

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

TONIA YVONNE MASON,
Educator/Petitioner,

v.

**PROFESSIONAL STANDARDS
COMMISSION,**
Respondent.

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Docket No.:
OSAH-PSC-SAN-1638782-121-Howells



JUN 28 2016

FINAL DECISION

I. Introduction

Kevin Wesley Long
Kevin Wesley Long, ALJ

The Petitioner, Tonia Yvonne Mason, appeals a decision by the Professional Standards Commission (“Commission”) to suspend her Georgia teaching certificate based on alleged violations of the Code of Ethics for Educators. The undersigned administrative law judge (“ALJ”) of the Office of State Administrative Hearings conducted a *de novo* evidentiary hearing on May 23, 2016,¹ pursuant to O.C.G.A. §§ 20-2-984.5(d), 50-13-41, and 50-13-13. Petitioner was represented by John Long, Esq. The Commission was represented by Brittanie Browning, Assistant Attorney General.

After consideration of the evidence and the arguments of the parties, and for the reasons stated below, the Commission’s decision to sanction Petitioner’s Georgia teaching certificate is **AFFIRMED in part and MODIFIED in part**. Petitioner’s teaching certificate shall be **SUSPENDED** for a period of one year.

¹ The record closed on June 13, 2016, upon receipt of the hearing transcript.

II. Findings of Fact

1.

Petitioner holds a teaching certificate in the State of Georgia, and held such certificate at all times relevant to the events at issue. (Statement of Matters Asserted ¶ 1; Response to Statement of Matters Asserted ¶ 1.)

2.

Petitioner was the principal at Lucy Laney High School (“Laney High School”) from 2010 until 2014. (Tr. 263.) During her time there, test scores improved and disciplinary actions decreased. (Tr. 135.)

Alumni Event

3.

The previous principal of Lucy Laney High School obtained a School Improvement Grant in the amount of \$1.2 million. (Tr. 264.) The grant included a community involvement component. (Tr. 272.) In January of 2014, Petitioner met with Laney alumnus Christy Rhinehart-Cunningham to plan an alumni event. The purpose of the event was to try to bring the various Laney alumni groups together into one cohesive alumni group, and to encourage community involvement. (Tr. 269-73.) The event was to be held on March 8, 2014, at 6:00 p.m., in the school gym. (Tr. 116, 274.)

4.

In or around February 2014, Petitioner contacted Molry Durham to cater the alumni event. Petitioner submitted a requisition to Laney’s bookkeeper, Leslie Tilley, and asked Ms. Durham to submit an invoice. (Tr. 63, 273-75.) At some point prior to the date of the event, Ms. Durham called Petitioner to tell her that she had not received a check for the catering. (Tr. 274.)

When Petitioner asked Ms. Tilley whether she sent Ms. Durham a check, Ms. Tilley told her that she had not and that she could not find the invoice. (Tr. 275.) On March 7, 2014, Petitioner completed a second Payment Authorization Form. (Tr. 20, 275.) Petitioner told Ms. Tilley to write a check to Ms. Durham for the catering of the alumni event. (Tr. 19-20.) Ms. Tilley told Petitioner that she could not write the check because the check had to be issued by the board of education so that an I-9 could be issued and any taxes could be deducted. (Tr. 19, 25-26.) Petitioner insisted that Ms. Tilley write the check and directed that she take the funds out of the Wildcats athletic fund. She further told Ms. Tilley that Ms. Golatt, the guidance counselor would sign the paperwork as the requester. (Tr. 20-21; Exhibit R-4.) Ms. Tilley ultimately relented and wrote the check. (Tr. 20.)

5.

On March 8, 2016, when Ms. Durham arrived at the school to deliver the food for the event, she was unable to gain access to the gym. (Tr. 278.) She called Petitioner, who was out of town, to explain that the gate was locked and she could not get into the gym. (*Id.*) Petitioner then contacted the coach who was supposed to leave the gym open. (*Id.*) The coach purportedly told Petitioner that he forgot to leave the gym open. (*Id.*) Petitioner then contacted Ms. Rhinehart-Cunningham to ask if she could take over the meeting. (*Id.*) She also asked Ms. Rhinehart-Cunningham if the meeting could be moved. Ms. Rhinehart-Cunningham suggested moving the meeting to the library and Petitioner agreed that the meeting should be moved to the library. (Tr. 110, 278.) Petitioner then called Ms. Durham and explained that the meeting was going to take place at the library. (Tr. 279.) Ms. Durham asked Petitioner what she should do with all the food.² (Tr. 60, 279.) Petitioner told Ms. Durham that she could not take the food, because she was out of town. (Tr. 61.) Ultimately, Petitioner told Ms. Durham that she had been

² Food is not allowed at the library. (Tr. 278-79.)

invited to a party and that Ms. Durham could take the food to the party.³ (Tr. 61-62, 86-87, 279.) Petitioner provided Ms. Durham with an address located somewhere off of Tobacco Road, and Ms. Durham delivered the food to a man at that address. (Tr. 60-62.)

