IDaho Professional Standards Commission

In the matter of the certificates of: Case No. 21811

Kate Dircksen, 

Respondent

Stipulation

Background

The Professional Standards Commission received an allegation of unethical conduct concerning Kate Dircksen ("Ms. Dircksen"). 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 Ms. Dircksen’s certificates. The Executive Committee has recommended the following Stipulation.

Stipulation

1. This is an agreement (Stipulation) between Ms. Dircksen and the Executive Committee (the Executive Committee) of the Professional Standards Commission (the Commission).

2. If Ms. Dircksen wishes to agree to this Stipulation, she must sign and return this Stipulation and any attachments to the Commission by 5:00 p.m. (mountain time) on September 7, 2018, unless she has been granted an extension.

3. After Ms. Dircksen 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.

Stipulation — 1
Kate Dircksen
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. Ms. Dircksen holds the following certificates and endorsements issued under the authority of the Idaho State Board of Education:
   a. Standard Instructional certificate with Natural Science (6-12)\(^1\) and Biological Science (6-12) endorsements – effective September 1, 2018 – valid until August 31, 2023;

7. Ms. Dircksen and Independent School District of Boise City No. 1 (District) entered into a contract (Contract) on August 16, 2017, for Ms. Dircksen to serve as a science teacher at Capital High School during the 2017-2018 school year.

8. Ms. Dircksen signed the Contract acknowledging that she understood and agreed that the Contract was subject to the duly adopted rules of the State Board of Education and the policies of the District, which, by their reference, were incorporated and made a part of the Contract as if they had been fully set forth within the Contract.

9. During the 2017-18 school year, the Boise School District had the following policy in effect: Policy 5231.

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\(^1\) Ms. Dircksen still needed to pass Praxis II test #5435.

\(^2\) Ms. Dircksen still needed to pass Praxis II test #5435.

STIPULATION — 2
Kate Dircksen
10. Policy 5231 allows the District to request a District employee to undergo alcohol or drug testing by a qualified medical provider who has been approved by the District to provide drug and alcohol testing and/or by an SRO at District expense and on District time if there is reasonable suspicion that the employee is under the influence of alcohol or illegal drugs arising during, just preceding or just after the employee’s duty time.

11. Policy 5231 provides that an employee refusing to submit to an alcohol or drug test will be subject to the consequences of a positive test and that a refusal is defined as a verbal refusal, failure to execute the consent form, abusive language to the supervisor or personnel performing the test.

12. Policy 5231 provides that no employee shall report for duty or remain on duty after testing positive for alcohol or drugs, until cleared to return by the District.

13. The District reserves the right under Policy 5231 to inspect an employee’s desk or other District property under the control the employee where the District has reasonable grounds to suspect Policy 5231 has been violated.

14. At approximately 1:30 pm on March 9, 2018, Assistant Principal, Charlene Gimlin-Wells received a phone call from the mother of a student after the student reported that he believed Ms. Dircksen was “tipsy”.

15. Assistant Principal Gimlin-Wells went to Ms. Dircksen’s room between 6th and 7th periods with an individual to cover Ms. Dircksen’s class. At the time, Ms. Dircksen was getting a handout for a student in an office/storage room adjacent to her classroom and the door happened to be shut.
16. The office/storage room is a shared room between two classrooms and students store laptop computers and other items in the room. The door is open off and on during school hours and locks automatically when shut.

17. Ms. Dircksen opened the door when Assistant Principal Gimlin-Wells knocked and informed Ms. Dircksen that she needed to talk to her about something and that her class would be covered by another teacher.

18. Assistant Principal Gimlin-Wells and Ms. Dircksen then left her classroom and without saying anything to Ms. Dircksen, Assistant Principal Gimlin-Wells started walking ahead of her down the hall.

19. As they were approaching the office, Ms. Dircksen stopped and asked what this was about, but in order to maintain Ms. Dircksen’s privacy, Assistant Principal Gimlin-Wells told Ms. Dircksen they could talk in a minute.

20. When they turned the corner and arrived in front of the nurse’s office, Assistant Principal Gimlin-Wells stopped and looked in the nurse’s office but the nurse was not there. She then stated that they would have to wait a minute until the nurse returned. Ms. Dircksen again asked what this was all about and Assistant Principal Gimlin-Wells then stated that she was worried about Ms. Dircksen and wanted the nurse to “check her out”.

21. Ms. Dircksen asked Assistant Principal Gimlin-Wells what she meant by that, to which Assistant Principal Gimlin-Wells replied that she was concerned about her and that she didn’t think Ms. Dircksen’s “eyes were tracking properly”. At this point Ms. Dircksen told Assistant Principal Gimlin-Wells that she wanted to confer with one of the building Boise Education Association (BEA) union representatives about what was going on.
22. District staff assert the nurse returned to the office, was asked by the Assistant Principal to assess Ms. Dircksen’s vital signs and that Ms. Dircksen refused an assessment. Ms. Dircksen adamantly disputes that she met with a nurse or was offered the chance of an assessment by a nurse.

23. Assistant Principal Gimlin-Wells then told Ms. Dircksen to follow her into the main office and to have a seat in a different assistant principal’s office.

