

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
11EDC14077

<p>Jeffrey Sloan Petitioner, v. NCDPI Respondent.</p>	<p style="text-align: center;">DECISION</p>
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THIS MATTER CAME ON TO BE HEARD for hearing before Administrative Law Judge J. Randall May on September 24, 2012, in High Point, North Carolina.

For the Petitioner: Candace M. Morton, Esq.
P.O. Box 16812
Greensboro, North Carolina 27416

For the Respondent: Tiffany Y. Lucas
Assistant Attorney General
North Carolina Department of Justice
PO Box 629
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FINDINGS OF FACT

The findings of fact are made after careful consideration and observation of the sworn testimony of the witnesses presented at the hearing, either by their audio and/or video presentation and the entire record in this proceeding. In making the findings of fact, the Undersigned has weighed all the evidence, and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including but not limited to the demeanor of the witness, any interests, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case. From the sworn testimony and the admitted evidence, or the lack thereof, the undersigned makes the following:

1. Petitioner was employed by Alamance-Burlington School System at a substitute teacher rate during the 2010-2011 school year as the Petitioner's North Carolina teaching certificate had expired on June 30, 2010.

2. At some point during his employment with the Alamance-Burlington School System, the HR executive director of the Alamance-Burlington School System discovered that the Petitioner needed to take the Praxis exam in addition to completing the required coursework in order to clear his teaching license for renewal.

3. Petitioner indicated to the HR executive director that he was possibly interested in pursuing an administrative position in the future as he was then currently enrolled in a Masters of School Administration program at North Carolina A&T University.

4. Petitioner took the Praxis exam in the spring of 2011 but failed.

5. In a letter dated May 24, 2011, the Alamance-Burlington School System notified the Petitioner that it would not renew the Petitioner's employment contract for the 2011-2012 school year.

6. In August 2011, the HR executive director of the Alamance-Burlington School System received a phone call from the Director of Internships at North Carolina A&T University regarding a reference letter she (the Director of Internships) had received through Petitioner purportedly from the Alamance-Burlington HR executive director. The reference letter stated that Alamance-Burlington had offered the Petitioner "a contract for the 2011-2012 school year as a fully license teacher"; that Petitioner had "successfully completed all requirements to obtain a clear license"; and that the "Alamance-Burlington School System welcomes [Petitioner] the opportunity to intern" in the school district.

7. The HR executive director of Alamance-Burlington schools confirmed to the Director of Internships that although the signature and letterhead on the letter were hers, she did not write the letter.

8. The matter was reported to the Department of Public Instruction in August 2011.

9. The Petitioner was called in to be interviewed by the Superintendent's Ethics Committee in September 2011. The Superintendent's Ethics Committee is made up of professional educators appointed by Superintendent June Atkinson to, among other things, follow up on inquiries made concerning a teacher's fitness to teach in the State of North Carolina. Petitioner was interviewed by members of the Committee and he admitted that he had used his computer to take a letter that had been sent to him from the Alamance-Burlington HR director, and rewrote the body of the letter to misrepresent that he had a valid teaching license and was eligible to be employed by the Alamance-Burlington school system during the 2011-2012 school year.

10. The Ethics Committee recommended to Superintendent Atkinson that the Petitioner's license be revoked. Superintendent Atkinson initiated revocation proceedings and sent notice of same to the Petitioner on October 4, 2011.

11. At the hearing in this matter, Petitioner admitted that he intentionally misrepresented to the Director of Internships at A&T University that he had a valid teaching

license and that he was eligible to be employed by the Alamance-Burlington School System during the 2011-2012 school year by cutting and pasting the letterhead and signature from a letter from the HR Executive Director at Alamance Burlington School System and creating the body of the letter himself. Petitioner also admitted at the hearing that as a consequence of his dishonest conduct and misrepresentations, he had been suspended from A&T University through the fall semester of 2012, and that if he wishes to return to A&T University, he was required to apply for readmission.

12. The standards of professional conduct set forth at 16 N.C.A.C. 6C.0602(b) require every licensed educator (i) to practice the professional standards of federal, state, and local governing bodies (.0602(b)(1)); (ii) to serve as a positive role model and to demonstrate a high standard of personal character and conduct (.0602(b)(2); and (iii) not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of professional duties. (.602(b)(3)(A,B))

13. The State Board of Education has adopted a rule, codified as 16 N.C.A.C. 6C.0312, that governs the suspension or revocation of licenses. That rule provides, in part, that the State Board of Education may revoke or deny a teaching license for fraud, material misrepresentation or concealment (.0312(a)(1)) and for any illegal, unethical or lascivious conduct if there is an adverse relationship between that conduct and the continuing ability of the person to perform any of his/her professional functions in an effective manner (.0312(a)(8))

14. The undersigned finds that the Petitioner used his computer to take a letter that had been sent to him from the Alamance-Burlington HR director, and rewrote the body of the letter to misrepresent that he had a valid license and his eligibility to be employed by the Alamance-Burlington School System during the 2011-2012 school year.

