

OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA

DARRELL ROUNDTREE,  
Educator/Petitioner,

v.

PROFESSIONAL STANDARDS  
COMMISSION,  
Respondent.

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Docket No.: OSAH-PSC-SAN-1617917-44-  
Walker

Agency Reference: 14-6-1063



JAN 21 2016

FINAL DECISION

I. Introduction

*Kevin Westray*  
Kevin Westray, Legal Assistant

Respondent, Professional Standards Commission (also the “Commission”), asserts that Petitioner has violated the Code of Ethics for Educators and seeks revocation of Petitioner’s educator’s certificate. An administrative hearing was held on December 1, 2015 and the record closed on December 22, 2015. Petitioner appeared pro se. The Commission was represented by Jennifer Colangelo, Assistant Attorney General.

II. Findings of Fact

1.

Petitioner currently holds an educator’s certificate in the State of Georgia. (Statement of Matters Asserted ¶ 1; Exhibit R-1).

2.

On October 13, 2015, the Commission issued a Statement of Matters Asserted stating that the Commission had found probable cause that Petitioner had violated the laws, rules and regulations of the Georgia Department of Education and the Commission regarding Honesty and Required Reports. The Commission seeks revocation of Petitioner’s educator’s certificate. (Statement of Matters Asserted ¶¶ 5, 6).

**A. Florida Educator's Certificate**

3.

Petitioner currently teaches third grade at Fairington Elementary School in DeKalb County, Georgia. (Transcript at pp. 18-19, 24-25 (hereinafter "T-"); Exhibit R-1). Prior to teaching in Georgia, Petitioner held an educator's certificate issued by the State of Florida.

4.

On May 30, 2006, the Commissioner of Education for the State of Florida executed an administrative complaint against the Respondent, charging that he had "violated the Principles of Professional Conduct for the Education Profession as denoted in the state rules." (Exhibit R-2, Recommended Order, filed Mar. 9, 2009, at 8). The complaint alleged that Petitioner had taken nude or partially nude pictures of males and posted the pictures on a website purporting to be a modeling and escort business, and also had used a school-board-issued computer to access inappropriate websites of a sexual or pornographic nature. (Exhibit R-2, Recommended Order, filed Mar. 9, 2009, at 2).

5.

Petitioner had been teaching in Broward County, Florida, but resigned from Broward County Public Schools prior to the issuance of the complaint "because of the embarrassment, the defamation of my character, and my full denial of all allegations that were never proven." (T-21). From October 2005 to April 2009, he worked as a teacher for Miami-Dade County Public Schools, also in Florida. (Exhibits P-1; R-2).

6.

Approximately three years after the Commissioner of Education for the State of Florida executed the administrative complaint, on January 14, 2009, the Florida Division of

Administrative Hearings (“Florida DOAH”) held a hearing regarding the allegations made in the complaint. (Exhibit R-2, Recommended Order, filed Mar. 9, 2009, at 1-2).

7.

Petitioner appeared and testified at the administrative hearing. (Exhibit R-2, Recommended Order, filed Mar. 9, 2009, at 2; T-28). On January 30, 2009, approximately two weeks after the administrative hearing, Petitioner filed a “Final Closing Statement” with the Florida DOAH. (Exhibit R-2, Recommended Order, filed Mar. 9, 2009, at 3; T-29).

8.

On March 5, 2009, the Florida DOAH recommended that the Florida Education Practices Commission (the “Florida Commission”) enter a final order “permanently revoking the [Petitioner’s] teaching certificate” (hereinafter “Recommended Order”). (Exhibit R-2, Recommended Order, filed Mar. 9, 2009, at 11-12).

9.

The Florida DOAH sent its Recommended Order to Petitioner on or about March 5, 2009.<sup>1</sup> (Exhibit R-2, Recommended Order, filed Mar. 9, 2009, at 12-13). On March 9, 2009, the Florida DOAH also sent Petitioner a copy of the Florida Commissioner of Education’s “Motion to Clarify or Enhance the Recommended Penalty.” (Exhibit R-2, Petitioner’s Motion to Clarify or Enhance the Recommended Penalty, filed Mar. 9, 2009, at 1, 7).

