

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the Application
of Kylie Duncan

16-PPC-05
OAH No. 16-ED-0025

FINAL ORDER

NOW, on this 18th day of April 2017, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board). Appearing for the Board are Chairman, Jim Porter, and members, Sally Cauble, Deena Horst, Jim McNiece, Ann Mah, Steve Roberts, Janet Waugh, and Ken Willard. Board member Willard appeared by telephone.

WHEREUPON the Professional Practices Commission (Commission) considered the matter on February 3, 2017. Kylie Duncan failed to appear. The Kansas State Department of Education appeared through its attorney, Kelli M. Broers. After reviewing the evidence, the Commission voted 7 – 0 to recommend Duncan’s application for an initial license be denied.

WHEREUPON the Board reviewed the Commission’s Initial Order and after considering the presentation by Linda Sieck, Commission Chairman, who was available to answer the Board’s questions and being otherwise duly advised in the premises, the Board adopted the Commission’s findings of fact and conclusions of law by a vote of 8 – 0.

All findings set forth in the Commission’s Initial Order attached hereto are incorporated by reference and made a part of this Final Order as though fully set forth at length herein.

IT IS THEREFORE CONCLUDED by the Kansas State Board of Education that Kylie Duncan’s application for an initial license is denied.

This Final Order is made and entered this 18th day of April 2017.

Kansas State Board of Education



BY: Jim Porter, Chairman
Signed April 22, 2017

NOTICE TO LICENSEE/APPLICANT

This is a Final Order and is effective upon service.

To request reconsideration of this order, you must file a Petition for Reconsideration with the Secretary to the State Board of Education, at the address below, within 15 days after service of this Final Order. The Petition must state the specific grounds upon which relief is requested.

To request a stay of effectiveness of this order, you must file a Petition for Stay with the Secretary to the State Board of Education at the address below. A petition can be filed until the time which a petition for judicial review would no longer be timely.

To seek judicial review of a Final Order, you must file a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* within 30 days following the service of the Final Order. Filing a Petition for Reconsideration is not a prerequisite for seeking judicial review. A copy of any Petition for Judicial Review must be served upon the Secretary to the State Board of Education at the address below.

Peggy Hill
Secretary, Kansas State Board of Education
Landon State Office Building
900 SW Jackson Ave. Suite 600N
Topeka, Kansas 66612

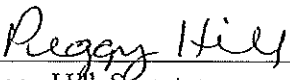
CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April 2017, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Kylie Duncan
524 South First Avenue
Mulvane, Kansas 67110

And via interoffice mail to:

Kelli Broers
Assistant General Counsel
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612



Peggy Hill, Secretary
Kansas State Board of Education

**BEFORE THE KANSAS STATE BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Application
of Kylie Duncan

16-PPC-05
OAH No. 16-ED-0025

INITIAL ORDER

The above-captioned case comes before the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) upon the complaint and amended complaint seeking denial of Kylie Duncan's application for an Initial teaching license.

The Commission reviewed this matter on February 3, 2017. Appearing for the Commission were Vice-Chairman Dorsey Burgess, and members Justin Henry, Vici Jennings, John McKinney, Sylvia Ramirez, Ginger Riddle, and Maret Schrader.

Kelli Broers appeared as counsel for KSDE.

Kylie Duncan did not appear.

FINDINGS OF FACT

1. Kylie Duncan applied for an Initial License on July 27, 2015.
2. Duncan was a student at Fort Hays State University during the 2014 – 2015 school year. During Fall 2014, she was enrolled in "Internship 3" and "Correction of Reading Disabilities Internship." Both courses required Duncan to work under supervision with children as an educator. Duncan completed student teaching Spring 2015.
3. On October 8, 2014, Duncan stole from Kohl's clothing, shoes, underwear, a candle, and a trick or treat box, all valued at \$169.96. As a result, Duncan was charged with misdemeanor theft in the Municipal Court of the City of Derby. Duncan disclosed this theft on her application and provided supporting documents.
4. Duncan entered a diversion agreement for the Derby, Kansas, charge, which was successfully completed on or about March 19, 2016.

5. On January 15, 2015, Duncan again stole an item from a retail store. More specifically, she stole a headband from Von Maur valued at \$12.00. As a result, she was charged with misdemeanor theft in the Municipal Court of the City of Wichita. Duncan also disclosed this theft on her application and provided the supporting documents.

6. Duncan entered a plea of no contest and was found guilty on the Wichita, Kansas, charges. She was also placed on 12-months non-reporting probation, which terminated on or about April 24, 2016.

