

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

ANGELA SHUMATE,

Petitioner,

v.

**PROFESSIONAL STANDARDS
COMMISSION,**

Respondent.

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**DOCKET NO. OSAH-PSC-SAN-
1417810-47-OAKLEY**

Agency No. 12-7-193



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K. Westray

Kevin Westray, Legal Assistant

FINAL DECISION

A hearing was held in this matter on January 22, 2014, pursuant to the Petitioner's appeal of the Respondent's finding of cause for revocation of her certification. The Petitioner was present and was represented by Charles E. Cox, Esq. The Respondent was represented by Rebecca S. Mick, Senior Assistant Attorney General, and Jennifer Colangelo, Assistant Attorney General.

Findings of Fact

1.

The Petitioner holds a certificate to teach in the State of Georgia. During the 2008-2009 school year, the Petitioner was employed as the Principal of Northside Elementary School in the Dougherty County School District. Answer to Statement of Matters Asserted; Testimony of Petitioner.

2.

The Criterion Referenced Competency Test (CRCT) is a set of standardized assessment tools which are administered to Georgia public school students in Grades 3 through 8 in Reading, English/Language Arts, Mathematics, Science and Social Studies. Respondent's Exhibit 1. The results of the yearly administration of the CRCT evaluation instrument are used to assess the educational performance of individual Georgia schools and school districts. Testimony of Ms. Bridges.

3.

The State of Georgia has established a protocol for administration of the CRCT for the purpose of ensuring the security of test administration and the validity of test results. Respondent's Exhibit 2. The protocol allows for the clarification of directions, but proscribes

rewording test items, suggesting answers, and evaluating student work during test sessions. Respondent's Exhibit 1 at page 7. As stated by the School District's testing coordinator, "It's very clear that you are not supposed to explain or paraphrase any of the question and answer choices." Testimony of Ms. Bridges.

4.

Northside Elementary School test examiners and proctors attended after-school meetings convened for the purpose of explaining the protocol for CRCT test administration and security. Exhibits P-3 and P-5. The test examiners and the proctors executed a Security Agreement which identified unethical practices in CRCT administration. The Security Agreement executed by each test examiner and proctor identified unethical testing conduct including "giving students answers or clues as to the answer to any test item." Exhibit P-4.

5.

The Petitioner was present at the after-school CRCT meetings. Testimony of Ms. Weldon and Mr. Dozier. The Petitioner is alleged to have suggested that test examiners and proctors prompt students to review wrong answer choices by asking individual students "Is this what I taught you?" Statement of Matters Asserted at para. 5. A statement of this kind by a test examiner or proctor is impermissible and violates testing protocol. Testimony of Ms. Bridges; Exhibit P-1 at page 7; Exhibit P-4.

6.

The Governor's Office of Student Achievement collected and analyzed erasure data on students' answer sheets from the 2009 CRCT administration. Testimony of Ms. Neely. The data which was collected and analyzed included the frequency with which test takers erased wrong answers and chose right answers. The wrong to right answer erasure analysis was used to place schools within one of four categories: "Clear of Concern"; "Minimal Concern"; "Moderate Concern"; and "Severe Concern". Testimony of Ms. Neely; Exhibit R-3.

7.

The wrong to right answer erasure data from test takers at the Petitioner's school was collected and analyzed. The analysis revealed that 52.2% of answer sheets from test takers at Petitioner's school contained an exceptional number of erasures of wrong answers and choices of correct answers. The Governor's Office of Student Achievement placed the Petitioner's school in the category of Severe Concern. Testimony of Ms. Neely; Exhibit R-3.

8.

As Principal, the Petitioner had ultimate responsibility for CRCT administration at Northside Elementary School. Exhibit R-2 at page 37.

9.

The evidence adduced in support of the allegation that Petitioner encouraged test examiners and proctors to encourage students to change wrong answers is inconsistent and is found to lack credibility. *Compare* Testimony of Ms. Weldon (Tx. at 47-48) with Exhibit P-1; Testimony of Ms. Randle (Tx. at 54-64, 69-70); Exhibit P-2. To the contrary, there is ample credible evidence to support a finding that the Petitioner did not encourage test examiners and proctors to identify wrong answers for erasure by students. Testimony of Mr. Dozier, Ms. Kendrick, Mr. Nolan, Ms. Campbell and Petitioner.

Conclusions of Law

1.

The Professional Standards Commission bears the burden of proof in this matter. Ga. Comp. R. & Regs. r. 616-1-2-.07(1).

2.

Pursuant to statutory directive, the Professional Standards Commission has adopted a Code of Ethics for Educators. The Code of Ethics defines unethical conduct which justifies disciplinary sanction. O.C.G.A. § 20-2-984.1(a); Ga. Comp. R. & Regs. r. 505-6-.01(1) (*effective* August 15, 2005).

3.

Standard Four of the Code of Ethics requires Georgia educators to exemplify honesty and integrity in the course of professional practice. Ga. Comp. R. & Regs. r. 505-6-.01(3)(d). The Professional Standards Commission did not carry its burden of proof as to the assertion that the Petitioner failed to exemplify honesty and integrity in her remarks to test examiners and proctors prior to CRCT administration in April, 2009.

4.

The Petitioner is alleged to have committed a violation of Standard Eleven of the Code of Ethics which requires Georgia educators to administer state-mandated assessments fairly and ethically. Ga. Comp. R. & Regs. r. 505-6-.01(3)(k) (*effective* October 15, 2009). The provision of the Code of Ethics which the Petitioner is alleged to have violated was not in effect at the time of the alleged unethical conduct. Accordingly, Standard Eleven cannot be used to evaluate conduct occurring in April, 2009, or be used as a basis for a disciplinary sanction of conduct occurring in April, 2009. Assuming that Standard Eleven was in place in April, 2009, the Professional Standards Commission did not carry its burden of proof as to the assertion that the Petitioner engaged in unethical conduct relating to CRCT administration.

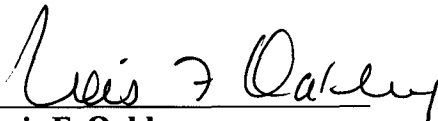
5.

The Professional Standards Commission has alleged that the Petitioner's conduct in connection with CRCT administration includes "other good and sufficient cause that renders an educator unfit for employment as an educator." Ga. Comp. R. & Regs. r. 505-6-.01(5)(a)(7). The Professional Standards Commission did not carry its burden of proof as to this assertion.

Decision

For all the above and foregoing reasons, the Respondent's finding of cause for the revocation of the Petitioner's certification is inappropriate and is hereby **REVERSED**.

This 5th day of February, 2014.


Lois F. Oakley
Lois F. Oakley
Administrative Law Judge