10.

On April 24, 2009, approximately six weeks after the Florida DOAH issued the Recommended Order, Petitioner left his position as a teacher with Miami-Dade County Public Schools in Florida. (Exhibit P-1).

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<sup>1</sup> The certified documents in Exhibit R-2 redacted Petitioner’s mailing address.

11.

The Florida Commission issued a final order (hereinafter “Final Order”) revoking Petitioner’s Florida educator’s certificate on June 2, 2009. The Final Order permanently barred Petitioner from applying for another Florida educator’s certificate. (Exhibit R-2, Final Order, filed Jun. 5, 2009). The Florida Commission served Petitioner with the Final Order via certified mail on June 5, 2009. (Exhibit R-2, Final Order, filed Jun. 5, 2009; T-15, 17).

**B. Georgia Educator’s Certificate**

12.

After Petitioner left his position as a teacher with the Miami-Dade County Public Schools, he moved to Georgia. In June of 2009 the DeKalb County School System hired Petitioner to teach third grade at Fairington Elementary School. (T-23-24, 33-34). He has taught at Fairington Elementary since 2009. (T-24-25).

13.

Petitioner submitted four applications to the Commission with regard to acquiring a Georgia educator’s certificate. (Exhibit R-1). His initial application, submitted on July 22, 2009, requested an “initial GA certificate for educators who have never previously held any type of certificate in GA.” (Exhibit R-1, Application dated Jul. 22, 2009, at 1, 3). His three subsequent applications requested the following: a conversion from a non-renewable certificate (November 12, 2010); an upgrade to a higher certificate level (April 25, 2014); and a certificate renewal (April 29, 2015). (Exhibit R-1, Application dated Nov. 12, 2010, at 1, 3; Application dated Apr. 25, 2014, at 1, 3; & Application dated Apr. 29, 2015, at 1, 3) (together the “applications”).

14.

Each of Petitioner's applications contained a section entitled "Personal Affirmation," which included the following instruction: "The applicant should enter a truthful 'Yes' or 'No' response to each of the following questions. 'YES' responses require an attached explanation and any additional supporting documentation." In all four of Petitioner's applications, he responded "no" to the following questions:

1. 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?**
2. Are you currently the subject of an investigation involving a violation of a profession's laws, rules, standards or Code of Ethics by an agency **OTHER THAN the Georgia Professional Standards Commission?**

(Exhibit R-1; T-15-16, 19-20).

15.

Petitioner signed the applications, affirming that all of the information provided was "true and correct." (Exhibit R-1).

16.

After searching a national database, the Commission learned that the Florida Commission had revoked Petitioner's educator's certificate and permanently barred him from reapplying for a certificate. The Commission now seeks revocation of Petitioner's Georgia educator's certificate. It charges that Petitioner violated ethical standards regarding Honesty and Required Reports because he failed to disclose either the investigation or adverse action taken with regard to his educator's certificate in Florida. (Statement of Matters Asserted ¶¶ 5, 6; T-14).

17.

Although Petitioner understood that the Florida DOAH hearing's purpose was to determine whether his educator's certificate would be revoked, and DOAH recommended revocation of his certificate, Petitioner testified that he did not believe that the Florida Commission would take any adverse action because the allegations in the complaint were not true. (T-34).

18.

Petitioner also denied receiving a copy of the Final Order. According to Petitioner, the Florida Commission issued the Final Order after he had moved to Georgia. Although he filed a forwarding address with the postal service, he "didn't go to any professional standards or anything" with regard to his new mailing address. (T-34). The undersigned does not find Petitioner's testimony regarding the revocation of his educator's license convincing.

19.

According to Petitioner, he answered "no" to the question on the applications regarding whether he was the subject of a current investigation because all of the allegations were "definitely false because there was really no proof, [and] all of it was hearsay." (T-30). Despite his claims that the allegations were false, Petitioner conceded that the hearing before the Florida DOAH on January 14, 2009, would have qualified as an "investigation." (T-28, 37-38).