7. KSDE filed a complaint pursuant to K.A.R. 91-22-5a on February 17, 2016, requesting the Kansas State Board of Education (State Board) deny Duncan's application because of her theft-related misconduct. Duncan received it and requested a hearing. She did not file an answer.

8. On May 25, 2016, Duncan was charged with felony possession of amphetamine and misdemeanor possession of controlled substances¹ for misconduct that occurred on or about January 23, 2016, in Case No. 16CR01493, District Court of Kansas, Sedgwick County.

9. On January 12, 2017, KSDE filed an amended complaint asking the State Board to deny Duncan's application for the theft-related conduct and because she had engaged in drug-related misconduct. Duncan did not file an answer.

10. As of February 3, 2017, Case No. 16CR01493 had not been resolved, though Duncan had indicated to KSDE that she believed she would be entering a diversion agreement in the matter.

11. With few exceptions, Duncan participated in the complaint process. However, she failed to appear for her scheduled hearing on February 3, 2017—a hearing for which the Office of Administrative Hearings mailed notice to her on October 24, 2016. The Commission provided her a grace period and KSDE attempted to call her. It was unable to reach her before the Commission proceeded on the evidence before it.


¹ Sibuaramine.

CONCLUSIONS OF LAW

1. In Kansas, teaching and school administration are professions with all the similar rights, responsibilities, and privileges accorded other legally recognized professions. K.S.A. 72-8501.
2. The State Board is responsible for the general supervision of education, including the certification and licensure of teachers, in Kansas. K.S.A. 72-7513 and Kan. Const., Art. VI.
3. By order of the State Board, the Commission shall investigate and conduct hearings pertaining to allegations of misconduct.
4. A party has 20 days to file an Answer upon receipt of a complaint. If no answer is filed, the person is deemed to have admitted the allegations contained in the complaint and to have acquiesced in the proposed action. K.A.R. 91-22-9.
5. The State Board may deny a license for a theft-related conviction and entry into a diversion agreement after having been charged with theft. K.A.R. 91-22-1a(b).
6. The State Board may deny a license for misconduct or other just cause including drug-related misconduct. K.A.R. 91-22-1a(b).
7. The Commission after reviewing the evidence in this matter and considering the applicable law, believes denial of Duncan's application is appropriate.
8. Duncan entered a diversion agreement and was convicted of misdemeanor theft while preparing to pursue a career in education. In the interim—and while her application with KSDE was pending—she engaged in drug-related misconduct. Furthermore, she failed to appear at her hearing and therefore presented no mitigating evidence or evidence of rehabilitation. At this time, Duncan is not suitable to enter the teaching profession.

THEREFORE the Professional Practices Commission recommends to the State Board, by a vote of 7 - 0, that Kyle Duncan's application should be denied.

PROFESSIONAL PRACTICES COMMISSION


Dorsey Barger, Vice-Chairman
Order signed on February 24, 2017

NOTICE

This Order is not a Final Order and is required to be reviewed by the Kansas State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act. The State Board will review all issues. Notice of review with the specific date and time will be provided to the parties within 15 days of the review.

You may submit to the State Board for its consideration as part of its review of the Initial Order, a written brief citing legal authority as to why the above recommendation should not be accepted. You must file the brief with the State Board Secretary at the address indicated below within ten calendar days after service of the Initial Order for transmittal to the State Board. You must also make any request for oral argument at that time.

Peggy Hill
Secretary, Kansas State Board of Education
900 SW Jackson Street, Suite 600
Topeka, Kansas 66612

Response briefs are due within ten calendar days after service of the legal brief upon the opposing party. Any reply brief is due five calendar days after service of any response brief upon the opposing party. Any response or reply briefs must also be filed with the State Board Secretary at the address indicated above.

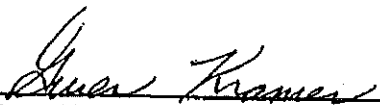
CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February 2017, I filed a true and correct copy of the above and foregoing with the Secretary for the Kansas State Board of Education and I mailed one copy by certified mail, return receipt requested, to:

Kylie Duncan
524 South First Avenue
Mulvane, Kansas 67110
kyliecd1229@gmail.com

and via interoffice mail to:

Kelli Broers
Kansas State Department of Education
900 SW Jackson Street, Suite 102
Topeka, Kansas 66612



Gwen Kramer
Secretary, Professional Practices Commission

