

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificates of:

Bryan J. Poole,

Respondent

Case No. 21905

STIPULATION

BACKGROUND

The Professional Standards Commission received an allegation of unethical conduct concerning Bryan J. Poole. 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 Bryan J. Poole's certificates. The Executive Committee has recommended the following Stipulation.

STIPULATION

1. This is an agreement (Stipulation) between Bryan J. Poole (Mr. Poole) and the Executive Committee (the Executive Committee) of the Professional Standards Commission (the Commission).

2. If Mr. Poole 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 or before **April 26, 2019**, unless he has been granted an extension.

3. After Mr. Poole 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
Bryan J. Poole

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. Mr. Poole holds the following certificates and endorsements issued under the authority of the Idaho State Board of Education:
 - a. Standard Elementary with All Subjects (K-8) and Exceptional Child Generalist (K-12) endorsements, effective September 1, 2017, through August 31, 2022.
 - b. Standard Exceptional Child-ABCTE with Exceptional Child Generalist (K-12) endorsement, effective July 31, 2015, through August 31, 2018.
7. Mr. Poole was employed by the Boise School District (“District”) for the 2018-2019 school year at Grace Jordan Elementary School.
8. Approximately two years before the August 28, 2018 incident discussed below, Mr. Poole’s former principal at Grace Jordan informally discussed with Mr. Poole that he should not have a student on his lap.
9. The former principal’s discussion came after a teacher had witnessed Mr. Poole with a student on his lap and complained about such conduct.
10. On the day of August 28, 2018, at approximately 3:00 pm, a para-professional assigned to Mr. Poole’s Resource Room entered the room to retrieve a purse.
11. The para-professional discovered that the door to the room was closed, the lights were out, and Mr. Poole was sitting with a student across his lap watching an educational show on the smart board. The main lights were off to better view the video, but there was a string of lights

on the smart board so the room was not dark. The door was closed, as is normal on every day, so as not to disrupt the library class which is right across the hall, or the front office that is very close to Mr. Poole's room.

12. The para-professional reported that the child was across Mr. Poole's lap "like a baby," and that Mr. Poole was putting the child on an adjacent chair at the same moment when the para-professional entered the room.

13. The para-professional observed that the student was not upset, but was laughing and wriggling.

14. When the para-professional left the room, she stated something to Mr. Poole that she had just needed to grab her purse real quick, to which he responded something to the effect of "It's fine."

15. When asked about the August 28, 2018 incident, Mr. Poole stated that he had just implemented a "Right Response" therapeutic hold as the student had escalated and had not responded to his verbal attempts to calm him down. He further stated that the student was done being upset and had de-escalated when the para-professional came into the room. Mr. Poole contends that he felt that it was safe to release the student from the therapeutic hold and return to normal class time.

16. Mr. Poole did not mention to the para-professional that the student was on his lap as part of Right Response hold.

17. Right Response is used in two frameworks.

18. The first is when escalating behavior is a threat to self or others and included in a Behavior Intervention Plan/Individualized Education Plan.

19. The second is when a student a student is in imminent danger of harming themselves or others.

20. After a hold is used under either framework, District staff are required to go online and fill out an incident report, ideally on the day of the event.

21. Mr. Poole did not go online and fill out an incident report about his use of a Right Response hold.

22. While there is no indication of grooming or inappropriate sexual behavior, Mr. Poole failed to follow appropriate guidelines and fill out the appropriate incident report..

23. Given he was informally instructed by his former Principal that holding a child on his lap is not appropriate two (2) years prior, Mr. Poole's actions and failure to report the incident was in contradiction with those instructions, leaving an impression that he may have encouraged an inappropriate relationship with the student. This was never established and Mr. Poole vehemently denies these contentions.

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

- a. Mr. Poole'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, Mr. Poole 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.").
- b. Mr. Poole'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, Mr. Poole violated Code of Ethics Principle X

(Idaho Admin. Code r. 08.02.02.076.11) (“A professional educator ensures just and equitable treatment for all members of the profession in the exercise of academic freedom, professional rights and responsibilities while following generally recognized professional principles.”).

