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OSAH

MAR 13 2015

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

*Kevin Westray*

Kevin Westray, Legal Assistant

LINDA JEAN QUIGG,	:	
	:	
Educator/Petitioner,	:	Docket No.:
	:	OSAH-PSC-SAN-1458939-108-Baxter
v.	:	
	:	
PROFESSIONAL STANDARDS	:	
COMMISSION,	:	
	:	
Respondent.	:	

**FINAL DECISION**

The Professional Standards Commission (“Respondent” or “Commission”) found probable cause to suspend the Petitioner’s educator certificate for 90 contract days. Petitioner appeals Respondent’s determination. An administrative hearing was held on November 24 and 25, 2015. The record remained open until January 30, 2015, for the parties to submit proposed decisions. After consideration of the evidence and the arguments of the parties, and for the reasons stated below, the Commission’s decision to sanction the Petitioner’s Georgia teaching certificate is **AFFIRMED**. Her certificate, however, shall be suspended for 60 contract days.

**I. Findings of Fact**

**Background**

1.

Petitioner Linda J. Quigg holds an educator’s teaching certificate in Georgia. (Statement of Matters Asserted ¶ 1; Answer ¶ 1.)

2.

Petitioner started her career at the Thomas County School District (“School District”) in Georgia as a teacher. She left the School District for fifteen years and then returned to become the assistant principal at one of the elementary schools. Petitioner was then promoted to the assistant Superintendent of Curriculum and Instruction. In 2007, Petitioner was hired as the School District’s Superintendent of Schools. Based upon her professional history, Petitioner has extensive experience

with the policies and practices of the School District and the State of Georgia's education rules and regulations. (Transcript at ("T-") 439- 440.)

3.

Petitioner's two daughters attended high school in the School District. Petitioner testified that she went out of her way not to use her position as Superintendent to help her daughters and that she was not very involved in their classes. The evidence belies that characterization. Petitioner was, in fact, very involved in her daughters' education, emailing teachers and copying the principal on behalf of her daughters while she was Superintendent to discuss specific grades that her daughters received. (T-478-80; Exhibit ("Ex.") R-23.)

4.

Petitioner served as Superintendent until her contract was non-renewed by the School District effective June 30, 2011. (T-449.)

5.

George Kornegay succeeded Petitioner as Superintendent in July 2011. Petitioner and Kornegay have had a strained relationship going back to at least 2004. After Petitioner's departure, Kornegay discovered that several of Petitioner's prior practices as Superintendent were irregular, and he began an internal investigation. (T-445-47.)

6.

In August 2011, Petitioner filed a discrimination charge against the School District with the Equal Employment Opportunity Commission and subsequently filed a lawsuit against the School District and several board members. (T-449-50; Ex. P-13.)

7.

On February 6, 2012, Kornegay emailed John Grant, the Commission's chief investigator for the ethics division, to request assistance in determining whether specific practices that Kornegay considered to be "irregular" were reportable ethics violations. (T-386; Ex. P-4.)

8.

In February 2012, Grant helped the School District conduct its investigation regarding these specific allegations. At that time, no written complaint had been filed with the Commission and the Commission had not authorized a preliminary investigation. (T-387-88, T-397, T-405-06.)

9.

Based on information gathered during Grant's investigation, Kornegay prepared a complaint against Petitioner, which was dated March 19, 2012, and submitted it to the Commission. (T-389, T-394-95; Ex. P-1.)

10.

On April 12, 2012, the Commission's Educator Ethics Review Committee recommended an investigation of Petitioner to the Commission, and the Commission voted to investigate Petitioner on that same day. (T-403-04; Ex. P-8.)

11.

On July 12, 2012, the Commission found probable cause to suspend Petitioner's educator's certificate for 90 contract days based on its investigation of the allegation of "Conspiring to falsify official documents." (Ex. P-9.)

12.

Petitioner requested a hearing pursuant to which the Commission filed a Statement of Matters Asserted which alleged that Petitioner violated Professional Standards Commission Rules by:

(A) causing the course credit for Marching Band to be changed to Personal Fitness on her daughter's transcript;

(B) causing certain dual-enrollment grades to be omitted from high school transcripts during the 2009-2010 school year; and

(C) taking computer files that included student information.

