BEFORE THE PROFESSIONAL STANDARDS COMMISSION OF THE STATE OF IDAHO

LISA COLÓN DURHAM,)
CHIEF CERTIFICATION OFFICER,) CASE NO. 21619
Complainant,) ORDER RE: MOTION TO AMEND STIPULATION AND CONSENT
VS.	ORDER
KIRBY YOUNG,)
Respondent))
)

- 1. On June 12, 2020, this matter came before the Professional Standards Commission of the State of Idaho ("PSC") for an administrative hearing. The hearing was conducted to consider the *Motion to Amend Stipulation and Consent Order* filed by Respondent, Kirby Young ("Motion to Amend").
- 2. Based upon the PSC's deliberations and motion granting Respondent's Motion to Amend, the PSC amends the Stipulation as set out below.

PROCEDURAL HISTORY

- 3. The Complainant and Respondent entered into a Stipulation that was fully executed on September 15, 2017 along with a Consent Order dated September 21, 2017.
- 4. On November 8, 2019, Respondent filed a Motion to Amend stating the Stipulation contained an error as the intent of the parties was to impose a five (5) year period of probation with ongoing treatment and testing. However, the Stipulation imposed a six (6) year, nine (9) months, and eighteen (18) day period of probation.
 - 5. On January 9, 2020, Complainant filed a Response to the Motion to Amend.
- 6. On June 12, 2020, an administrative hearing in this matter was conducted before the PSC. The hearing was held through Zoom. During the hearing, Deputy Attorney General KIRBY YOUNG ORDER RE: MOTION TO AMEND STIPULATION AND CONSENT

-1-

ORDER

Robert Berry represented the Complainant. Attorney Paul Stark represented Respondent. Kathy

Davis served as Chair for the PSC. All members of the PSC were present with the exception of

Mary Flores, Peter McPherson and Topher Wallaert. Karen Sheehan, Deputy Attorney General,

served as legal counsel for the PSC.

7. Prior to the hearing, the PSC members were given copies of the *Motion to Amend*,

the Affidavit of Paul Stark in Support of the Motion to Amend, the Respond to the Motion to Amend,

the Declaration of Robert A. Berry and the Exhibits to the Declaration of Robert A. Berry.

8. During the hearing, Paul Stark and Robert Berry argued their client's positions

regarding the Motion to Amend.

9. After argument, the PSC deliberated and a motion was made to grant the Motion to

Amend; the motion received a majority vote of the PSC.

FINAL ORDER

IT IS THE FINAL ORDER of the PSC to amend the Stipulation to remove paragraph 14.a

as currently written and to insert the following:

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 until December 3, 2020. 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.

Dated on this 23 day of June, 2020.

/s/ Kathy Davis

Kathy Davis

Chair Professional Standards Commission

NOTIFICATION OF PROCEDURAL RIGHTS

THIS IS A FINAL ORDER OF THE PROFESSIONAL STANDARDS COMMISSION (PSC). Any party may file a Petition for Reconsideration of this Final Order within fourteen (14) days of its service date. The PSC is required by law to dispose of a Petition for Reconsideration within twenty-one (21) days of its filing or the Petition for Reconsideration will be considered to be denied by operation of law. *See* Idaho Code § 67-5243(3).

Petitions for Reconsideration of this Final Order may be filed by mail addressed to the Professional Standards Commission, Department of Education, Statehouse, Boise, ID 83720-0027, or may be delivered to the Department of Education, Len B. Jordan Building, Room 200, 650 West State Street, Boise, Idaho, and must be received within fourteen (14) days of the service date of this Final Order.

Pursuant to Idaho Code §§ 33-1209(8), 67-5270, and 67-5272, any party aggrieved by this Final Order or by another Order previously entered in this Contested Case may obtain Judicial Review of this Final Order and of all previously issued Orders in this Contested Case by filing a Petition for Judicial Review in the District Court as provided by those sections.

A Petition for Judicial Review must be filed within twenty-eight (28) days of the service date of this Final Order, or, if a Petition for Reconsideration is timely filed, within twenty-eight (28) days of the service date of a decision on the Petition for Reconsideration or denial of the Petition for Reconsideration by operation of law. *See* Idaho Code §§ 67-5246 and 67-5283.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of June, 2020, I caused to be served a true and correct copy of the preceding as follows:

Kirby Young c/o Park Stark Idaho Education Association 620 North Sixth Street Boise, Idaho 83701	☐ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ E-mail: pstark@idahoea.org
Robert Berry, Deputy Attorney General Office of the Attorney General Statehouse Boise, ID 83720-0010	☐ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ E-mail: robert/berry@ag.idaho.gov

/s/ Karen Sheehan

Karen Sheehan Deputy Attorney General PSC Legal Counsel