20.

Petitioner maintains he is a good teacher and has a positive impact in the classroom. In the past ten years Petitioner has not received any negative evaluations, has "never been

reprimanded as a teacher,” and has received merit pay for student performance in the classroom. (T-25, 26).<sup>2</sup>

### III. CONCLUSIONS OF LAW

1.

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

2.

The Professional Standards Commission is the Georgia agency responsible for the certification of educators in Georgia. See O.C.G.A. § 20-2-984(a). The Commission has adopted the Code of Ethics for Educators that guides the professional behavior of educators in Georgia, and is authorized to sanction an educator who has violated the standards of performance contained therein. O.C.G.A. § 20-2-984.1; see also Ga. Comp. R. & Regs. r. 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.

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<sup>2</sup> Petitioner proffered to the Court three reference forms submitted to the DeKalb County School System in 2009 by employees at the Linda Lentin K-8 Center in Miami, Florida. All three reference forms gave Petitioner ten points out of ten for an “Excellent” overall evaluation. The reference forms indicated that Petitioner was “an innovative teacher with great leadership qualities,” a “team player” who “loves his job,” and a “very competent person.” (Exhibit P-2).

See also Ga. Comp. R. & Regs. r. 505-6-.01(5). In this case, Respondent recommends that Petitioner's educator's certificate be revoked.

**A. Revocation of Out-of-State Professional Certificate**

3.

The Commission is authorized to suspend, revoke, or deny certificates, or commit any other disciplinary action based upon the "suspension or revocation of any professional license or certificate." Ga. Comp. R. & Regs. r. 505-6-.01(5)(a)(5).

4.

The Commission has presented undisputed evidence that the Florida Commission revoked Petitioner's educator's certificate in June of 2009. Whether or not Petitioner knew about the revocation, the Commission has proven by a preponderance of the evidence that pursuant to Ga. Comp. R. & Regs. r. 505-6-.01(5)(a)(5) it is authorized to revoke Petitioner's Georgia educator's certificate.<sup>3</sup>

**B. Honesty & Required Reports**

5.

Standard 4 of the Code of Ethics for Educators states in relevant part:

Standard 4: **Honesty** - 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:

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<sup>3</sup> In the Statement of Matters Asserted, Respondent also sought revocation pursuant to Ga. Comp. R. & Regs. r. 505-6-.01(5)(a)(2), which authorizes the Commission to revoke a certificate based on a "disciplinary action against a certificate in another state on grounds consistent with those specified in the Code of Ethics for Educators." (Statement of Matters Asserted ¶ 6). However, during the hearing, Respondent informed the Court that it was not proceeding on the actual events underlying the revocation of Petitioner's Florida certificate. (T-41). The Court therefore declines to address this issue.



1. professional qualifications, criminal history, college or staff development credit and/or degrees, academic award, and 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. r. 505-6-.01(3)(d).

6.

Standard 9 of the Code of Ethics for Educators states in relevant part:

Standard 9: **Required Reports** - An educator shall file reports of a breach of one or more of the standards in the Code of Ethics for Educators, child abuse (O.C.G.A. §19-7-5), or any other required report. Unethical conduct includes but is not limited to:

1. 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. r. 505-6-.01(3)(i).

7.

Respondent has proven by a preponderance of the evidence that Petitioner violated Standards 4 and 9 of the Code of Ethics for Educators. By the time Petitioner filed his initial application for a Georgia educator's certificate on July 22, 2009, more than a month had passed since he had been served with the Final Order revoking his Florida educator's certificate. Nonetheless, he answered "no" on his application as to whether an adverse action had ever been taken against a professional certificate. Furthermore, on his subsequent applications for Georgia certificates in 2010, 2014, and 2015, Respondent gave the same response. In not disclosing the Florida Commission's revocation, Petitioner failed to exemplify honesty and integrity and to

report all requested information when applying for his Georgia certificate, in violation of Ga. Comp. R. & Regs. r. 505-6-.01(3)(d), (i).<sup>4</sup>

8.

