

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

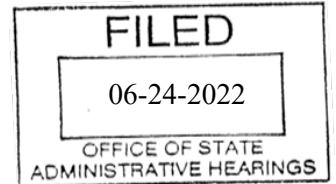
STEVEN R. SCHULSTER,
Petitioner,

v.

**PROFESSIONAL STANDARDS
COMMISSION,**
Respondent.

**Docket No.: 2221278
2221278-OSAH-PSC-SAN-118-Walker**

Agency Reference No.: 21-6-1321



FINAL DECISION

I. Introduction

The Professional Standards Commission (“Commission”) found probable cause that the Petitioner, Steven Schulster, violated the Code of Ethics for Educators. The Petitioner appealed the finding of probable cause. A hearing in this matter was held on June 14, 2022, before the undersigned Administrative Law Judge.¹ Samuel Alderman, Esq. represented the Petitioner, and Senior Assistant Attorney General Wylencia Hood Monroe represented the Commission.

II. Findings of Fact

1.

On or about June 25, 2021, the Petitioner applied for initial certification (the “application”) to the Commission. (Testimony of Petitioner; Amended Statement of Matters Asserted ¶ 1).

2.

On the application, Petitioner answered “yes” to a question stating as follows: “Have you ever had an adverse action (i.e., warning, reprimand, suspension, revocation, denial, voluntary

¹ At the Petitioner’s request, the hearing was held via videoconference.
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surrender, disbarment) taken against a professional certificate, license or permit issued by an agency OTHER THAN the Georgia Professional Standards Commission?” (emphasis in original). (Testimony of Paul Phillips, Testimony of Petitioner; Exhibit R-2).

3.

At the Commission’s request, the Petitioner provided documentation regarding the adverse action. During the 1999-2000 academic year, the Petitioner was employed as a music teacher at Bayshore High School in the Manatee School District, Bradenton, Florida. On or about February 20, 2002, the Florida Education Practices Commission (“Florida Commission”) filed an Administrative Complaint against the Petitioner. The Administrative Complaint alleged that the Petitioner failed to properly supervise students and made inappropriate comments to students and administrators. (Testimony of Petitioner; Exhibit R-2).

4.

On or about May 21, 2002, the Petitioner and the Florida Commission entered into a Settlement Agreement regarding the Administrative Complaint. Pursuant to the terms of the Settlement Agreement, the Florida Commission dismissed one of the allegations and the Petitioner, while not admitting to any misconduct, agreed not to contest the remaining allegations. He also agreed to accept a two-year suspension of his educator’s certificate followed by a three-year term of probation and to undergo an evaluation by a licensed psychologist, psychiatrist, or mental health counselor. (Testimony of Petitioner; Exhibit R-2).

5.

After reviewing the Petitioner’s application and supporting documentation, the Commission determined that it would issue the Petitioner an educator’s certificate but also found probable cause to simultaneously issue a reprimand (“initial determination”). The Petitioner

appealed the Commission's initial determination.² (Testimony of Gina Ahlberg, Testimony of Investigator Paul Phillips; Amended Statement of Matters Asserted ¶ 4).

6.

After the Commission had made the initial determination, Investigator Gina Ahlberg reviewed the National Association of State Directors of Teacher Education and Certification's database. She learned that as a result of the administrative proceedings in Florida the Petitioner also had surrendered a provisional educator's certificate in New York.³ (Testimony of Gina Ahlberg).

7.

On September 1, 1999, the state of New York issued the Petitioner a provisional educator's certificate. When New York learned about the administrative proceedings in Florida, the State of New York's Education Department's Office of School Personnel Review and Accountability ("New York Department of Education") issued a Notice of Substantial Question of Moral Character ("Notice") regarding the Petitioner. Other than the acts detailed in the Settlement Agreement between the Petitioner and the Florida Commission, there were no additional allegations of misconduct listed in the Notice. (Testimony of Petitioner; Exhibit R-3).