24. After waiting for approximately 20 minutes, Ms. Dircksen returned to her room to call a BEA representative. As she was looking for the phone number of the representative, Assistant Principal Gimlin-Wells returned to Ms. Dircksen’s classroom and told her that she needed her badge and keys while handing her an administrative leave letter. She told Ms. Dircksen that she needed to read it and sign it. After handing her the badge and keys, Ms. Dircksen told her that she was in a state of shock and that she wanted a BEA representative to confer with about the situation. Assistant Principal Gimlin-Wells said that that was not possible at the moment. Ms. Dircksen replied that she would not sign a letter until she was able to speak with a BEA representative.

25. Having not read the letter and still unsure of what Assistant Principal Gimlin-Wells was doing, Ms. Dircksen again asked why this was happening and Assistant Principal Gimlin-Wells told her that she suspected Ms. Dircksen was under the influence of drugs or alcohol and was being placed on administrative leave. Ms. Dircksen categorically denied that that was true and asked Assistant Principal Gimlin-Wells for evidence.

26. Ms. Dircksen got up and Assistant Principal Gimlin-Wells followed Ms. Dircksen into the office/storage room and Ms. Dircksen grabbed her book bag and purse that were on a desk in the office.
27. At the door, Assistant Principal Gimlin-Wells asked Ms. Dircksen if she would like someone to give her a ride home, and Ms. Dircksen replied that she did not.

28. Ms. Dircksen then exited the building and Assistant Principal Gimlin-Wells observed her as she drove away.

29. When Ms. Dircksen and Assistant Principal Gimlin-Wells left the classroom, two school employees entered and searched the shared office/storage room. They found three containers of Vendange Chardonnay in a file cabinet in the room.

30. Ms. Dircksen did not return from leave, as she resigned on March 16, 2018.

31. The Executive Committee determined that probable cause exists for initiating an administrative action against Ms. Dircksen for violating the following laws and rule governing teacher certification:

   a. Ms. Dircksen's conduct or course of conduct willfully violated a code of ethics principle, adopted by the Idaho State Board of Education. Idaho Code § 33-1208(1)(j). Specifically, Ms. Dircksen violated 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.").

32. Ms. Dircksen, although not admitting that she violated the laws and rule cited in paragraph 31, acknowledges that there is sufficient evidence to support a finding of a violation of the laws and rule cited in paragraph 31.

B. Stipulated Discipline

33. If this Stipulation is approved by the Commission, Ms. Dircksen's certificates will be suspended for five years. The suspension will be lifted once the five-year suspension has passed, and Ms. Dircksen has otherwise fulfilled the normal, standard requirements for continuing certification.
34. Any costs associated with Ms. Dircksen's compliance with the terms of this Stipulation are her responsibility.

35. During the pendency of this Stipulation, Ms. Dircksen will comply with all laws and rules governing teacher certification in Idaho.

C. Presentation of this Stipulation

36. Once Ms. Dircksen 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.

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

38. If the Commission modifies this Stipulation, it must receive Ms. Dircksen's approval on any modification before the Stipulation is effective.

D. Waiver of Rights

39. If this Stipulation is approved by the Commission, Ms. Dircksen 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.

40. If this Stipulation is approved by the Commission, the Commission may impose the stipulated discipline contained herein upon Ms. Dircksen's certificate without further process.

41. By signing this Stipulation, Ms. Dircksen agrees to waive any requirement for a hearing under Idaho Code § 33-1209(3) to be conducted within 90 days of her request for a hearing.

STIPULATION

Kate Dircksen
This waiver applies to any hearing request made before the Commission ultimately rejects this Stipulation (if it does) or before Ms. Dircksen ultimately rejects a modified stipulation (if Ms. Dircksen does). If the Commission ultimately rejects this Stipulation or if Ms. Dircksen ultimately rejects a modified stipulation, and Ms. Dircksen has requested a hearing, the 90-day hearing timeframe will begin from the ultimate rejection.

E. **General Acknowledgments**

42. This Stipulation contains the entire agreement between the parties, and Ms. Dircksen is not relying on any other agreement or representation, whether verbal or written.

43. 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.

44. Ms. Dircksen agrees that she has read this Stipulation, has had the opportunity to discuss it with legal counsel, if she so chose, and understands that by signing below, she will be agreeing to the terms of this Stipulation.

STIPULATION – 8
Kate Dircksen
SIGNATURES

Respondent

The respondent, Kate Dircksen, agrees to this Stipulation.

DATED this 8th day of November, 2018.

Kate Dircksen
Respondent

Executive Committee

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

DATED this 16th day of November, 2018.

Idaho Professional Standards Commission
Executive Committee

Charlene Mckinney, Member
IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of: Case No. 21811

Kate Dircksen, Respondent

CONSENT ORDER

The Professional Standards Commission orders that the Stipulation, entered between Kate Dircksen 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 14th day of November, 2018. The discipline listed in the Stipulation is imposed on Kate Dircksen’s certificate under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Kate Dircksen has waived the right of judicial review.

IDAHO PROFESSIONAL STANDARDS COMMISSION

[Signature]
Elisa Saffie, Member
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of November, 2018, I caused to be served a true and correct copy of the foregoing by the following method to:

Paul J. Stark
General Counsel, IEA
620 N. 6th St.
Boise, ID 83701

□ U.S. Mail
□ Hand Delivery
☒ Certified Mail, Return Receipt Requested
□ Overnight Mail
□ Facsimile:
□ 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.gottschi@ag.idaho.gov

Annette Schwab
Program Specialist
Idaho State Department of Education

CONSENT ORDER – 2
Kate Direksen