Petitioner's assertion that he never received notification that the Florida Commission had revoked his educator's certificate is not believable. He actively participated in the 2009 Florida DOAH hearing, even submitting post-hearing briefing. The Florida DOAH's initial recommendation for revocation was sent to Petitioner in March 2009, before he left for Georgia. After he moved from Florida to Georgia, Petitioner submitted a forwarding address to the postal service. There was no credible evidence presented at the hearing that Petitioner was not receiving forwarded mail.

9.

Even assuming, *arguendo*, that Petitioner did not know that his educator's certificate had been revoked, if, as Petitioner maintains he believed, the Florida Commission had not issued its Final Order, then Petitioner would still have been the subject of a current investigation. Accordingly, even if Petitioner's claim that he had no knowledge that his Florida educator's

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<sup>4</sup> Respondent also argued during the hearing that Petitioner failed to indicate on his initial 2009 application that he had a Florida educator's certificate. A review of that application shows that Petitioner wrote "N/A" in the box designated for such information. (See Exhibit R-1, Application filed Jul. 22, 2009, at 2). Petitioner testified that he was not sure why he had put "N/A" on the application. (T. 34). While the "N/A" is misleading, a review of the evidence suggests that Petitioner may have submitted a copy of his Florida certificate to the Commission in 2009. The fax cover sheet for the 2009 application, which was created by a representative of the DeKalb County School System, states that Petitioner was requesting a "First Georgia Certificate – Out-of-state certificate (issue a Non-Renewable if appropriate)." Also, in the fax sheet's checklist for documents needed to complete the transaction, the DeKalb administrator checked off "Out of State Certificate Copy." No attachments were included with the copy of the application submitted to this Court. (See Exhibit R-1). The possibility that Petitioner at least believed in good faith that he had submitted a copy of his Florida certificate to the Commission is further supported by Petitioner's 2010 application, in which he wrote that he had a Florida Professional Educator's Certificate that was valid from July 2006 to June 30, 2011, and that the certificate was "on file & Attached." (See Exhibit R-1, Application filed Nov. 12, 2010; see also Exhibit P-3). Again, the copy of the application provided to this Court did not include any attachments. Likewise, Petitioner indicated on his 2014 application that his out-of-state certificate was "on file." (See Exhibit R-1, Application filed Apr. 25, 2014). In light of this uncertainty, Respondent has not proven by a preponderance that Petitioner was dishonest in reporting that he had a Florida educator's certificate.

certificate had been revoked was plausible, he would have been obligated to disclose that he was the subject of an investigation being conducted by the Florida Commission.

#### IV. DECISION

The Code of Ethics for Educators has been designed to protect the health, safety and general welfare of students in Georgia, and to assure the citizens of Georgia a degree of accountability within the education profession. In furtherance of these objectives, the Code of Ethics requires Georgia educators to exemplify honesty and integrity. Despite Petitioner's insistence that the allegations in Florida that led to revocation of his educator's certificate were untrue, the truth or falsity of these allegations is not at issue. Regardless of the underlying reasons for the Florida Commission's revocation, Petitioner's repeated failure to disclose the revocation in his applications provides a basis for revocation of his educator's certificate in Georgia. Even if Petitioner had not been dishonest, the Commission is authorized to revoke an educator's certificate based solely upon the "suspension or revocation of any professional license or certificate." Ga. Comp. R. & Regs. r. 505-6-.01(5)(a)(5). The evidence is undisputed that the Florida Commission revoked Petitioner's certification. In accordance with the foregoing findings of fact and conclusions of law, the undersigned concludes that Petitioner's conduct did violate the Code of Ethics for Educators and Petitioner's appeal is **DENIED**. The Commission's recommendation is **AFFIRMED**.

SO ORDERED, this 21<sup>st</sup> day of January, 2016.



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**RONIT WALKER**  
Administrative Law Judge