

2.

The National School Lunch Program (hereinafter "NSLP") is a federally-assisted program that provides children in low-income households with free or reduced-price meals (hereinafter "FRM") through participating public schools. School systems participating in the NSLP, such as the Dougherty County School System, are responsible for processing applications and determining household eligibility for free or reduced-price meals in accordance with Income Eligibility Guidelines prescribed by the USDA. At the beginning of every school year, program applications are sent home with students to be completed by their parents. *See* 42 U.S.C. 1758 (2014); 7 C.F.R. 210 *et seq.*

3.

Petitioner submitted a Free and Reduced-Price School Meals Family Application (hereinafter "FRM Application") to Dougherty County School System on or about August 1, 2011. In this application, Petitioner signed a certification that the information contained therein was correct. Petitioner reported her gross monthly income to be \$2,000.00. Petitioner wrote this figure in the appropriate space on the application form under the heading "Total Household Gross Income" and the subheading "Gross Income and How Often it was Received," where the FRM Application called for Petitioner to list "Earnings From Work Before Deductions." *Respondent's Exhibit F.*

4.

Petitioner's gross monthly income as reported on the FRM Application was within eligibility limitations for reduced-priced meals established by the United States Department of Agriculture, which at the time set a maximum gross monthly income limit of \$2,268.00 for program eligibility. Accordingly, the School System approved the FRM Application on or about August 15, 2011 and Petitioner's son, a student at Lincoln Elementary in the Dougherty County

School System, thereafter received reduced-price meals during the 2011-2012 school year. Child Nutrition Programs—Income Eligibility Guidelines, 76 Fed. Reg. 16,724 (March 22, 2011); *Testimony of Kenneth Dyer; Testimony of Tia Ford; Respondent's Exhibit F.*

5.

After discovering that a principal in the Dougherty County School System had falsified free or reduced meal applications, the Georgia Department of School Nutrition directed the Dougherty County School System to conduct a review of all such applications submitted by its employees during the 2011-2012 school year. Mr. Kenneth Dyer, Executive Director of Finance and Operations for the Dougherty County School System, oversaw this review, and reported to the Georgia Department of Education School Nutrition Program, the Superintendent of Dougherty County School System, and the Dougherty County School Board. *Testimony of Kenneth Dyer.*

6.

The School System's review entailed an examination of payroll records, which the school maintained electronically and in paper format, to determine each employee's gross income during the relevant period. The School System compared the employee's gross income as determined from these payroll records with the gross income that employee reported on his or her application for FRM. The results of this internal review revealed that, in some instances, income that teachers reported on their applications for free and reduced-price meals was inconsistent with the income that they actually received from the Dougherty County School System. *Respondent's Exhibits E1-E4; Testimony of Kenneth Dyer.*

7.

Based upon a review of payroll records for Petitioner, including pay stubs evidencing direct deposits to Petitioner's bank account, the School System determined her monthly gross income was \$3,600.47 for July and August of 2011 and \$3,707.53 for September and October of 2011. Petitioner's net pay after taxes, insurance, FICA, and other deductions was \$2,322.24 for the months of July and August and \$2,385.98 for the months of September and October. Petitioner's actual gross monthly income exceeded the maximum gross monthly income limit for FRM eligibility established by the United States Department of Agriculture. Accordingly, Petitioner's household was not eligible to receive reduced-price meals during the 2011-2012 school year. *Respondent's Exhibits E1-E4; Petitioner's Exhibits 1-6.*

8.

Dougherty County School System informed Petitioner of the findings of its investigation and invited Petitioner to explain the discrepancy between her actual gross income and what she reported on her FRM Application. After Petitioner offered no documentation to support the accuracy of the monthly income reported on her FRM Application, Dougherty County School System notified Petitioner in a letter dated November 20, 2012 that the unexplained discrepancy in her household income would be reported to the Superintendent, Dr. Joshua Murfree. *Testimony of Kenneth Dyer; Testimony of Tia Ford; Petitioner's Exhibit 8.*

9.

Upon receipt of the letter from Dougherty County School System, Petitioner attempted to contact Mr. Dyer. After her attempts to contact Mr. Dyer by phone proved unsuccessful, she sent him an e-mail in which she requested that he contact her "if there was anything he needed."

Petitioner awaited Mr. Dyer's response to her e-mail and made no further effort to contact him.

Testimony of Tia Ford.

10.

On December 17, 2012, Superintendent Murfree met with Petitioner to discuss allegations that she had falsified the information included on her FRM Application. Mr. Kenneth Goseer, Assistant Superintendent for Dougherty County School System, was also present at the meeting. During this meeting, Petitioner was notified that, effective December 18, 2012, she would be suspended for a period of fifteen (15) days. Petitioner waived her right to a hearing to dispute the allegations that led to her suspension. *Petitioner's Exhibit 7; Testimony of Tia Ford.*

11.

At the beginning of 2013, the Georgia Professional Standards Commission (hereinafter "the Commission") notified Petitioner that it had commenced an investigation into the above-described allegations. After receiving this notice, Petitioner contacted the Commission by telephone and spoke with Mr. David Pumphrey, an investigator with the Commission. In her conversation with Mr. Pumphrey, Petitioner denied falsifying any information on her FRM Application and insisted that she paid for her son's lunch. Petitioner told Mr. Pumphrey that she wrote an estimate of her take-home pay on the FRM Application, which she adjusted downward because employees had been informed that they would be furloughed during the 2011-2012 school year. *Petitioner's Exhibit 10; Testimony of Tia Ford.*

12.