6.

Only four or five people attended the alumni event at the library.⁴ (Tr. 223-24, 227; Exhibit R-7.) Petitioner did not attend the alumni event, nor did she attend the party where the food was ultimately sent.⁵ (Tr. 280, 311-12, 314.)

7.

Carl Spivey is the former Deputy Superintendent of the Richmond County School System. (Tr. 124.) Sometime after the alumni event, Ms. Tilley notified Mr. Spivey of her concerns regarding the check for catering the alumni event and Petitioner's time away from school. (Tr. 143; Exhibit R-2.) Thereafter, as part of an investigation, Mr. Spivey met with Petitioner to discuss the alumni event. (Tr. 126-27.) Petitioner told Mr. Spivey that the alumni event took place at one of the gymnasiums at Laney High School. (Tr. 127.) On March 24, 2014, Mr. Spivey asked Petitioner to send him the "names of those alumni that attended the

³ At the hearing, Ms. Durham testified that Petitioner initially told her to take the food to Goodwill. (Tr. 60.) The undersigned did not find this testimony to be credible. John Grant is the Chief Investigator and Assistant Director of the Ethics Division of the Commission. During the investigation of this matter by the Commission, which occurred closer in time to the alumni event, Mr. Grant interviewed Ms. Durham. (Tr. 82-87.) At that time, Ms. Durham said nothing about Petitioner telling her to take the food to Goodwill or a homeless shelter. (*Id.*; Exhibit R-12.) Accordingly, the undersigned credits Ms. Durham's earlier recollection of the events over her seemingly embellished recollection at the time of the hearing.

⁴ Most of the individuals who RSVP'd and whose names appear on the sign-in sheet are Laney Alumni. (Tr. 115-16, 286-88.)

⁵ Petitioner testified that she initially intended to attend the alumni event; however, she was at an interview in Dallas, Georgia. (Tr. 311-12.) The alumni event had been planned two months in advance. (Tr. 311.) Petitioner testified that she received notice of the interview the Monday before the actual interview date. (Tr. 311-12.) Petitioner presented no evidence that she made contingency plans to have someone else receive the food and ensure that the alumni event was a success, in the event she was not able to make it back to Augusta in time. In fact, it appears that she made no such contingency plans. She testified that she called one of the alumni after she received the phone call from Ms. Durham stating that she could not get into the gym. (Tr. 278.)

alumni function held at the LCL gym on Friday March 7 (sic).” (Exhibit R-5; Tr. 129-30.) In response, on March 25, 2014, Petitioner sent Mr. Spivey the following list of names via email:

Troy Williams
Thomas Givens
Alonzo Ruffin
Angela Gathings
Cleo Greene
David Frost
Delvin Robinson
Floretha Williams
Freda Jenkins
Jennifer Craig
Johnathan Bell
Crystille Patterson
Tonia Mason

(Exhibit R-5.) In the email, Petitioner did not explain that she did not actually attend the event, nor did she explain that the event did not take place at the gym. (*Id.*) Mr. Spivey checked the video footage from the day of the event and he observed no cars in the parking lot. (Tr. 128.) When Mr. Spivey offered to contact the people who purportedly attended the event and told Petitioner that he had checked the video footage, she admitted that the event did not take place. (Tr. 127-130, 154-55.)

8.

In an email dated March 25, 2014, Petitioner stated that she requested a check in the amount of \$275.00 from Ms. Tilley on March 7, 2014. (Exhibit R-8.) She admitted that it was “poor judgment” on her part. (*Id.*) She further acknowledged “misappropriation of funds” and stated that she “cannot effectively do [her] job with this issue hanging over [her] head.” (*Id.*) Petitioner subsequently repaid the \$275.00.⁶ (Tr. 129.)

⁶ Although Petitioner ultimately repaid the \$275.00, there is no evidence that she sought to immediately repay the funds upon learning that the food was not used for the alumni event.

