

**IDAHO PROFESSIONAL STANDARDS COMMISSION**

In the matter of the certificates of:

Jan M. McCarthy,

Respondent

Case No. 22221

**STIPULATION**

**BACKGROUND**

The Professional Standards Commission received an allegation of unethical conduct concerning Jan M. McCarthy. 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 Jan M. McCarthy's certificates. The Executive Committee has recommended the following Stipulation.

**STIPULATION**

1. This is an agreement (Stipulation) between Jan M. McCarthy (Ms. McCarthy) and the Executive Committee (the Executive Committee) of the Professional Standards Commission (the Commission).
2. If Ms. McCarthy 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 October 14, 2022, unless she has been granted an extension.
3. After Ms. McCarthy 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 W. State St. 2<sup>nd</sup> 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 educator certification in Idaho.
6. Ms. McCarthy holds the following certificates and endorsements issued under the authority of the Idaho State Board of Education:
  - a. Pupil Service Staff Certificate with School Counselor (K-12) endorsement, effective September 1, 2020, through August 31, 2025.
  - b. Standard Instructional Certificate with the following endorsements, all of which are effective September 1, 2020, through August 31, 2025:
    - i. Social Studies (6-12);
    - ii. History (6-12);
    - iii. American Government/Political Science (6-12); and
    - iv. Sociology (6-12).
7. Ms. McCarthy was an employee of Pocatello/Chubbuck School District 25 for the for the 2021-2022 school year.
8. Ms. McCarthy had Site Coordinator APEX rights and Infinite Campus rights during the school year, which granted her access to her assigned students, as well as extended rights to other students because of her role as a counselor during summer school.
9. During the 2021-22 school year, Ms. McCarthy's Site Coordinator APEX rights were used to access and alter information on students outside of her classroom roster.

10. During the same year, Ms. McCarthy's Counselor designated rights in Infinite Campus were used to access and alter student records outside of her classroom roster.

11. Ms. McCarthy denies that she is the individual who accessed and altered student information and/or records, but acknowledges that grades/scores of students outside of her classroom roster were changed based on her failure to properly monitor and secure her credentials.

12. Based upon these sets of incidents, Ms. McCarthy was disciplined at the local level and no longer participates in the APEX program. She has since modified the methods with which she maintains the security of credentials for electronic devices and properly secures her electronic devices when not being utilized.

13. The Executive Committee determined that probable cause exists for initiative an administrative action against Ms. McCarthy for violating the following laws and rules governing educator certification:

- a. Ms. McCarthy'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. McCarthy violated Code of Ethics Principle IV Idaho Admin Code r. 08.02.02.076.05 ("A professional educator exemplifies honesty and integrity in the course of professional practice.").

14. Ms. McCarthy denies that that she violated the laws and rules cited in paragraph 13, but acknowledges that there is sufficient evidence to support a finding of a violation of the laws and rules cited in paragraph 13.

## **B. STIPULATED DISCIPLINE**

15. If this Stipulation is approved by the Commission, the following discipline will be imposed by the Commission on Ms. McCarthy's certificates:

- a. A letter of reprimand will be placed in her certification file.
- b. Ms. McCarthy must take a digital citizenship training course that may not be used for renewal purposes.
- c. Ms. McCarthy must take a PSC approved ethics course that may not be used for renewal purposes.

16. Any costs associated with Ms. McCarthy's compliance with the terms of this Stipulation are her responsibility.

17. During the pendency of this Stipulation Ms. McCarthy will comply with all laws and rules governing educator certification in Idaho.

#### **C. PRESENTATION OF THIS STIPULATION**

18. Once Ms. McCarthy 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.

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

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

#### **D. WAIVER OF RIGHTS**

21. If this Stipulation is approved by the Commission, Ms. McCarthy 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.

22. If this Stipulation is approved by the Commission, the Commission may impose discipline upon Ms. McCarthy's certificate without further process.

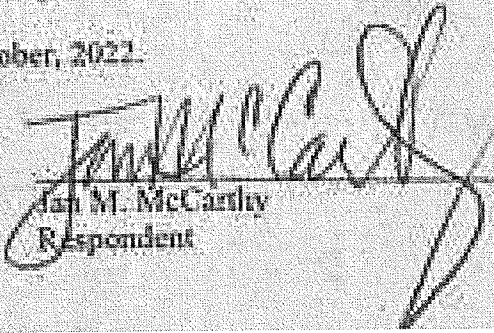
23. By signing this Stipulation, Ms. McCarthy agrees to waive any requirement for a hearing under Idaho Code § 33-1209(3) to be conducted within 90 days of a request for a hearing. This waiver applies to any hearing request made before the Commission ultimately rejects this Stipulation (if it does) or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

#### **E. GENERAL ACKNOWLEDGMENTS**

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

25. 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.

26. Ms. McCarthy 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.

**Respondent**  
The Respondent, Jan M. McCarthy, agrees to this Stipulation.  
DATED this 2<sup>nd</sup> day of October, 2022.  
  
Jan M. McCarthy  
Respondent

**Executive Committee**

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

DATED this 1 day of December, 2022

IDAHO PROFESSIONAL STANDARDS COMMISSION  
EXECUTIVE COMMITTEE

  
Chanel Harming, Member

**IDAHO PROFESSIONAL STANDARDS COMMISSION**

In the matter of the certificates of:

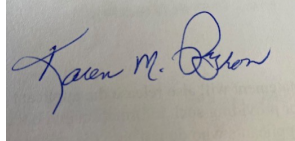
Jan M. McCarthy

Respondent

Case No. 22221  
**CONSENT ORDER**

The Professional Standards Commission orders that the Stipulation, entered between Jan M. McCarthy 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 1st day of December, 2022. The discipline listed in the Stipulation is imposed on Jan M. McCarthy's certificates under Idaho Code §§ 33-1208 and 33-1209. This is a final agency order, and Jan M. McCarthy has waived the right of judicial review.

IDAHO PROFESSIONAL STANDARDS COMMISSION



Karen Pyron, Member

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 8th day of December, 2022, I caused to be served a true and correct copy of the foregoing by the following method to:

Jan M. McCarthy, Respondent  
C/O Shane Reichert  
Idaho Education Association  
PO Box 2638  
Boise, ID 83702

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



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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: Jan M. McCarthy  
Professional Standards Commission Case No. 22221

### LETTER OF REPRIMAND

The Professional Standards Commission issues a formal reprimand to Jan M. McCarthy.

The Executive Committee found that probable cause existed to warrant the filing of an administrative complaint against Jan M. McCarthy's certificates by the Chief Certification Officer. Ms. McCarthy entered into stipulated discipline. The full Professional Standards Commission considered the 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 Ms. McCarthy failing to secure and/or allowing her credentials to be used in a manner that resulted in the alteration of student information and/or records, a violation of Code of Ethics Principle IV. The Chief Certification Officer is directed to issue and place this letter of reprimand in Ms. McCarthy's certification file.

Dated this 7<sup>th</sup> day of December, 2022.

IDAHO STATE DEPARTMENT OF EDUCATION

Bethani Studebaker, Chief Certification Officer

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