



FILED
OSAH

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

SEP 3 2014

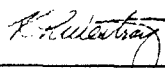
TIMOTHY L. DEVORE,
Educator/Petitioner,

v.

**PROFESSIONAL STANDARDS
COMMISSION,**
Respondent.

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Docket No.:
OSAH-PSC-SAN-1453140-89-Miller


Kevin Westray, Legal Assistant

FINAL DECISION

I. INTRODUCTION

The Petitioner, Timothy L. Devore, appeals a decision by the Professional Standards Commission (“Commission”) to revoke his Georgia teaching certificate based on alleged violations of the Code of Ethics for Educators. The evidentiary hearing took place on July 16, 2014,¹ before the undersigned administrative law judge. The Petitioner appeared *pro se*. The Commission was represented by Senior Assistant Attorney General Rebecca S. Mick.

After consideration of the evidence and the arguments of the parties, and for the reasons stated below, the Commission’s decision to revoke the Petitioner’s Georgia teaching certificate is **AFFIRMED.**

II. FINDINGS OF FACT

1.

The Petitioner presently holds a certificate to teach in the state of Georgia. (Statement of Matters Asserted (“Matters Asserted”) ¶ 1; Petitioner’s Response to Statement of Matters Asserted (“Answer”) ¶ 1.)

¹ The record closed on August 5, 2014, upon receipt of the hearing transcript.

2.

The Petitioner applied for initial certification as a Georgia educator on July 28, 2011. His application was granted, and approximately two years later, on September 6, 2013, he submitted an application to upgrade his teaching certificate to a higher level. On both applications, the Petitioner answered “no” to the following questions:

Have you ever had an adverse action (i.e. warning, reprimand, suspension, revocation, denial, voluntary surrender, disbarment) taken against a professional certificate, license or permit issued by an agency other than the Georgia Professional Standards Commission?

Have you ever left an employment position (retired, resigned, been dismissed, terminated, non-renewed or otherwise) while under investigation?

The Petitioner’s answers to these questions were not truthful. (Matters Asserted ¶ 13; Answer ¶ 3; T. 8, 12; Exhibits R-3, R-4.)

3.

From June 2006 through June 2011, prior to obtaining his Georgia teaching certificate, the Petitioner held a teaching credential in the state of California. During the 2006-07 school year, he was employed as a teacher at Banning High School in Banning, California. In May 2007, the Petitioner was placed on administrative leave during an investigation of allegations that he had engaged in an unprofessional relationship with a female student. Shortly thereafter, the Banning Unified School District rescinded its previous offer of a teaching contract for the 2007-08 school year. The Petitioner did not report this information on either of his applications for a Georgia teaching certificate. (Matters Asserted ¶ 6; Answer ¶ 6; T. 53, 56, 60; Exhibit R-7.)

4.

On March 23, 2010, the California Commission on Teacher Credentialing (“California Commission”) filed an Accusation alleging that the Petitioner had acted unprofessionally during his employment at Banning High School by: (1) failing to attend an after-school volleyball

practice when he was the coach of the team; (2) allowing a female student to be alone with him in a locked classroom during the practice; and (3) emailing the female student and other students after he was placed on administrative leave during the ensuing investigation. On August 30, 2010, the California Commission adopted a Consent Determination and Order whereby the Petitioner waived his right to a hearing on the Accusation and agreed that his California teaching credential would be suspended for sixty days, from July 20, 2010, to September 27, 2010. The Petitioner did not report this information on either of his applications for a Georgia teaching certificate.² (T. 54, 56, 60; Exhibit R-1.)

5.

At the hearing, the Petitioner testified that he completed his 2011 Georgia application very quickly, and that he did not read the questions thoroughly enough to discover that he should have answered “yes” to the questions regarding out-of-state disciplinary actions and employment history. He further testified that when he filled out his 2013 Georgia application, he was compelled to provide the same answers that he had given in 2011, due to his severe obsessive-compulsive disorder. The Petitioner’s testimony, however, was not credible. Rather, the Court finds that he answered the application questions untruthfully because he feared that he would not be granted a teaching certificate in Georgia. (T. 28-29, 55-57; Exhibit R-2.)

6.

In the fall of 2011, the Petitioner was hired as a teacher for the Liberty County School District in Hinesville, Georgia. His employment was terminated on October 6, 2013, when his employer learned that he was under investigation by the Commission. (T. 56-57; Exhibit R-5.)

² The Commission routinely screens applicants for teaching certificates through a national database that reports disciplinary actions in other states. The Commission learned of the California action through the database when the Petitioner submitted his 2013 application. However, it appears that the action had not yet been reported at the time of his 2011 application. (T. 25, 47.)

7.

After completing its investigation, the Commission found probable cause to revoke the Petitioner's Georgia teaching certificate. The Petitioner timely appealed. (OSAH Form 1 and attachments.)