Calvin Spires is the comptroller for the Richmond County Board of Education. (Tr. 177-78.) According to Mr. Spires, when a school is going to use an outside contractor (*e.g.* to cater a function), the school is supposed to write a check payable to the Richmond County Board of Education in the amount required for the contractor. (Tr. 181-82; Exhibit R-1.) In turn, the board will write the check to the contractor. (*Id.*) This allows the board to aggregate the amounts paid to the contractor and properly issue a 1099 if the aggregated amount exceeds \$600.00. (*Id.*) Also according to Mr. Spires, school funds are not to be used to pay for refreshments or food for an alumni event.⁷ (Tr. 211-12.) Alumni associations are separate and distinct from the school. (Tr. 209.)

Petitioner's Reporting of Leave

In addition to notifying Mr. Spivey about the check for the alumni event, Ms. Tilley also raised allegations that Petitioner's attendance at school was lacking. (Tr. 147; Exhibit R-2.) Ms. Tilley provided a list of 42 days that Petitioner was either late or did not come to school. (Tr. 300; Exhibit P-3.) After being questioned about her attendance, Petitioner submitted explanations for her absences. (Exhibit R-8.) Mr. Spivey subsequently forwarded the information to Mr. Spires. (Tr. 146.) Mr. Spires reviewed the information submitted by Ms. Tilley and the information submitted by Petitioner to determine whether there was any leave that Petitioner did not report and for which she should be docked. (Tr. 189-90.) He created a

⁷ Mr. Spires could not point to a written policy or directive that would have put Petitioner on notice that she could not use school funds for an alumni event. (Tr. 212-13.) Similarly, former Deputy Superintendent Spivey testified that he knew that school funds could not be used for alumni events. (Tr. 137.) However, he could not point to a written policy or specific training that would have put Petitioner on notice that she could not use school funds for an alumni event. (Tr. 137-38.) Petitioner testified that she was not aware that she could not use school funds for an alumni event. (Tr. 276, 284.)

spreadsheet to track the leave. After reviewing the information, he determined that Petitioner's sick leave should be reduced by 8.5 days and her annual leave should be reduced by 2.25 days. (Tr. 189-90; Exhibit R-11.)

11.

Whenever Petitioner was not going to be at the school, she notified her immediate supervisor, Assistant Superintendent Dr. Carol Roundtree, as well as Ms. Tilley. (Tr. 231-32, 298.) Dr. Roundtree did not require Petitioner to submit a form to have her leave approved.⁸ (Tr. 231.) Instead, Petitioner notified Dr. Roundtree that she would be away from the school via text or email. (Tr. 231, 298-99, 304.) Any leave taken by school employees, including Petitioner, is supposed to be reported on the payroll form which is then sent to the payroll office. (Tr. 187-88, 306-08.) Petitioner was responsible for signing the payroll form and verifying that the information was accurate. (Tr. 306-07.) Petitioner admitted that she did not always review the payroll forms and did not verify that her leave was correctly reported. (Tr. 308; Exhibit R-8.) Instead, she testified that she relied on Ms. Tilley to make sure that the information was accurate.⁹ (Tr. 307-08.) She subsequently learned that Ms. Tilley did not accurately report all of her leave. (Tr. 299.)

12.

As a result of the allegations raised by Ms. Tilley and the ensuing investigation, a personnel committee of the school board decided that Petitioner should be demoted. (Tr. 155.) Mr. Spivey informed Petitioner that she was going to be demoted in the following school year.

⁸ Mr. Spires testified that a form is supposed to be completed by the employee and the supervisor anytime leave is taken. (Tr. 198-99.) However, it is clear that practice has not been followed by principals at Laney High School. (Tr. 231, 240, 297.)

⁹ This testimony appears somewhat inconsistent with Petitioner's testimony about Ms. Tilley's performance. Specifically, Petitioner testified that on Ms. Tilley's second evaluation, she stated that Ms. Tilley needed extensive training as a bookkeeper "because she was not able to keep adequate records." (Tr. 291.)

(Tr. 141, 155.) Instead, Petitioner resigned from her position after completing the 2013-2014 school year. (Tr. 140-41.)

III. Conclusions of Law

1.

Because the Commission seeks to sanction Petitioner's teaching certificate, it 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.

The Commission is authorized to sanction an educator who has violated the professional standards of performance and ethical conduct incumbent upon educators, as provided in the Code of Ethics for Educators. O.C.G.A. § 20-2-984.1; Ga. Comp. R. & Regs. 505-6-.01(1), (5). If the Commission finds that there is probable cause for imposing a sanction against an 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.

