

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the Application
of Thomas Restivo

16-PPC-02

FINAL ORDER

NOW, on this 18th day of May, 2016, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board). Appearing for the Board are Chairman, Jim McNiece, and members, John Bacon, Kathy Busch, Carolyn Wims-Campbell, Sally Cauble, Deena Horst, Jim Porter, Steve Roberts, Janet Waugh, and Ken Willard.

WHEREUPON, a complaint was filed by the Kansas State Department of Education and Mr. Thomas Restivo had the opportunity to respond to the complaint. He did not respond nor did he request a hearing. The complaint and supporting evidence were considered by the Professional Practices Commission (Commission).

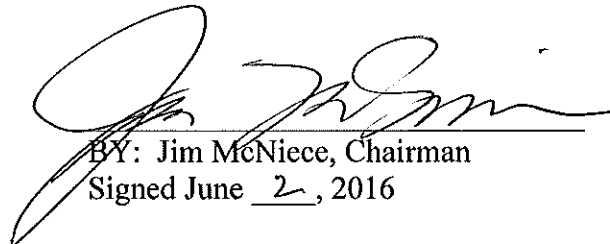
WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Linda Sieck, Chairman of the Commission, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings and recommendation to deny Mr. Restivo's application by a 10 – 0 vote.

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 Thomas Restivo's application is denied.

This Final Order is made and entered this 18th day of May, 2016.

Kansas State Board of Education



BY: Jim McNiece, Chairman
Signed June 2, 2016

NOTICE TO 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

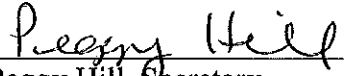
CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of June, 2016, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one (1) copy was mailed by certified mail, return receipt requested, to:

Thomas Restivo
106 E. McKinley
Frontenac, Kansas 66763

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 Thomas Restivo

16-PPC-02

INITIAL ORDER

The above-captioned case comes on for hearing before the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) upon the complaint seeking denial of Thomas Restivo's application for a substitute license.

The hearing on this matter convened on March 29, 2016. Appearing for the Commission were chairperson, Linda Sleck, and members, Dorsey Burgess, Justin Henry, John McKinney, Bradley Nicks, Ginger Riddle, and Jessica Snider. Kelli Broers appeared as counsel for KSDE. Thomas Restivo did not appear.

FINDINGS OF FACT

1. Thomas Restivo, now 70 years of age and residing at 106 E. McKinley, Frontenac, Kansas 66763, applied for a substitute license on November 18, 2015.
2. Mr. Restivo was first licensed in Kansas in 1979. His license expired on September 12, 2015.
3. In April 2014, while employed as a teacher, Mr. Restivo engaged in unprofessional conduct including punching a minor student in the face, verbally abusing the student as he tried to disengage from the situation, and re-engaging by grabbing and yanking the student's arm.
4. Ms. Restivo's actions injured the health and welfare of the minor student through physical abuse.

5. The school district investigated Mr. Restivo's actions and his contract with the district was allowed to terminate at the end of the 2013 – 2014 school year.

6. KSDE filed a Complaint pursuant to K.A.R. 91-22-5a on February 16, 2016. That Complaint was placed in the mail, by certified mail, return receipt requested, to the last known address of Mr. Restivo. Mr. Restivo signed for the Complaint.

7. Mr. Restivo did not request a hearing, nor did he file an answer to KSDE's complaint within the time provided.

CONCLUSIONS

1. Under Kansas law, teaching and school administration are considered to be professions with all the similar rights, responsibilities, and privileges accorded other legally recognized professions. An educator is in a position of public trust.

2. It is within the authority of the State Board to adopt rules and regulations providing for the denial of a license to teach.

3. By order of the State Board, the Professional Practices Commission shall investigate and conduct hearings pertaining to allegations of misconduct.

4. The State Board may deny a license application for misconduct or other just cause including but not limited to conduct that injures the health or welfare of a minor through physical abuse. K.A.R. 91-22-1a. Mr. Restivo's actions are grounds for the denial of his application.

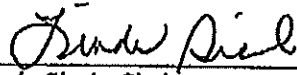
5. Mr. Restivo's conduct is inconsistent with the commonly-held perceptions and expectations of a member of the teaching profession. Such conduct violates the public trust and confidence placed in members of the profession. Furthermore, Mr. Restivo's conduct demonstrates a lack of fitness to perform the duties and responsibilities of a member of the teaching and school administration professions.

6. Mr. Restivo's actions are grounds for denial of his license pursuant to K.A.R. 91-22-1a.

THEREFORE the Professional Practices Commission recommends to the State Board, by a vote of 7 - 0, that Mr. Restivo's application for a substitute teaching license should be denied.

This Initial Order is made and entered this March 29, 2016.

PROFESSIONAL PRACTICES COMMISSION



Linda Steek, Chairperson

Order signed on April 4, 2016.

NOTICE TO APPLICANT

This Order of the Professional Practices Commission is not a Final Order and is required to be reviewed by the State Board in accordance with the provisions of the Kansas Administrative Procedure Act.

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. The legal brief must be filed with the Secretary of the Professional Practices Commission at the address indicated below within ten days after service of the Initial Order for transmittal to the State Board.

Theresa Coté
Secretary, Professional Practices Commission
Kansas State Department of Education
900 SW Jackson St.
Topeka, Kansas 66612-1182


CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of April, 2016, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one (1) copy was mailed by certified mail, return receipt requested, to:

Thomas Restivo
106 E. McKinley
Frontenac, Kansas 66763

And via interoffice mail to:

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



Theresa Coté
Secretary, Professional Practices Commission