

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Case No. 21809

Michelle O’Hara-Carnes,

STIPULATION

Respondent.

BACKGROUND

The Professional Standards Commission received an allegation of unethical conduct concerning Michelle O’Hara-Carnes. 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 Michelle O’Hara-Carnes’s certificate. The Executive Committee has recommended the following Stipulation.

STIPULATION

1. This is an agreement (Stipulation) between Michelle O’Hara-Carnes (Ms. O’Hara-Carnes) and the Executive Committee (the Executive Committee) of the Professional Standards Commission (the Commission).

2. If Ms. O’Hara-Carnes 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 **December 7, 2018**, unless she has been granted an extension.

3. After Ms. O’Hara-Carnes 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.

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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. O'Hara-Carnes holds the following certificate and endorsement issued under the authority of the Idaho State Board of Education:
 - a. Alternative Authorization – Content Specialist endorsed Social Studies 6/12, valid for the 2016-17 school year only.
7. Ms. O'Hara-Carnes was employed by the Canyon Owyhee School Service Agency (“COSSA”) for the 2016-2017 school year as a teacher.
8. During the 2016-2017 school year, a COSSA student sent a video of himself receiving oral sex to Ms. O'Hara-Carnes by SnapChat and in the message sent to Ms. O'Hara-Carnes, asked for her comment.
9. SnapChat is a social network allowing individuals to send pictures or video (“snaps”) to their friends. Snaps are deleted once they have been viewed by all recipients. Unopened snaps are deleted after thirty days. Snaps can only be exchanged between individuals who have accepted one another as friends on SnapChat.
10. Ms. O'Hara-Carnes was at work and did not open the Snap until she was done. When she opened the Snap, she saw a thread and opened up the last one, which said ‘I totally did not mean to send that to you, please delete it. I’m so sorry. I’m embarrassed.’”
11. Ms. O'Hara-Carnes responded by asking what he was talking about and the student said he was hungover and sent a picture to everyone but did not want her to see it.

12. Ms. O'Hara-Carnes then proceeded to swipe and delete the Snap, including the video and comments. She did not report receipt of the video or of the conversation, including that the student admitted to being hungover, to school administration.

13. While Ms. O'Hara-Carnes deleted the Snap on her phone, she was later shown the video on someone else's device and acknowledged seeing the video, but failed to report the video to school administration.

14. On another occasion, a male student in her class asked if she would ever go on a date with him; rather than discourage such behavior, Ms. O'Hara-Carnes implied she could consider the option by stating "No, I'm old enough to be your mom. You would have to be graduated and 18 before I even looked twice at you."

15. The Executive Committee determined that probable cause exists for initiating an administrative action against Ms. O'Hara-Carnes for violating the following laws and rule governing teacher certification:

- a. Ms. O'Hara-Carnes's conduct or course of conduct willfully violated a principle of the code of ethics that was adopted by the Idaho State Board of Education. 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"). Specifically, Ms. O'Hara-Carnes violated Code of Ethics Principle II (Idaho Admin. Code r. 08.02.02.076.03) ("A professional educator maintains a professional relationship with all students, both inside and outside the physical and virtual classroom.").

16. Ms. O'Hara-Carnes, although not admitting that she violated the laws and rules cited in paragraph 15 acknowledges that there is sufficient evidence to support a finding of a violation of the laws and rule cited in paragraph 15.

B. STIPULATED DISCIPLINE

17. If this Stipulation is approved by the Commission, the following discipline will be imposed by the Commission on Ms. O'Hara-Carnes's certificate:

- a. The Commission issue and place a letter of reprimand in Ms. O'Hara-Carnes's professional certification file.

18. Any costs associated with Ms. O'Hara-Carnes's compliance with the terms of this Stipulation are her responsibility.

19. During the pendency of this Stipulation, Ms. O'Hara-Carnes will comply with all laws and rules governing teacher certification in Idaho.

C. PRESENTATION OF THIS STIPULATION

20. Once Ms. O'Hara-Carnes 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.

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

22. If the Commission modifies this Stipulation, it must receive Ms. O'Hara-Carnes's approval on any modification before the Stipulation is effective.