O.C.G.A § 20-2-984.5(c); *see also* Ga. Comp. R. & Regs. 505-6-.01(5). Here, the Commission asserted that Petitioner violated Rule 505-6-.01(3)(d) [Honesty], Rule 505-6-.01(3)(e) [Public Funds and Property], and Rule 505-6-.01(3)(j) [Professional Conduct].

Standard 4: Honesty

3.

Standard 4 states, 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:

* * *

2. information submitted to federal, state, local school districts and other governmental agencies;

* * *

4. reasons for absences or leaves;

5. information submitted in the course of an official inquiry/investigation, and

6. information submitted in the course of professional practice.

Ga. Comp. R. & Regs. 505-6-.01(3)(d). Based on the evidence presented, the Commission established that Petitioner violated this rule. Petitioner was dishonest with the Deputy Superintendent, Mr. Spivey, in the course of an investigation, when she told him that the alumni event did take place at one of the school gyms. At the time she spoke with Mr. Spivey, Petitioner knew that the event did not take place at the gym. She knew that it had been moved to the library and that the food for the event was sent to her friend's party. Further, when Mr. Spivey asked for the names of the individuals who attended the event, she was dishonest or, at a minimum, omitted important information. She submitted a list of people who purportedly RSVP'd, including herself. At the time she submitted the list to Mr. Spivey, Petitioner knew she did not attend the event. She did not clarify that the list she was sending was a list of people who had RSVP'd. Rather, by sending the list in response to Mr. Spivey's inquiry, she implied that the people on the list had actually attended.

Standard 5: Public Funds and Property

4.

Standard 5 of the Code of Ethics states, in pertinent part, as follows:

An educator entrusted with public funds and property shall honor that trust with a high level of honesty, accuracy, and responsibility. Unethical conduct includes but is not limited to:

1. misusing public or school-related funds;

Ga. Comp. R. & Regs. 505-6-.01(3) (e). The Commission alleged that Petitioner “used school athletic funds for a personal party.” (Statement of Matters Asserted, ¶2.) The Statement of Matters Asserted further implies that it was always Petitioner’s intention to use the school funds for a personal party and that the alumni event was a ruse. That set of facts was not established by the Commission. Instead, the evidence showed that Petitioner intended to use the funds for an alumni event, albeit one that was poorly planned and poorly executed.

5.

Assuming, without deciding, that Petitioner did not know that using school funds for an alumni event was prohibited, Petitioner’s actions nevertheless amount to misuse of public funds. Petitioner ignored Ms. Tilley’s assertions that checks for contractors had to be issued by the central office. If Petitioner had followed this process, she would have been informed by Mr. Spires that school funds cannot be used for alumni events. Furthermore, the funds in question were not actually used for an alumni event, a turn of events for which Petitioner bears responsibility. Specifically, Petitioner planned an alumni event for her school, but instead chose to go to an interview in Dallas, Georgia on the same date. She put no contingency plans in place for someone to receive the food and to assure that the gym was open for the event. When the caterer arrived with no one to accept the food, Petitioner directed that Ms. Durham bring the food to a party hosted by Petitioner’s friend. Thereafter, Petitioner did not seek to repay the money until after the issue was being investigated by the school board. Finally, when the matter was being investigated, Petitioner admitted to misappropriation of school funds, and ultimately repaid

the funds. The sum of these circumstances amounts to misuse of public funds. Ga. Comp. R. & Regs. 505-6-.01(3) (e).

Standard 10: Professional Conduct

6.

Standard 10 of the Code of Ethics, entitled "Professional Conduct," states, as follows:

An educator shall demonstrate conduct that follows generally recognized professional standards and preserves the dignity and integrity of the teaching profession. Unethical conduct includes but is not limited to any conduct that impairs and/or diminishes the certificate holder's ability to function professionally in his or her employment position, or behavior or conduct that is detrimental to the health, welfare, discipline, or morals of students.

Ga. Comp. R. & Regs. 505-6-.01(3)(j). The Commission alleged that Petitioner misused leave by failing to properly request the time. The Statement of Matters Asserted implies that Petitioner did not inform her immediate supervisor when she took leave. That fact was not established by the evidence. Dr. Roundtree testified that Petitioner did notify her when she was taking leave. The Commission also alleged that the failure to submit an approval form was a violation of the leave policy. The evidence at the hearing was that Dr. Roundtree did not require Petitioner to submit an actual leave form. Additionally, that practice was not followed by the previous principals.

7.

