

OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

MICHAEL LEGGETT,
Petitioner,

:
:
: Docket No.: OSAH-PSC-SAN-1503074-
: 106-Walker

:
:
: Agency Reference: 13-5-1095

v.

**PROFESSIONAL STANDARDS
COMMISSION,**
Respondent.



FILED
OSAH

SEP 12 2014

AMENDED¹ FINAL DECISION

Kevin Westray, Legal Assistant

I. Introduction

Respondent asserts Petitioner violated the Code of Ethics for Educators and seeks to suspend his teaching certificate for a period of one year. Petitioner appeals Respondent's determination. An administrative hearing was held on August 21, 2014, and the record closed on September 3, 2014. James David Dunham, Esq. represented Petitioner, and Assistant Attorney General Allen Lightcap represented Respondent. After consideration of the evidence and arguments of the parties, and for the reasons stated below, the Commission's decision to sanction the Petitioner's Georgia teaching certificate is **AFFIRMED**; however, the proposed sanction is **MODIFIED**, and Petitioner's teaching certificate shall be suspended for a period of forty five contract days.

II. Findings of Fact

1.

Petitioner holds a certificate to teach in the State of Georgia and has held such certification at all times relevant to the matter before the Administrative Law Judge. (Statement of Matters Asserted ¶ 1; Answer ¶ 1).

¹ This Amended Final Decision is being issued because the Decision issued on September 10th was the draft, rather than the final, Order. The changes are simply grammatical and not substantive.

2.

At all times relevant to the event at issue, Petitioner was employed as a science teacher at the Early College Academy (ECA) in the Muscogee County Public School System. ECA's mission is to work with under-represented youth in order to prepare them for college. It is a Title I school, and seventy eight percent of its students are economically disadvantaged. (Statement of Matters Asserted ¶ 2; Answer ¶ 1; Transcript at pp. 15-16 (hereinafter "T-")).

3.

The factual circumstances of the incident are undisputed by the parties. On April 20, 2013, Petitioner was a chaperone at the ECA's prom, held at the Doubletree Hotel in Columbus, Georgia. Petitioner arrived early to set up the venue. Prior to arriving at the prom, he stopped by the Doubletree's sports bar and consumed an alcoholic beverage. After his shift ended, he again went to the sports bar and drank an alcoholic beverage. (Statement of Matters Asserted ¶ 5; Answer ¶ 1; T-5; 31).

4.

As Petitioner exited the sports bar, some ECA students asked to speak with him and he walked with them back to the prom. Linda Willard is ECA's principal. When Petitioner returned to the prom, she smelled alcohol on his breath. Ms. Willard asked Petitioner if he had consumed any alcoholic beverages, and he immediately admitted that he had done so. According to Ms. Willard, Petitioner did not appear to be "drunk" and was not obviously intoxicated. Ms. Willard sat with Petitioner after his admission, and they checked students into the prom. After the prom ended, Petitioner was able to help remove the decorations and clean up the venue. Ms. Willard's husband drove Petitioner home. (Statement of Matters Asserted ¶¶ 6-8; Answer ¶ 1; T-27; 33).

5.

Ms. Willard reported Petitioner's conduct to the school system on April 22, 2013. Petitioner admitted that he had consumed alcoholic beverages at the prom, and acknowledged that his actions constituted "a serious lapse in judgment" and a "huge mistake." Other than this incident,

he has never been disciplined by an employer. (Statement of Matters Asserted ¶ 9; Answer ¶ 1; (T-18-20; 36; Exhibits P-1; P-2).

6.

As a result of Ms. Willard's report, the Muscogee County School Superintendent, Dr. John Phillips, issued a letter of reprimand to Petitioner on May 1, 2013. The letter of reprimand noted that although Dr. Phillips appreciated Petitioner's "candor," he found his conduct to be unprofessional. The letter of reprimand has been placed in Petitioner's permanent personnel file. Following the incident, the county rehired Petitioner for the 2013-2014 academic year and again for the 2014-2015 year. Currently, he remains a science teacher at ECA. (T-23; Exhibit P-3).

7.