8.

On or about June 23, 2004, the Petitioner entered into a Settlement Agreement ("New York Settlement Agreement") with the New York Department of Education. Pursuant to the terms of

² Although the Petitioner's written correspondence to the Commission regarding an administrative hearing was unclear, the Petitioner told the Office of State Administrative Hearings that he wished to appeal the Commission's action. See Court File.

³ Apparently, similar proceedings took place in Nevada, but these allegations were not raised in the Statement of Matters Asserted.

the New York Settlement Agreement, the Petitioner surrendered his provisional educator's certificate. He also agreed that he would not apply for recertification until such time as he completed all the terms and conditions specified by the Settlement Agreement with the State of Florida. (Testimony of Petitioner; Exhibit R-2).

9.

The New York Department of Education instituted disciplinary proceedings based solely on the proceedings in Florida and agreed that should the Petitioner reapply for an educator's certificate, it could not be denied "solely on the basis of the allegations contained in [Petitioner's] State of Florida Education Practices Commission Administrated Complaint dated February 20, 2002" Nonetheless, when the Commission learned of the disciplinary proceedings in New York, it reconsidered its initial determination and found probable cause to deny the Petitioner's application. The Petitioner appeals both findings of probable cause. (Testimony of Gina Ahlberg, Testimony of Investigator Paul Phillips, Testimony of Petitioner; Amended Statement of Matters Asserted ¶ 4, ¶9).

10.

The Petitioner holds bachelor's and master's degrees and is pursuing a doctorate in Educational Leadership. He currently teaches environmental science at Eastside High School in New Jersey and holds certifications to teach music, biology, middle school science. Additionally, he is certified as an educational administrator. (Testimony of Petitioner; Exhibit P-1).

11.

The circumstances regarding the underlying incident are as follows. In 1999, when the Petitioner was 26 years old, he took his first teaching job in Florida. Although he denied making inappropriate comments, he concedes that he was an inexperienced teacher and made mistakes

regarding student supervision during his tenure at Bayshore High School. (Testimony of Petitioner).

12.

After surrendering his educational certificates in Florida and New York, the Petitioner entered the United States Military and served for seven years. He was a decorated soldier and honorably discharged; thereafter, he reenlisted and was again honorably discharged. (Testimony of Petitioner).

13.

When he left the military, the Petitioner returned to Florida to teach. He completed the term of probation required by the Settlement Agreement, including participating in anger management courses. He was rehired by the Manatee School District – the system that originally reported the alleged misconduct – and successfully completed his term of employment. The Petitioner currently is licensed in Florida, New Jersey, Texas and Delaware, without restriction. Since completing his probationary term, he has never been subjected to disciplinary action or received a negative review. (Testimony of Petitioner).

14.

The Petitioner testified, credibly, that he is a passionate educator that cares for his students, often spending his own money to provide them with needed supplies. Additionally, several colleagues testified on his behalf. Desi Lee met the Petitioner in graduate school and has known him for three years. Mr. Lee has had the opportunity to observe the Petitioner in a classroom setting and described him as an “amazing” teacher. He believes that the Petitioner’s interactions with his students are appropriate and that he is a “good person.” (Testimony of Desi Lee, Testimony of Petitioner).

15.

Katherine Munoz is employed as a teacher by the Ben Bolt-Palito Blanco Independent School District in Ben Bolt, Texas. When the Petitioner was hired to teach for the district, she served as his mentor. Ms. Munoz observed that he was an “excellent” teacher who “taught bell to bell” and a “really good guy.” The Petitioner’s students “loved” him and performed exceptionally well on statewide examinations. She confirmed that his interactions with the students were appropriate. (Testimony of Katherine Munoz, Testimony of Petitioner).

16.

The Petitioner seeks an educator’s certificate because he owns property in Georgia and is considering relocating to the state. (Testimony of Petitioner).

III. Conclusions of Law

1.