**CHARGE 1: Personal Fitness Course Credit**

13.

The School District had a practice of allowing the high school's Marching Band course to be used to satisfy the state requirement that students take a Personal Fitness class. Some school personnel were aware that this practice may have violated state regulations. Some of those personnel testified that Petitioner implemented the practice, but their testimony was inconsistent, contradictory, and biased against the Petitioner such that this Court cannot find, based on the evidence presented, that

Petitioner instituted the practice.<sup>1</sup> (T-45, T-149, T-232, T-209, T-452, T-492.)

14.

The high school did not have a consistent method for how this substitution practice was carried out. Sometimes, a counselor who was verifying that a student had satisfied his/her graduation requirements would simply note that the student had taken Marching Band, and consider the requirement to be fulfilled without adding course credits to a transcript. Other times, counselors would ask Lori Piland, the student information clerk, to modify a student's transcript to add an additional course to a student's transcript, giving the student credit for Personal Fitness. (T-159, T-208, T-290.)

15.

Petitioner's daughter, C.Q., took Marching Band when she was a student in the School District. She did not take a Personal Fitness class. Petitioner testified that although she was Superintendent at the time that her daughter C.Q. took Marching Band, she was not aware of whether the Marching Band class met the state's Personal Fitness requirement. (T-51, T-454-57; Ex. R-2.)

16.

After Petitioner was removed as Superintendent, her family moved to Oconee County, and her daughter C.Q. enrolled in school there. When the Oconee County School District received C.Q.'s transcript, they noted that it did not contain a Personal Fitness class, which is required to graduate. (T-332, T-452.)

17.

Petitioner contacted Joe Sharp, the current high school principal and a personal friend, during the summer of 2011 and asked Sharp to "check" on C.Q.'s transcript regarding the Personal Fitness credit. As a result of this request, Sharp instructed Piland to add the Personal Fitness credit to C.Q.'s transcript, which she promptly did. (T-289-90, T-332-33.)

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<sup>1</sup> Frank Delaney, a former principal of the high school, testified that Petitioner discussed allowing such a substitution during a meeting that took place before he retired in 2008. Ken Harper, a former assistant principal of the high school, also testified that Petitioner implemented the substitution right before Delaney retired in either 2007 or 2008. But Harper acknowledged that in an earlier deposition, he testified that the meeting took place in the 1990s. Melissa Rodgers, a counselor at the high school, testified that Petitioner implemented the practice in the fall of 2006. But Rodgers acknowledged that in 2012, she told the PSC investigator that she did not know who told her that Band could be substituted for Personal Fitness and she did not know when she was told of such substitution. Moreover, Delaney, Harper, and Rodgers all had reasons to dislike Petitioner. (T-51, T-190, T-210, T-241-42, T-246-49, T-330, T-492.)

18.

Sharp informed Petitioner that the transcript had been changed. Petitioner did not object to the alteration of the transcript, despite her knowledge that state regulations did not allow Marching Band to substitute for a Personal Fitness credit, and despite her knowledge that her daughter had been given credit for a class that she had not taken. (Ex. R-5.)

**CHARGE 2: Dual Enrollment Courses**

19.

The State of Georgia's Accel Program offers high school students the opportunity to earn credit hours towards a college degree while simultaneously meeting their high school graduation requirements as a "dual enrollment" student. Funded by the Georgia Lottery, the program provides financial assistance for the cost of the college courses. (Ex. R-8.)

20.

State regulations provide that grades from those college classes "shall be placed on high school transcripts and shall be used in computing grade point averages." (Ga. Comp. R. & Regs. 160-4-2-.34(6)(b).)

21.

During the 2009-2010 school year, Petitioner's oldest daughter, K.Q., took dual enrollment classes at two colleges – Southwest Georgia Technical College and Thomas University. The Accel Program paid \$2,920.94 towards K.Q.'s tuition that year.<sup>2</sup> (Exs. R-12 to R-15, R-17, R-18, R-20.)