15. The undersigned further finds that the Petitioner's conduct – as outlined above – violated the standards of professional conduct for educators in the State of North Carolina and renders him unfit to continue to hold a license to teach the children of this State. Teachers are required in this State, both by Rule and by case law, to maintain the highest level of ethical and moral standards, and to serve as a positive role model for children. 16 N.C.A.C. 6C.0602(b)(2); Faulkner v. New Bern-Craven Board of Education, 311 N.C. 42, 59, 316 S.E.2d 281, 291 (1984)

16. As our Supreme Court observed in Faulkner:

Our inquiry focuses on the intent of the legislature with specific application to teachers who are entrusted with the care of small children and adolescents. We do not hesitate to conclude that these men and women are intended by parents, citizenry, and lawmakers alike to serve as good examples for their young charges. **Their character and conduct may be expected to be above those of the average individual not working in so sensitive a relationship as that of teacher to pupil.** It is not inappropriate or unreasonable to hold our teachers to a **higher**

standard of personal conduct, given the youthful ideals they are supposed to foster and elevate.

Id. (emphasis added)

17. In this case, inquiry has been made into the Petitioner's fitness to hold a teaching license in light of certain fraudulent acts and/or material misrepresentations by the Petitioner, as well as in light of the illegal, unethical and/or lascivious conduct engaged in by the Petitioner in connection with his application for a teaching license. Petitioner has admitted to the conduct for which the inquiry into his fitness to hold a teaching license was based. Teachers in this State are expected to be role models for their students. Petitioner's past conduct simply does not demonstrate the high level of ethical and moral standards expected of teachers in this State. Parents are entitled to have their children entrusted to individuals of the highest moral character. Persons engaged in the conduct admitted to by the Petitioner simply do not meet the threshold requirement demanded by communities and parents for the school teachers we expect to be examples for our children.

18. The conduct that Petitioner was alleged to have been engaged in and to which he has admitted fails to rise to the high standards of moral behavior demanded of teachers in this State and there is clearly an adverse relationship between Petitioner's conduct and his ability to perform his duties in a professionally effective manner.

CONCLUSIONS OF LAW

1. The burden is on Petitioner to demonstrate, by a preponderance of the evidence, that the State Board of Education erred in initiating revocation of his North Carolina teaching license. Peace v. Employment Sec. Comm'n, 349 N.C.315, 507 S.E.2d 272 (1988)

2. Petitioner's conduct bears a "reasonable and adverse relationship" to the Petitioner's ability to perform any of his professional functions in an effective manner.

3. Petitioner's conduct is not consistent with the high standards of conduct expected of teachers in this State. See Faulkner v. Board of Education, 311 N.C. 42, 316 S.E.2d 281 (1984)

4. Respondent did not act arbitrarily or capriciously in revoking Petitioner's license to teach in North Carolina.

5. Respondent did not and has not unlawfully deprived Petitioner of any property to which he is entitled.

6. Respondent has not prejudiced the rights of Petitioner nor acted arbitrarily or capriciously.

BASED ON THE FOREGOING, the undersigned makes the following:

DECISION

The Respondent properly initiated revocation of the Petitioner's teaching license, and the undersigned recommends that the State Board of Education enter a final decision upholding the Department of Public Instruction's recommendation to revoke Petitioner's teaching license.

NOTICE

The Agency that will make the final decision in this contested case is the North Carolina State Board of Education.

The Agency is required to give each party an opportunity to file exceptions to the decision and to present written arguments to those in the Agency who will make the final decision. N.C. Gen. Stat. § 150-36(a). The Agency is required by N.C. Gen. Stat. § 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorneys of record and to the Office of Administrative Hearings.

In accordance with N.C. Gen. Stat. § 150B-36 the Agency shall adopt each finding of fact contained in the Administrative Law Judge's decision unless the finding is clearly contrary to the preponderance of the admissible evidence. For each finding of fact not adopted by the agency, the agency shall set forth separately and in detail the reasons for not adopting the finding of fact and the evidence in the record relied upon by the agency in not adopting the finding of fact. For each new finding of fact made by the agency that is not contained in the Administrative Law Judge's decision, the agency shall set forth separately, and in detail, the evidence in the record relied upon by the agency in making the finding of fact.

This the 10th day of November, 2012.

J. Randall May
Administrative Law Judge