and evidence of completion of a relapse prevention program with an outline of a relapse prevention plan. Mr. Young's compliance with the terms and conditions of this
section will be included in the status reports provided to the Commission by Mr. Young's primary medical provider.

6. **Other information.** Mr. Young will submit any other information deemed necessary and requested by the Commission in its discretion so as to demonstrate his fitness to resume teaching.
IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificates of:

Kirby S. Young,

Respondent.

Case No. 21619

CONSENT ORDER

The Professional Standards Commission orders that the Stipulation, entered between Kirby Young 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 Kirby Young’s certificates under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Kirby Young has waived the right of reconsideration and the right to judicial review.

Dated this 21st day of September, 2017.

IDAHO PROFESSIONAL STANDARDS COMMISSION

Elisa Saffle, Member

CONSENT ORDER - 1
Kirby Young
CERTIFICATE OF SERVICE

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

Paul Stark
General Counsel
Idaho Education Association
620 N. Sixth St.
Boise, Idaho 83702

☑ U.S. Mail
☐ Hand Delivery
☐ 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
☐ Email: robert.berry@ag.idaho.gov
leslie.gottsch@ag.idaho.gov

Shannon H. Haas
Program Specialist
Idaho State Department of Education

Kirby Young