

**BEFORE THE KANSAS STATE BOARD OF EDUCATION**

In the Matter of  
the Application  
of William Kincade

17-PPC-28

**FINAL ORDER**

NOW, on this 13<sup>th</sup> day of March 2018, 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, John Bacon, Kathy Busch, Sally Cauble, Deena Horst, Jim McNiece, Ann Mah, Steve Roberts, Janet Waugh, and Ken Willard.

WHEREUPON the Professional Practices Commission (Commission) considered the matter on January 26, 2018. Mr. Kincade appeared not. The Kansas State Department of Education appeared through its attorney, Kelli M. Broers. After reviewing the evidence, the Commission voted 7 – 0, to recommend the Board deny Mr. Kincade’s application for an emergency substitute license due to his underlying conduct and his criminal convictions.

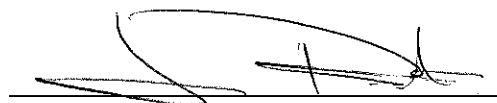
WHEREUPON the Board reviewed the Commission’s Initial Order and after considering the presentation by Jessica Snider, Commission Vice Chair, who was available to answer the Board’s questions and being otherwise duly advised in the premises, the Board adopted the Commission’s findings of fact and conclusions of law by a vote of **10 – 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 William Kincade’s application is denied.

This Final Order is made and entered this 13<sup>th</sup> day of March 2018.

Kansas State Board of Education



BY: Jim Porter, Chairman  
Signed March 14<sup>th</sup>, 2018

**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

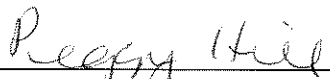
**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of March 2018, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

William Kincade  
416 E. 11<sup>th</sup>  
Pittsburg, Kansas 66762

And via interoffice mail to:

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

  
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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 William Kincade

17-PPC-28

**INITIAL ORDER**

The above-captioned case comes before the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) to determine whether the State Board shall issue an emergency substitute license to William Kincade.

This matter convened on January 26, 2018. Appearing for the Commission were Chairman Linda Sieck and members Laura Batson, Vici Jennings, John McKinney, Nathan Reed, Maret Schrader, and Jessica Snider. Kelli Broers appeared as counsel for KSDE. William Kincade appeared not.

**FINDINGS OF FACT**

1. William Kincade, 416 E. 11<sup>th</sup> Street, Pittsburg, Kansas 66762 applied for an emergency substitute teaching license. He did not disclose any criminal history in his application.
2. Kincade did have a criminal history. Since 2003, Kincade has engaged in a pattern of criminal conduct. More specifically:
  - a. On July 8, 2003, Kincade pleaded guilty to and was adjudicated of misdemeanor possession of drug paraphernalia and misdemeanor theft.
  - b. On June 27, 2015, he was convicted of one count of misdemeanor possession of drug paraphernalia in the Crawford County District Court of Pittsburg, Kansas.
  - c. On or about May 21, 2013, Kincade pleaded guilty to one count of felony sell/furnish/etc marijuana/hashish in Case No. SCR-626894-2, in The Superior Court of California, County of Sonoma.
3. Kincade obtained a dismissal of his California case that operates similarly to a Kansas expungement. But under California law, the dismissal did not relieve Kincade of his obligation to disclose his conviction “in response to any direct question contained in any questionnaire or application for public office, or for licensure by any state or local agency . . . .”

4. KSDE filed a complaint seeking the denial of Kincade's application. It was mailed to his last known address by certified mail, return receipt requested. It was delivered. Kincade did not file an answer and he did not request a hearing.

#### CONCLUSIONS OF LAW

1. The Kansas State Board of Education (State Board) is responsible for the general supervision of Kansas education, including the certification and licensure of teachers. Kan. Const., Art. VI. and K.S.A. 72-255.

2. In Kansas, teaching and school administration are professions with all the similar rights, responsibilities, and privileges accorded other legally recognized professions. K.S.A. 72-2308. An educator is a role model. Hainline v. Bond, 250 Kan. 217, 224 (1992).

3. The Commission investigates and conduct hearings pertaining to allegations of educator misconduct. K.S.A. 72-2314; K.A.R. 91-22-1a *et seq.*

4. Mailing notice to a party's last known address is a permissible form of service. A written certificate of service is sufficient to presume service. Furthermore, service by mail is complete upon mailing. See K.S.A. 77-531.

5. A party must request a hearing within 15 days of service of a complaint. K.S.A. 77-542.

6. 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.

7. The State Board may revoke a license for misconduct or other just cause. K.A.R. 91-22-1a(a). Additionally, the State Board may revoke a teaching license if an individual has been convicted of any drug-related crime. K.A.R. 91-22-1a(a)(3).

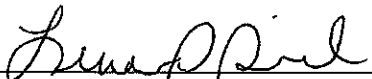
8. The State Board may be cancel, *i.e.*, revoke, a teaching license on the grounds of immorality. K.S.A. 72-2155; Hainline v. Bond, 250 Kan. 217 (1992). One of the obvious goals of education is to “instill respect for the law.” Hainline at 224.

9. The Commission, after reviewing the evidence in this matter and considering the applicable law, believes denial of Kincade’s application is necessary.

THEREFORE the Professional Practices Commission recommends to the State Board, by a vote of 7 - 0, that it deny Kincade’s application for an emergency substitute license because of his conduct and criminal convictions.

This Initial Order is made and entered this January 26, 2018.

PROFESSIONAL PRACTICES COMMISSION

  
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Linda Sieck, Chairman  
Order signed on February 1, 2018

## 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.

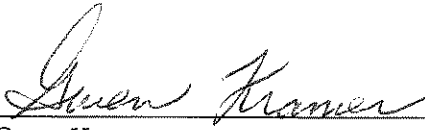
**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of February 2018, 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:

William Kincade  
416 E. 11<sup>th</sup>  
Pittsburg, Kansas 66762

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