

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificates of:) Case No. 22100
)
Andrew Marincic,) **STIPULATION**
)
Respondent.)
_____)

BACKGROUND

The Professional Standards Commission received an allegation of unethical conduct concerning Andrew Marincic. 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 Andrew Marincic’s certificates. The Executive Committee has recommended the following Stipulation.

STIPULATION

1. This is an agreement (Stipulation) between Andrew Marincic (Mr. Marincic) and the Executive Committee (the Executive Committee) of the Professional Standards Commission (the Commission).
2. If Mr. Marincic 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 April 30, 2021, unless he has been granted an extension.
3. After Mr. Marincic 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. Marincic holds the following certificates and endorsements:
 - a. Administrator Certificate with School Principal (Pre-K-12) endorsement – effective September 1, 2020 – valid until August 31, 2025; and
 - b. Standard Instructional Certificate with Exceptional Child Generalist (K-12) – effective September 1, 2020 – valid until August 31, 2025.
7. Mr. Marincic was employed by Emmett School District No. 221 during the 2020-2021 school year and worked as a teacher for the Alternative Instruction Methods System (AIMS) program in a modular unit, located on the Black Canyon Junior-Senior High School campus.
8. The modular unit is not contiguous with other classrooms and administrative offices that are housed in the main school building.
9. There are two primary adjacent rooms within the learning space assigned to the program.
10. The program had been staffed consistently with two paraprofessionals during Mr. Marincic’s previous three years, with enrollment ranging from three to six students.
11. One of the two paraprofessionals assigned to the program resigned in May of 2020.
12. Emmett School District made attempts to fill the missing paraprofessional position, but the position remained vacant when the school year began on August 30, 2020.
13. The remaining paraprofessional assigned to the AIMS program in the fall of 2020 spent approximately fifty percent of her time one-on-one with a student with severe autism, and another thirty percent off site at Black Canyon Junior-Senior High School, Emmett High School, and Payette River Regional Technical Academy.
14. Student behaviors in the AIMS program can be challenging at times.
15. One of the students had ongoing behavioral issues that had been present since the Fall of 2019, most notably aggression toward other students in the AIMS class.

16. This student's behavior began to escalate on October 5, 2020, and continued into the next day.

17. On October 5, 2020, Mr. Marincic informed the student's mother that the student had a hard day, was struggling with his interaction with peers, and name-calling.

18. Mr. Marincic informed the student's mother that he had to move the student back to the Ground Level of the AIMS behavioral interventions program.

19. On October 6, 2020, the student's behavior continued to escalate.

20. Mr. Marincic was without paraprofessional support and did not have the ability to separate the student from other students that he was bullying and name-calling.

21. At a certain point in time, the student was sitting backwards in his chair, facing the other students in the room, and disrupting the learning environment for all students.

22. The other students were becoming increasingly agitated by the student's disruptive behavior.

23. The student was told several times to stop exhibiting such behavior.

24. Mr. Marincic subsequently got in front of the student to direct his attention away from the other students.

25. The student told Mr. Marincic to "Fuck off". Mr. Marincic hoping to distract the student from further disruption and escalating aggression rapped the student on the arm/elbow area. The student then started to cry but continued to swear and spill cereal.

26. The other students then began to call Mr. Marincic names, such as stupid, and told him that he was an idiot.

27. While Mr. Marincic and the Emmett School District entered into a separation agreement, the School District upgraded the AIMS facility by dividing the large classroom into three separate smaller learning spaces with better staffing.

28. The AIMS program now has one teacher, two paraprofessionals, and three external contracted support professionals who provide specialized services to individuals with developmental disabilities and mental illness.

29. Finally, neither the student nor his mother raised a complaint as to Mr. Marincic's conduct on October 6, 2020, or to any other conduct at any other time.

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

a. Mr. Marincic's conduct 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, Mr. Marincic 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.").

31. Mr. Marincic, although not admitting that he violated the laws and rules cited in paragraph 31, acknowledges that there is sufficient evidence to support a finding of a violation of the laws and rules cited in paragraph 31.

B. Stipulated Discipline

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

a. The Commission issue a letter of reprimand.

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

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C. Presentation of this Stipulation

34. Once Mr. Marincic signs this Stipulation and 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.

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

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

D. Waiver of Rights

37. If this Stipulation is approved by the Commission, Mr. Marincic 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.

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

39. By signing this Stipulation, Mr. Marincic 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. Marincic ultimately rejects a modified stipulation (if Mr. Marincic does). If the Commission ultimately rejects this Stipulation or if Mr. Marincic ultimately

rejects a modified stipulation, and Mr. Marincic has requested a hearing, the 90-day hearing timeframe will begin from the ultimate rejection.

E. General Acknowledgments

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

41. 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.

42. Mr. Marincic 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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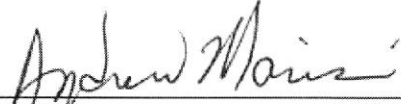
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SIGNATURES

Respondent

The respondent, Andrew Marincic, agrees to this Stipulation.

DATED this 22 day of April, 2021.



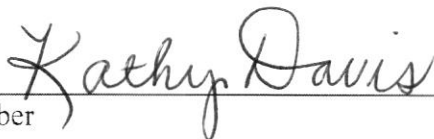
Andrew Marincic
Respondent

Executive Committee

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

DATED this 17 day of June, 2021.

IDAHO PROFESSIONAL STANDARDS
COMMISSION EXECUTIVE COMMITTEE



Member

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificates of:

Andrew Marincic

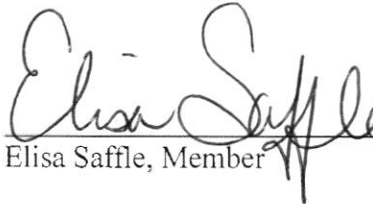
Respondent

Case No. 22100

CONSENT ORDER

The Professional Standards Commission orders that the Stipulation, entered between Andrew Marincic 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 17 day of June, 2021. The discipline listed in the Stipulation is imposed on Andrew Marincic's certificates under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Andrew Marincic has waived the right of judicial review.

IDAHO PROFESSIONAL STANDARDS COMMISSION


Elisa Saffle, Member

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of June, 2021, I caused to be served a true and correct copy of the foregoing by the following method to:

Andrew Marincic, Respondent
C/O Joe Borton
141 E. Carlton Ave.
Meridian, ID 83642

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile:
- Email: Joe@borton-lakey.com

*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: Andrew Marincic
Professional Standards Commission Case No. 22100

LETTER OF REPRIMAND

The Professional Standards Commission issues a formal reprimand to Andrew Marincic.

The Executive Committee found that probable cause existed to warrant the filing of an administrative complaint against Mr. Marincic's certificates by the Chief Certification Officer. In lieu of filing an answer, Mr. Marincic entered into stipulated discipline. The full Professional Standards Commission considered his case and adopted the discipline recommended by the Executive Committee, which was incorporated into the stipulated discipline. Accordingly, while acknowledging the extenuating circumstances surrounding the incident, a letter of reprimand is now issued based upon Ms. Marincic's striking of a student on the elbow, a violation of Code of Ethics Principle II. The Chief Certification Officer is directed to issue and place this letter of reprimand in Mr. Marincic's certification file.

Dated this 22 day of June, 2021.

IDAHO STATE DEPARTMENT OF EDUCATION



Lisa Colon Durham, Chief Certification Officer

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

LETTER OF REPRIMAND -1
Andrew Marincic