E. WAIVER OF RIGHTS

23. If this Stipulation is approved by the Commission, Ms. O'Hara-Carnes 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.

24. If this Stipulation is approved by the Commission, the Commission may impose discipline upon Ms. O'Hara-Carnes's certificate without further process.

25. By signing this Stipulation, Ms. O’Hara-Carnes agrees to waive any requirement for a hearing under Idaho Code § 33-1209(3) to be conducted within 90 days of a request for a hearing. This waiver applies to any hearing request made before the Commission ultimately rejects this Stipulation (if it does) or before Ms. O’Hara-Carnes ultimately rejects a modified stipulation (if Ms. O’Hara-Carnes does). If the Commission ultimately rejects this Stipulation or if Ms. O’Hara-Carnes ultimately rejects a modified stipulation, and Ms. O’Hara-Carnes has requested a hearing, the 90-day hearing timeframe will begin from the ultimate rejection.

F. GENERAL ACKNOWLEDGMENTS

26. This Stipulation contains the entire agreement between the parties, and Ms. O’Hara-Carnes is not relying on any other agreement or representation, whether verbal or written.

27. 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.

28. Ms. O’Hara-Carnes 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.

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SIGNATURES

Respondent

The respondent, Michelle O'Hara-Carnes, agrees to this Stipulation.

DATED this 4TH day of DECEMBER, 2018.




Michelle O'Hara-Carnes
Respondent

Executive Committee

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

DATED this 24 day of January, 2019.

IDAHO PROFESSIONAL STANDARDS COMMISSION
EXECUTIVE COMMITTEE



_____, Member

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificate of:

Michelle O'Hara-Carnes

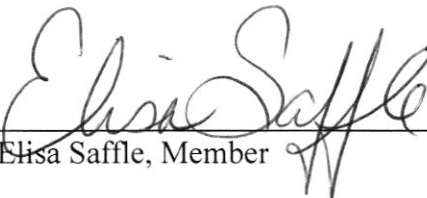
Respondent

Case No. 21809

CONSENT ORDER

The Professional Standards Commission orders that the Stipulation, entered between Michelle O'Hara-Carnes 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 24 day of January, 2019. The discipline listed in the Stipulation is imposed on Michelle O'Hara-Carnes's certificate under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Michelle O'Hara-Carnes has waived the right of judicial review.

IDAHO PROFESSIONAL STANDARDS COMMISSION



Elisa Saffle, Member

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of January, 2019, I caused to be served a true and correct copy of the foregoing by the following method to:

Michelle O'Hara-Carnes

[REDACTED]

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

Michelle O'Hara-Carnes

[REDACTED]

- 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.gottsch@ag.idaho.gov



Annette Schwab
Program Specialist
Idaho State Department of Education



STATE OF IDAHO
PROFESSIONAL STANDARDS COMMISSION
STATE DEPARTMENT OF EDUCATION
PO BOX 83720
BOISE, IDAHO 83720-0027

OFFICE
650 W State Street
PHONE
(208) 332-6884
FAX
(208) 334-2228
SPEECH/HEARING IMPAIRED
(800) 377-3529

RE: Michelle O'Hara-Carnes
Professional Standards Commission Case No. 21809

LETTER OF REPRIMAND

The Professional Standards Commission issues a formal reprimand to Michelle O'Hara-Carnes.

The Executive Committee found that probable cause existed to warrant the filing of an administrative complaint against Ms. O'Hara-Carnes's certificate by the Chief Certification Officer. In lieu of proceeding to hearing, Ms. O'Hara-Carnes stipulated to discipline through this letter of reprimand for failure to maintain a professional relationship with all students by using Snapchat with students, which allowed for students to send inappropriate and sexual communications to Ms. O'Hara-Carnes. Ms. O'Hara-Carnes is hereby reprimanded for such behavior. The Chief Certification Officer is directed to issue and place this letter of reprimand in Ms. O'Hara-Carnes's certification file.

Dated this 28 day of January, 2019.

IDAHO STATE DEPARTMENT OF EDUCATION

Lisa Colon Durham, Chief Certification Officer

c: Robert A. Berry, Attorney for the Chief Certification Officer