22.

While Petitioner was Superintendent, the School District's practice regarding the posting of dual enrollment grades on high school transcripts was changed for the 2009-2010 year only. Prior to that year, all grades were posted, as required by state regulations. (T-193-94, T-236.)

23.

In 2009-2010, the School District's Director of Human Resources, Laine Reichert, created a list of the dual enrollment students and their grades with notations indicating which grades should be posted and which should not. The School District used this list for posting grades to students'

transcripts. (T-166-69, T-235; Exs. R-14, R-15.)

24.

Despite the fact that K.Q. was reported to the state as a dual enrollment student and received thousands of dollars in Accel funds that are only available to dual enrollment students, the grades from her college courses were not reported on her high school transcript. That year, K.Q. received the following grades in her college classes: two Bs, four As, and one D. According to the Commission, those grades would have reduced K.Q.'s grade point average if they had been put on her high school transcript. Other students also did not have some or all their grades posted. (T-170, T-225; Exs. R-14, R-15, R-16, R-19, R-20.)

25.

Petitioner testified that when K.Q. got a "D" in algebra, she was "not involved" in how that grade was handled on K.Q.'s high school transcript. This testimony is not credible because it is inconsistent with Petitioner's pattern of significant involvement in her daughter's classes and grades. (T-475, T-478-84; Ex. R-23.)

26.

After hearing the testimony of eleven witnesses over the course of two days, this Court remains confused regarding the School District's policy for recording grades for dual enrollment students during 2009-2010 and the reason for the one-year change. Based on the varied, contradictory, and even internally inconsistent testimony of both Petitioner's and Respondent's witnesses, the School District's past and present employees are similarly confused. In fact, the only thing apparent from the evidence is that the School District had very little understanding of the requirements related to the Accel Program and dual enrollment students.

27.

It appears from the evidence presented that the posting of grades was dependent on the student's SAT score and whether the student needed the class to graduate. In past years, the high school's practice was to only permit students who had scored at least 970 on the SAT and had a minimum

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<sup>2</sup> While there was testimony from the Petitioner that K.Q. took these classes as a "joint enrollment" student, which has different grade reporting requirements and funding opportunities, that testimony was neither credible nor supported by the School District's records. (T-475.)

GPA of 3.0 to participate in the dual-enrollment program.<sup>3</sup> For the 2009-2010 year, the practice was changed to allow students who did not yet have the requisite SAT score to take college classes. Students who failed to subsequently attain the requisite SAT score would not get credit for the college classes on their high school transcripts. K.Q. did not score a 970 or above on the SAT. This decision to allow students to take college classes on a probationary basis was supposedly made in order to give more students the opportunity to take college classes. None of Petitioner's witnesses offered any explanation as to why the School District discontinued the practice after only one year, or why grades for classes that the student did not need to graduate were also not posted. (T-134-35, T-194, T-262-63, T-273-74, T-308-09, T-326-27, T-355-59; Exs. R-9, R-11.)

28.

Wading through the gossip, memory lapses, personal animosities, and questionable credibility, the Court finds that Petitioner was involved in meetings regarding the policy change. The Court does not find Petitioner's testimony credible that she was unaware of the changes in the dual enrollment policy and their effect upon her daughter. The Court does not find it credible that Petitioner, as a school superintendent *and* a parent, would have been ignorant of the state regulations that allowed her daughter to receive several thousand dollars in tuition payments-- payments that Petitioner would have had to make if her daughter had not been classified as a dual enrollment student. The Court, however, does not find, as the Commission contends, that Petitioner was the mastermind behind the change and that Petitioner orchestrated District-wide policy changes to benefit her daughter. Rather, Petitioner appears to have taken advantage of policies that benefited her daughter while ignoring her obligation to comply with the law. (T-273-74, T-459-60, T-464.)

### **CHARGE 3: Destruction & Removal of Computer Files**

29.