After conducting an investigation into the allegations that Petitioner included false information on her application for free or reduced-price meals, the Georgia Professional Standards Commission found probable cause that Petitioner violated the laws, rules, and

regulations of the Commission, including “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].” The Commission also found Petitioner’s conduct to be in violation of O.C.G.A. § 20-1-1170(a) [Providing False Information].¹ *Statement of Matters Asserted dated April 11, 2014.*

13.

On April 19, 2013, the Georgia Professional Standards Commission sent a letter to Petitioner informing her that it had conducted an investigation regarding allegations that she violated the Georgia Department of Education Rules and Code of Ethics by falsifying information on her FRM Application and, as a result, that it had found probable cause to recommend a one-year suspension of her teaching certificate. Petitioner requested a hearing to dispute the proposed sanction on May 15, 2013. *Statement of Matters Asserted dated April 11, 2014; Petitioner’s Request for Hearing dated May 10, 2013*

14.

At the hearing of this matter, Petitioner testified that the misrepresentation of her income on the FRM Application was unintentional. According to Petitioner, the income reported on the FRM Application represented her estimation of her prospective take-home pay, accounting for several anticipated furlough days. Petitioner explained that she completed the FRM Application at the beginning of the school year, when she was unable to devote much attention to it given her heavy workload and hectic schedule, resulting in her failure to notice that the application called for gross, rather than net, income. *Testimony of Tia Ford.*

15.

Petitioner could not recall if she attempted to contact the Dougherty County School

¹ Respondent abandoned the finding that Petitioner’s conduct constituted a violation of O.C.G.A. § 20-1-1170 *in judicio.*

System to refute the allegations regarding her FRM Application prior to receiving the November 20, 2012 letter. *Testimony of Tia Ford.*

III. Conclusions of Law

Based on the above findings of fact, the undersigned makes the following conclusions of law:

1.

Respondent seeks to sanction Petitioner's teaching certificate. Therefore, Respondent bears the burden of proof. GA. COMP. R. & REGS. 616-1-2-.07. The standard of proof is a preponderance of the evidence. GA. COMP. R. & REGS. 616-1-2-.21.

2.

The Georgia Professional Standards Commission ("the Commission") is responsible for adopting standards of performance and a code of ethics for educators. O.C.G.A. § 20-2-984.1(a) (2013). Pursuant to this responsibility, the Commission has promulgated the Code of Ethics for Educators, which "defines the professional behavior of educators in Georgia and serves as a guide to ethical conduct." GA. COMP. R. & REGS. 505-6-.01(1) (2013). The Code of Ethics also "defines unethical conduct justifying disciplinary sanction." *Id.* Such disciplinary sanctions may include suspension or revocation of an educator's teaching certificate. GA. COMP. R. & REGS. 505-6-.01(5)(a) (2013). In the present case, the Commission proposes to impose a sanction of a one-year suspension of Petitioner's certificate for her alleged violation of Standards Four, Five, and Ten of the Code of Ethics. The Court concludes that Petitioner violated Standards Four and Ten of the Code of Ethics.

3.

Standard Four requires educators to “exemplify honesty and integrity in the course of professional practice.” GA. COMP. R. & REGS. 505-6-.01(3)(d) (2013). Standard Four defines unethical conduct to include “falsifying, misrepresenting or omitting”:

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;
3. information regarding the evaluation of students and/or personnel;
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.

Id. Respondent carried its burden of proof as to its assertion that Petitioner violated Standard Four of the Code of Ethics. Petitioner represented her monthly gross income to be \$2,000.00 on the FRM Application submitted to Dougherty County School System, when in fact it was \$3,600.47. The evidentiary record supports the inference that Petitioner knew her gross income because her contract specified her level of compensation and her gross income was detailed in a readily attainable pay stub evidencing a direct deposit made in July 2011.

4.

Although Petitioner claimed that her misrepresentation of her income was a mistake, the undersigned does not find her testimony to be credible. *See United States v. Peters*, 403 F.3d 1263, 1270 (11th Cir. 2005) (“assessing witness credibility is uniquely the function of the trier of fact”); *State v. Criswell*, No. A14A0527, 2014 Ga. App. LEXIS 342, at *10 (May 29, 2014) (“trier of fact is not obligated to believe a witness even if the testimony is uncontradicted and may accept or reject any portion of their testimony”). Petitioner’s testimony that she misinterpreted the FRM Application to require an estimate of her take-home income is not

credible given the Application's clear instructions to include "Earnings From Work *Before Deductions*" under the subheading "*Gross* Income and How Often it was Received," and the heading "Total Household *Gross* Income". It is highly unlikely that an applicant could write his or her income in the appropriate blank on the form without reading these headings.

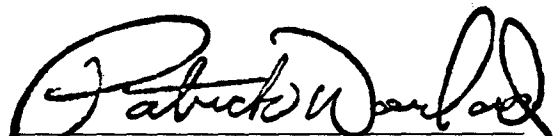
5.

Standard Ten of the Code of Ethics requires educators to "demonstrate conduct that follows generally recognized professional standards and preserves the dignity and integrity of the teaching profession." GA. COMP. R. & REGS. 505-6-.01(3)(j) (2013). Standard Ten further provides that "[u]nethical 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." *Id.* Respondent carried its burden of proof as to the assertion that Petitioner violated Standard Ten of the Code of Ethics. Respondent demonstrated by a preponderance of the evidence that Petitioner knowingly misrepresented her gross income in order to obtain a benefit to which she was not entitled. Such conduct unquestionably departs from professional standards and fails to preserve the dignity and integrity of the teaching profession.

IV. Decision

In accordance with the foregoing Findings of Fact and Conclusions of Law, it is the Final Decision of the undersigned that Respondent's recommended one-year suspension of Petitioner's teaching certificate is **AFFIRMED**.

SO ORDERED this 14th day of July, 2014.


M. PATRICK WOODARD
Administrative Law Judge