Petitioner has been an educator for eighteen years, and Ms. Willard considers him to be a good teacher. Ms. Willard believes he works very hard; Petitioner is usually the first one to arrive in the morning. He has mentored students and volunteers as the advisor to both the golf club and the robotics club. Aside from this incident, he has modeled professionalism. She found Petitioner to be sincerely remorseful for his actions, and thinks he has learned from his conduct. (T-20; 22; 27-28).

8.

Based on the facts and circumstances set forth above, the Commission found probable cause that Petitioner had violated Rule 505-6-.01(3)(c) (Alcohol or Drugs) and Rule 505-6-.01(3)(j) (Professional Conduct) of the Rules of the Professional Standards Commission and the standards articulated in the Code of Ethics for Educators. The Professional Standards Commission commenced an investigation. During the investigation Petitioner was cooperative and "very apologetic and seemed to have a good sense of what went wrong." After completing its investigation, the Commission recommended a one-year suspension of Petitioner's teaching certificate. The Petitioner timely appealed. (Statement of Matters Asserted ¶¶ 10-11; T-13).

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.

When a contested case is referred to the Office of State Administrative Hearings, the administrative law judge assigned to the case has "all the powers of the referring agency" O.C.G.A. § 50-13-41(b). The evidentiary hearing is *de novo*, and the administrative law judge "shall make an independent determination on the basis of the competent evidence presented at the hearing." GA. COMP. R. & REGS. r. 616-1-2-.21(1).

3.

The Professional Standards Commission is the state agency responsible for certifying professional educators in Georgia and establishing standards for the teaching profession. O.C.G.A. § 20-1A-4(5). The Commission has issued Rules that adopt the Code of Ethics for Educators. O.C.G.A. § 20-2-984.1. 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.

In this case, Respondent charges that Petitioner has violated the Rules of the Professional Standards Commission and the Code of Ethics for Educators, specifically GA. COMP. R. & REGS. r. 505-6-.01(3)(c), Standard 3; Alcohol or Drugs, and GA. COMP. R. & REGS. r. 505-6-.01(3)(j)

Standard 10: Professional Conduct, and recommends that his teaching certificate be suspended for one year.

4.

Standard 3 of the Code of Ethics for Educators states in relevant part:

Standard 3: Alcohol or Drugs – An educator shall refrain from the use of alcohol or illegal or unauthorized drugs during the course of professional practice. Unethical conduct includes but is not limited to . . .

2. Being on school premises or at a school-related activity involving students while under the influence of, possessing, or consuming alcohol. A school-related activity includes, but is not limited to, any activity sponsored by the school or school system (booster clubs, parent-teacher organizations, or any activity designed to enhance the school curriculum i.e. Foreign Language trips, etc).

GA. COMP. R. & REGS. r. 505-6-.01(3)(c).

By drinking alcoholic beverages at a school-related activity involving students, Petitioner violated Standard 3 of the Code of Ethics for Educators.

5.

Standard 10 of the Code of Ethics for Educators states in relevant part:

Standard 10: Professional Conduct - 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 the students.

GA. COMP. R. & REGS. r. 505-6-.01(3)(j).

Given that educators strive to prevent high school students from consuming alcohol, particularly during school sponsored events, Petitioner's conduct was detrimental to the health, welfare, discipline, or morals of the students and violated Standard 10 of the Code of Ethics for Educators.

IV. Decision

The Code of Ethics for Educators has been designed to protect the health, safety and general welfare of students in Georgia. In accordance with the foregoing findings of fact and conclusions of law, the undersigned concludes Petitioner's conduct did violate the Code of Ethics for Educators and the Commission's decision to sanction Petitioner is **AFFIRMED**. Educators should strive to prevent teenage alcohol consumption; accordingly, Petitioner's lapse in judgment was consequential. However, Petitioner has been candid about his conduct from the onset of the investigation, and given that he has continued teaching for roughly a year and a half after the incident in question with his principal's approval, it is clear that the incident did not permanently compromise his ability to be an effective teacher. Further weighing in his favor is that he has been teaching for eighteen years without incident, and that his principal views him as a hard worker who volunteers his time to enrich his students' academic and extracurricular experiences. For the reasons stated, Respondent's proposed one-year suspension of Petitioner's teaching certificate is **MODIFIED** to a suspension for forty five contract days.

SO ORDERED, this 12th day of September, 2014.



RONIT WALKER
Administrative Law Judge