When Petitioner was removed from her position as Superintendent, she downloaded all files from her computer and deleted the hard drive. These files included employee evaluations, letters of reprimand, memos, letters, PowerPoint presentations, meeting agendas, and of significant concern,

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<sup>3</sup> Only one witness testified that the requirement was dependent, not on the combined SAT score, but on the specific Math or English portion of the SAT. This testimony seems most credible when compared to the documents, as at least one student received credit for dual enrollment classes related to Math, but not English, implying that the student met the

confidential student information including test scores and ID numbers. (T-469-70.)

30.

Some months later, Petitioner returned the electronic information when requested by the School District. (T-70-71.)

31.

No evidence was presented that Petitioner improperly used the student information or disclosed it to the public.

32.

Petitioner explained that she removed the files as a safety precaution because she did not know who would have access to her computer after she left and she did not want the confidential information on her computer to be shared with someone who should not have had access to it. Her predecessor had done the same and she testified that it is a common practice of superintendents. She understood that the School District had hard copies of some documents and a backup of other documents on the School District's computer server. (T-470-72, T-487.)

33.

Kornegay testified that he did not believe it was a common practice to remove all files from the superintendent's computer. He stated that from a professional standpoint, Petitioner's actions were "irregular." (T-125-26.)

34.

The Court finds that Petitioner's explanation for why she had her computer hard drive deleted was not credible. Her explanation of wanting to protect the confidentiality of the information was inconsistent with her argument that School District employees still had access to all the information because it was contained in backups and paper files. Following Petitioner's logic, her actions accomplished nothing other than causing inconvenience for the new superintendent.

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SAT Math requirement, but not the SAT English requirement. Of course, there could be another explanation, but none of the witnesses provided one. (T-327; Ex. R-14.)



## II. 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).

### **The Commission's Investigation**

2.

As an initial matter, Petitioner contends that the Commission had no authority to recommend a sanction of Petitioner's certificate because the Commission's recommendation was based on an unauthorized investigation. The Court disagrees with Petitioner.

3.

The Commission has authority to begin an investigation after receiving a written request. O.C.G.A. § 20-2-984.3(a). Once a written request is received, the Commission must decide whether to conduct a preliminary investigation within 30 days of the request or seek an extension. O.C.G.A. § 20-2-984.3(b). The Commission has authority during this investigation to issue subpoenas, administer oaths, access criminal records, etc., but is limited in investigating only "the matters asserted in the written complaint . . . ." O.C.G.A. § 20-2-984.4.

4.

Here, the School District began its own investigation, identified the three potential ethics violations as "irregular," emailed the Commission seeking help with the investigation, and received help from the Commission's investigator. The investigator did not rely on any of the authorized powers that are part of a formal Commission investigation, but instead, simply served as additional support to the School District, interviewing relevant employees. Based on its own investigation and that of the Commission's investigator, the School District submitted a written complaint to the Commission documenting the three allegations. Based on this complaint, the Commission authorized a preliminary investigation (the majority of which had already been completed) and ultimately decided to sanction the Petitioner.

5.

Petitioner argues that the failure to follow the procedure (i.e., submit a written complaint and receive Commission authority for an investigation) voids the Commission's proposed sanction and violates

due process. The Court has concerns about the procedures that were followed prior to the complaint's submittal, including the fact that Kornegay and several School District employees had an acrimonious relationship with Petitioner and that the School District was in litigation with the Petitioner over her termination while it was investigating her for ethics violations. This Court, however, disagrees that this irregularity voids the Commission's ability to sanction Petitioner's certificate. Georgia law provides that "substantial compliance with any statutory requirement, especially on the part of public officers, shall be deemed and held sufficient, and no proceeding shall be declared void for want of such compliance, unless expressly so provided by law." O.C.G.A. § 1-3-1(c). Here, Kornegay, the current School District Superintendent, requested help with his investigation and then submitted a written complaint to the Commission based on his investigation. The Commission continued the investigation and then recommended a sanction. Petitioner received appropriate notice of the proposed sanction, retained her teaching certificate,<sup>4</sup> and then received a fair and impartial hearing from this Court. Thus, the Commission substantially complied with the statutory requirements. Further, there is no evidence that the School District's use of a Commission investigator prejudiced or harmed Petitioner in any way. Grayden v. Rhodes, 345 F.3d 1225, 1232 (11th Cir. 2003) (requiring (1) deprivation of constitutionally-protected liberty or property interest; (2) state action; and (3) constitutionally-inadequate process for denial of procedural due process). Accordingly, the Court finds that the procedures followed do not void the proposed sanction or violate Petitioner's due-process rights.