The Commission 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 has adopted the Code of Ethics for Educators that guides the professional behavior of educators in Georgia. See O.C.G.A. § 20-2-984.1; Ga. Comp. R. & Regs. 505-6-.01.⁴ The Commission is authorized to investigate matters involving violations of the Code of Ethics and to discipline an educator who has violated its standards. O.C.G.A. § 20-2-982. Pursuant to O.C.G.A. § 20-2-984.5(c), the Commission may determine:

⁴ The Commission relied on the Code of Ethics effective January 1, 2021. (See Court File).

- (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.

3.

The Commission alleges that the Petitioner violated the Educator's Code of Ethics, specifically Rule 505-6-.01(5)(a) (2) (2021) [Disciplinary Action against a Certificate] and Rule 505-6-.01(5)(a)(5) (2021) [Suspension of any License/Certificate] and has found probable cause to deny his application for an educator's certificate.

4.

Ga. Comp. R. & Regs. 505-6-.01(5)(a) (2021) states, in pertinent part:

(5) Disciplinary Action

(a) The Georgia Professional Standards Commission is authorized to suspend, revoke, or deny certificates, to issue a reprimand or warning, or to monitor the educator's conduct and performance after an investigation is held and notice and opportunity for a hearing are provided to the certificate holder. Any of the following grounds shall be considered cause for disciplinary conduct against the educator:

...

2. Disciplinary action against a certificate on grounds consistent with those specified in the Code of Ethics for Educators, Standards 1-10 (GaPSC Rule 505-6-.01);

...

5. Suspension or revocation of any professional license or certificate;⁵

....

5.

The Commission proved that the State of Florida suspended the Petitioner's educator's

⁵ Although the Petitioner surrendered his licenses, Ga. Comp. R. & Regs 505-6-.01(2)(g) specifies that "Voluntary Surrender is equivalent to and has the same effect as a revocation."

certificate and that, based on the suspension in Florida, he subsequently agreed to surrender his provisional educator's certificate to the State of New York in violation of Ga. Comp. R. & Regs. 505-6-.01(5)(a)(2), (5) (2021).

6.

When the Commission learned of the disciplinary action in the State of Florida, it granted the Petitioner's request for an educator's certificate but found probable cause to issue a reprimand. When it learned of a second disciplinary action, based on the identical facts and circumstances as the underlying action, it found probable cause for a much harsher sanction – denial of the application.

7.

The undersigned finds that a denial of the Petitioner's application is unwarranted. Albeit the Petitioner surrendered his educator's certificate in New York, the New York Department of Education initiated proceedings based only upon the disciplinary action that took place in Florida and did not allege any additional misconduct. Moreover, the alleged conduct took place over twenty years ago, when the Petitioner was a first-year teacher. After he completed the requirements detailed in the Settlement Agreement, the State of Florida reinstated his educator's certificate. In fact, he was hired to teach by the same school district that had reported the initial allegations. The Petitioner also has served in the military, been a decorated soldier, and taught in three states without incident. Colleagues provided testimony that he is an excellent teacher and person of good moral character, and he testified credibly that he has worked hard to become a successful educator who goes above and beyond to assist his students.

IV. Decision

The Code of Ethics for Educators has been designed to protect the health, safety, and general welfare of students in Georgia. The Commission proved that the Petitioner's conduct violated the Code of Ethics for Educators. However, the undersigned finds that because the second disciplinary action did not involve additional misconduct, the underlying incident took place over twenty years ago, the Petitioner successfully completed his probation and has both served in the military and successfully taught in multiple school districts, the Commission's proposed sanction is too harsh and does not serve the interests of the students in Georgia. Thus, in accordance with the foregoing findings of fact and conclusions of law, the undersigned finds that the Petitioner's application for an educator's certificate should be **GRANTED** in conjunction with the issuance of a reprimand to the certificate holder.

SO ORDERED, this 24th day of June, 2022.

Ronit Walker

RONIT WALKER
Administrative Law Judge