Notwithstanding, Petitioner admitted that on many occasions she signed the payroll records, attesting to the accuracy of the records when, in fact, she did not review them. She testified that she relied on Ms. Tilley to accurately report the leave. However, she also testified that she was aware that Ms. Tilley needed training as a bookkeeper and that she was not able to keep adequate records. In light of Petitioner's knowledge of Ms. Tilley's abilities, Petitioner's signing of the payroll records without ensuring that her leave was reported accurately amounts to

unprofessional conduct which impairs the dignity and integrity of the teaching profession. Ga. Comp. R. & Regs. 505-6-.01(3)(j).

8.

Similarly, Petitioner's dishonesty with the Deputy Superintendent about the alumni event amounts to unprofessional conduct which impairs the dignity and integrity of the teaching profession. Ga. Comp. R. & Regs. 505-6-.01(3)(j). Both her failure to ensure that her leave was accurately reported and her dishonesty with the Deputy Superintendent diminished her credibility with her supervisors and the school employees that she supervised as principal, which impaired her ability to function in her employment. (*Id.*)

Appropriate Sanction

9.

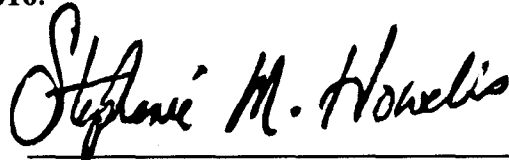
As the Commission has proven Petitioner violated the Code of Ethics, it is "authorized to suspend, revoke, or deny [Petitioner's] certificate[], to issue a reprimand or a warning, or to monitor the [Petitioner's] conduct and performance." Ga. Comp. R. & Regs. 505-6-.01(5)(a). The Commission proposes a two-year suspension of Petitioner's teaching certificate. However, the Commission failed to prove that it was always Petitioner's intention to use school funds for a personal party. Instead, the evidence established that Petitioner intended to use the funds for an alumni event, which was poorly planned and executed, and that Petitioner's subsequent actions amounted to the misuse of school funds. Additionally, in the aftermath of the failed event, Petitioner was dishonest with the Deputy Superintendent. The Commission also failed to prove that Petitioner did not notify her immediate supervisor of her leave. However, the evidence did establish that Petitioner's failure to review the payroll records caused her leave to be inaccurately reported. The Commission's allegations implied that Petitioner's intentions were more nefarious

than that borne out by the evidence. For these reasons, the undersigned concludes that a one-year suspension of Petitioner's teaching certificate is the more appropriate sanction.

IV. Decision

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Commission's decision to sanction Petitioner's Georgia teaching certificate is hereby **AFFIRMED**. However, the proposed sanction is **MODIFIED**, and Petitioner's teaching certificate shall be **SUSPENDED** for a period of one year.

SO ORDERED, this 22nd day of June, 2016.



STEPHANIE M. HOWELLS
Administrative Law Judge

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

TONIA MASON,	:	
Educator/Petitioner,	:	
	:	
v.	:	Docket No.: OSAH-PSC-SAN-1638782-121-
	:	Howells
PROFESSIONAL STANDARDS	:	
COMMISSION,	:	
Respondent.	:	Agency Reference No.: 14-5-863

NOTICE OF FINAL DECISION

This is the Final Decision of the Administrative Law Judge (Judge) in the case. This decision is appealable in Superior Court. **If a party disagrees with this decision**, the party may file a motion for reconsideration, a motion for rehearing, or a motion to vacate or modify a default order with the OSAH Judge.

FILING A MOTION WITH THE JUDGE AT OSAH

The Motion must be filed in writing within ten (10) days of the entry, i.e., the issuance date, of this decision. **The filing of this motion may or may not toll the time for filing a Petition for Judicial Review.** See O. C.G.A. §§ 50-13-19 and 50-13-20.1.

Motions must include the case docket number, be served simultaneously upon all parties of record and be filed with the OSAH clerk at:

Clerk
Office of State Administrative Hearings
Attn.: Kevin Westray, kwestray@osah.ga.gov
225 Peachtree Street, NE, South Tower, Suite 400
Atlanta, Georgia 30303-1534

PETITION FOR JUDICIAL REVIEW

A party who wishes to appeal the Judge's Final Decision may do so by filing a Petition for Judicial Review. O.C.G.A. §§ 50-13-19, 50-13-41. The Petition for Judicial Review must be filed within thirty (30) days in the Superior Court of Fulton County or the county of residence of the appealing party. O.C.G.A. § 50-13-19. A copy of the Petition for Judicial Review of the Final Decision must be filed with the OSAH clerk and the clerk of the Superior Court and simultaneously served upon all parties.