### **Code of Ethics Allegations**

6.

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. The Commission has adopted a Code of Ethics for Educators that defines acceptable professional behavior of Georgia educators and serves as a guide to ethical conduct.

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<sup>4</sup>The Commission has not yet taken any action that impairs or deprives Petitioner of a property interest. Rather, the Commission has only made a probable cause finding and recommended a sanction. The imposition of a sanction will not occur unless and until this Court issues its decision.

7.

The Commission alleges that Petitioner violated Professional Standards Commission Rule 505-6-.01(3)(d). Standard 4 of the Code of Ethics for Educators, entitled "Honesty," requires Georgia educators to "exemplify honesty and integrity in the course of professional practice." Unethical conduct includes "falsifying, misrepresenting or omitting . . . information submitted to federal, state, local school districts and other governmental agencies." Ga. Comp. R. & Regs. 505-6-.01(3)(d). The preponderance of the evidence demonstrates that Petitioner violated Standard 4 when she requested that her daughter's transcript be altered to show credit for a course that she had not taken, in violation of state regulations, and allowed that falsified transcript to be submitted to the Oconee County School System. Further, the evidence demonstrates that Petitioner was aware that the School District implemented a practice that allowed dual enrollment courses to be treated in a manner that violated state rules and regulations. Specifically, she allowed the School District to report students as dual enrollment for funding purposes, knowing that the students' grades would not be recorded as required. As superintendent, Petitioner should have been aware that these practices violated state rules and regulations. These actions violate Standard 4.

8.

As part of the Standard 4 violation, the Commission also alleges that Petitioner created the practice of allowing Marching Band to satisfy the graduation requirement for Personal Fitness and that Petitioner created the 2009-2010 dual enrollment practice. The evidence presented did not support these more serious allegations.

9.

Respondent also charges that Petitioner violated Professional Standards Commission Rule 505-6-.01(3)(j). Standard 10, entitled "Professional Conduct," requires educators to "demonstrate conduct that follows generally recognized professional standards and preserves the dignity and integrity of the teaching profession." The Respondent carried its burden of proof as to the assertion that Petitioner allowed a one-year change in the practice of posting dual enrollment grades that violated Georgia rules and regulations; that Petitioner benefitted financially from this change; that Petitioner's use of Accel funds violated the rules of the Accel Program; that Petitioner's daughter benefitted from this change; and that Petitioner's copying of files from her computer followed by the deleting of the computer hard drive was unprofessional behavior and not the regular practice of an outgoing school

superintendent. Therefore, the Court finds that Petitioner violated Standard 10.

10.

If an educator violates the Code of Ethics, disciplinary sanctions may include revocation of an educator's certificate, suspension of a certificate for a period of time, reprimand, warning or monitoring. O.C.G.A § 20-2-984.5(c); Ga. Comp. R. & Regs. 505-6-.01(5)(a)(2).

11.

The Commission proposes to suspend the Petitioner's teaching certificate for a period of 90 contract days. Given that the Commission failed to prove all of its allegations in this matter, the Court finds that a period of 60 contract days to be more suitable to the proven allegations.

### **III. Decision**

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Commission's decision to sanction the Petitioner's Georgia teaching certificate is hereby **AFFIRMED**. The proposed sanction, however, is **MODIFIED**, and the Petitioner's certificate shall be suspended for 60 contract days. The Petitioner shall be given retroactive credit for any period of time after (insert date here) that she has neither worked nor been paid as an educator, so long as she provides adequate proof of such unpaid leave and/or suspension to the Commission in a manner consistent with the Commission's policies and procedures.

**SO ORDERED**, this 12th day of March, 2015.



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**AMANDA C. BAXTER**  
**Administrative Law Judge**