25. Mr. Poole, although not admitting that he violated the law and rules cited in paragraph 32, acknowledges that there is sufficient evidence to support a finding of a violation of the law and rules cited in paragraph 32.

B. STIPULATED DISCIPLINE

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

- a. The Commission will issue a letter of reprimand and Mr. Poole must take a PSC approved three credits boundaries course that may not be used for renewal purposes.

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

C. PRESENTATION OF THIS STIPULATION

28. Once Mr. Poole 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.

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

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

D. WAIVER OF RIGHTS

31. If this Stipulation is approved by the Commission, Mr. Poole 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.

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

33. By signing this Stipulation, Mr. Poole 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 Mr. Poole ultimately rejects a modified stipulation (if Mr. Poole does). If the Commission ultimately rejects this Stipulation or if Mr. Poole ultimately rejects a modified stipulation, and Mr. Poole has requested a hearing, the 90-day hearing timeframe will begin from the ultimate rejection.

F. GENERAL ACKNOWLEDGMENTS

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

35. 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.

36. Mr. Poole 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.

//

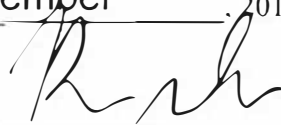
//

SIGNATURES

Respondent

The respondent, Bryan J. Poole, agrees to this Stipulation.

DATED this 12 day of September, 2019.



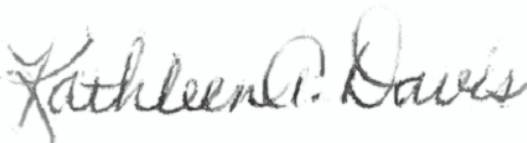
Bryan J. Poole
Respondent

Executive Committee

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

DATED this 14 day of October, 2019.

IDAHO PROFESSIONAL STANDARDS COMMISSION
EXECUTIVE COMMITTEE



Kathleen Davis, Member

IDAHO PROFESSIONAL STANDARDS COMMISSION

In the matter of the certificates of:

Bryan J. Poole

Respondent

Case No. 21905

CONSENT ORDER

The Professional Standards Commission orders that the Stipulation, entered between Bryan J. Poole 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 20 day of ~~June~~^{Sept.}, 2019. The discipline listed in the Stipulation is imposed on Bryan J. Poole's certificates under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Bryan J. Poole has waived the right of judicial review.

IDAHO PROFESSIONAL STANDARDS COMMISSION


Elisa Saffle, Member

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14 day of October, 2019, I caused to be served a true and correct copy of the foregoing by the following method to:

Bryan J. Poole
c/o Paul J. Stark
620 N. 6th St.
Boise, ID 83701

- U.S. Mail
- Hand Delivery
- Certified Mail. Return Receipt Requested
- Overnight Mail
- Facsimile:
- Email: pstark@idahoea.org

*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

650 W State Street
(208) 332-6884
(208) 334-2228
(800) 377-3529

RE: Bryan J. Poole
Professional Standards Commission Case No. 21905

LETTER OF REPRIMAND

The Professional Standards Commission issues a formal reprimand to Bryan J. Poole.

The Executive Committee found that probable cause existed to warrant the filing of an administrative complaint against Mr. Poole's certificates by the Chief Certification Officer. In lieu of filing an answer, Mr. Poole 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, a letter of reprimand is now issued based upon Mr. Poole's failure to exhibit appropriate behavior with a student and having previously been so warned about such behavior in the past, and with such behavior violating of Code of Ethics Principles II and X. Mr. Poole is hereby reprimanded for such behavior. The Chief Certification Officer is directed to issue and place this letter of reprimand in Mr. Poole's certification file.

Dated this 23 day of June, 2019.

IDAHO STATE DEPARTMENT OF EDUCATION

Lisa Colon Durham, Chief Certification Officer

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

CONSENT ORDER – 1
Bryan J. Poole