III. CONCLUSIONS OF LAW

1.

The Commission bears the burden of proof in this matter. Ga. Comp. R. & Regs. 616-1-2-.07(1). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

When a contested case is referred to the Office of State Administrative Hearings, the administrative law judge assigned to the case "has all the powers of the referring agency" O.C.G.A. § 50-13-41(b). The evidentiary hearing is *de novo*, and the administrative law judge "shall make an independent determination on the basis of the competent evidence presented at the hearing." Ga. Comp. R. & Regs. 616-1-2-.21(1).

3.

The Commission is the state agency responsible for certifying professional educators in Georgia and establishing standards for the teaching profession. O.C.G.A. § 20-1A-4(5). The Commission is authorized to sanction an educator who has violated the statutes and rules governing the teaching profession, including the standards of performance contained in the Code of Ethics for Educators. O.C.G.A. § 20-2-984.1; see Ga. Comp. R. & Regs. 505-6-.01. Pursuant to O.C.G.A § 20-2-984.5(c):

If the commission finds that there is probable cause for imposing a sanction against the educator, it may recommend any combination of the following:

- (1) That the educator be warned, reprimanded, monitored, or any combination thereof; or
- (2) That the certificate of the educator be suspended, revoked, or denied.

See also Ga. Comp. R. & Regs. 505-6-.01(5). Here, the Commission proposes to sanction the Petitioner's teaching certificate based on alleged violations of Standards 4 and 9 of the Code of Ethics for Educators and the rules governing disciplinary actions imposed by agencies other than the Commission.

4.

Standard 4 of the Code of Ethics for Educators, entitled "Honesty," provides, in pertinent part, as follows:

An educator shall exemplify honesty and integrity in the course of professional practice. Unethical conduct includes[,] but is not limited to, falsifying, misrepresenting, or omitting:

1. . . . employment history;
2. information submitted to federal, state, local school districts and other governmental agencies;
- . . .
6. information submitted in the course of professional practice.

Ga. Comp. R. & Regs. 505-6-.01(3)(d) (eff. Oct. 15, 2009).

5.

The Commission proved, by a preponderance of the evidence and as detailed in the Findings of Fact, above, that the Petitioner violated Standard 4 of the Code of Ethics for Educators when he provided untruthful answers to the questions regarding his employment and disciplinary history on his 2011 and 2013 applications for a Georgia teaching certificate. The Petitioner submitted this false information to the Commission, a state agency, in the course of his professional practice.

6.

Standard 9 of the Code of Ethics for Educators, entitled “Required Reports,” defines unethical conduct as “failure to report all requested information on documents required by the Commission when applying for or renewing any certificate with the Commission” Ga. Comp. R. & Regs. 505-6-.01(3)(i) (eff. Oct. 15, 2009).

7.

The Commission proved, by a preponderance of the evidence and as detailed in the Findings of Fact, above, that the Petitioner failed to report all requested information on his 2011 and 2013 applications for a Georgia teaching certificate, in violation of Standard 9 of the Code of Ethics for Educators.

8.

The Commission has promulgated a rule, entitled “Disciplinary Action,” to address situations where an educator has been sanctioned by a regulatory authority other than the Commission. Under this rule:

Any of the following grounds shall be considered cause for disciplinary action against the holder of a certificate:

...

2. disciplinary action against a certificate in another state on grounds consistent with those specified in the Code of Ethics for Educators . . . ;

...

5. suspension or revocation of any professional license or certificate

Ga. Comp. R. & Regs. 505-6-.01(5)(a) (eff. Oct. 15, 2009).

9.

The Commission proved, by a preponderance of the evidence and as detailed in the Findings of Fact, above, that the Petitioner violated Ga. Comp. R. & Regs. 505-6-.01(5)(a)(2) and (5) by failing to report the suspension of his California teaching credential on his 2011 and

2013 applications for a Georgia teaching certificate. Further, the Petitioner's California credential was suspended on grounds consistent with those specified in the Code of Ethics for Educators. See Ga. Comp. R. & Regs. 505-6-.01(3)(b), (j).

10.

The Commission proposes to revoke the Petitioner's teaching certificate. In weighing this proposal, the Court observes that the Petitioner's California disciplinary action and associated non-renewal of his employment contract, standing alone, would not likely serve as grounds for the revocation of his Georgia certificate. However, by providing false information to the Commission, the Petitioner both prevented the Commission from making an informed decision regarding his fitness for certification and committed additional, serious ethical violations. Therefore, after considering the evidence as a whole, the Court concludes that the Petitioner's conduct warrants the revocation of his Georgia teaching certificate.

IV. DECISION

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Commission's decision to revoke the Petitioner's Georgia teaching certificate is hereby **AFFIRMED**.

SO ORDERED, this 2nd day of September, 2014.



KRISTIN L. MILLER
Administrative Law Judge