

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the License of
Andre Kenyatta Cavitt

KSDE No. 22-PPC-19
OAH No. 23ED0007 ED

FINAL ORDER

NOW, on this 11th day of July 2023, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board). Appearing for the Board are Chairwoman, Melanie Haas, and members, Betty Arnold, Dennis Hershberger, Michelle Dombrosky, Cathy Hopkins, Deena Horst, Jim McNiece, Ann Mah, Jim Porter and Danny Zeck.

WHEREUPON the Professional Practices Commission (Commission) considered the matter on April 21, 2023. Licensee appeared by and through counsel Vincent Cox. The Kansas State Department of Education appeared through its attorney, R. Scott Gordon. After reviewing the evidence, the Commission voted **9 – 0**, to recommend the Board grant Andre Cavitt's professional teaching license subject to public censure.

WHEREUPON the Board reviewed the Commission's Initial Order. 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 Andre Cavitt's professional teaching license is granted subject to public censure.

This Final Order is made and entered this 11th day of July 2023.

Kansas State Board of Education



BY: Melanie Haas, Chairwoman
Signed July 12, 2023

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.

Barbara Hughes
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 _____ day of July 2023, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Vincent M. Cox
Cavanaugh, Biggs & Lemon, P.A.
3200 SW Huntoon Street
Topeka, Kansas 66604

And via interoffice mail to:

R. Scott Gordon
Kansas State Department of Education
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612


Barbara Hughes, Secretary
Kansas State Board of Education

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION
PROFESIONAL PRACTICES COMMISSION

In the Matter of
the License of
Andre Kenyatta Cavitt

KSDE Case No.: 22-PPC-19
OAH Case No.: 23ED0007 ED

INITIAL ORDER

Decision

Having heard the testimony of the witnesses, considered the evidence presented, reviewed the applicable statutes, regulations and policies, and otherwise being duly and fully informed in the premises of this matter, the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) on a vote of 9 to 0 recommends to the Kansas State Board of Education (State Board) that the application by Andre Kenyatta Cavitt (Cavitt) for a professional teaching license be granted, as well as any other licensure as long as Cavitt meets the requirements.

Statement of Case

This matter comes on for hearing before the Commission upon the request for hearing made by Cavitt concerning a complaint filed by the KSDE on August 16, 2022, seeking denial of Cavitt's application for a professional teaching license.

The hearing was held on April 21, 2023. Appearing for the Commission were Chairperson, Jennifer Holt, and members Caroline Spaulding, Jamie Wetig, Eric Filippi, Dr. Christy Ziegler, Darrin San Romani, Ricardo Sanchez, Aaron Edwards, and Leigh Anne Rogers.

Cavitt appeared in person and by counsel, Vincent Cox.

KSDE appeared by and through R. Scott Gordon, General Counsel.

Loren F. Snell, Jr., Administrative Law Judge, was appointed and served as the Presiding Officer over the evidentiary hearing.

Evidentiary Rulings

KSDE offered documents marked as Exhibits A through F and requested they be admitted as evidence. Cavitt had no objection. Exhibits A through F were admitted.

Cavitt offered documents identified as Exhibits 1 through 22 and requested they be admitted as evidence. KSDE had no objection. Exhibits 1 through 22 were admitted.

Findings of Fact

1. Cavitt has held a professional teaching license, issued by the State Board, since 2008. [Ex. A].

2. On or about March 12, 2018, while licensed as teacher and employed as a teacher at Bluemont Elementary School (Bluemont), Cavitt allegedly became frustrated with a student, "grabbed a minor student with both hands and shoved him against the wall, then told him [Cavitt] would 'jack him up.'" [Ex. A].

3. On August 1, 2018, Cavitt was criminally charged in Riley County District Court, case number 18 CR 428. [Ex. E]. In Count 1 Cavitt was charged with Assault, a class C misdemeanor (K.S.A. 21-5412(a)), from an incident occurring on March 12, 2018. In Count 2 Cavitt was charged with Assault, a class C misdemeanor (K.S.A. 21-5412(a)) concerning an incident on November 1, 2017.

4. On October 22, 2018, Cavitt plead no contest to and was found guilty of Assault as charged in Count 1 of the criminal complaint. Count 2 of the criminal complaint was dismissed. [Ex. F].

5. Cavitt was placed on six (6) months' probation, which terminated April 22, 2019. [Exs. 14 and 15]. Cavitt testified he completed an anger management program through the Veteran's Administration (VA), as part of his probation. [Ex. 16].

6. Cavitt testified that he had been a 6th grade teacher at Bluemont at the time of the incident and left after the incident. [Ex. 1].

7. Cavitt got his first emergency substitute teacher license in September of 2008. [Ex. 3] and got another emergency substitute teacher license in December of 2014. [Ex. 4].

8. Cavitt received his initial professional teaching license on May 20, 2015. [Ex. 5] and his professional license was issued May 23, 2016. [Ex. 6]. Cavitt's license expired on February 23, 2022, and he had timely applied for renewal of his license.¹

9. Cavitt testified that on the day in question the student was disruptive to the class. Cavitt testified he took the student to the hall and had grabbed the student on the arm between the elbow and shoulders. Cavitt acknowledged he was stern with the student to show control. Cavitt testified the student hit the wall, but it was not by force and that he did not grab the student and shove him against the wall. Cavitt acknowledged using the phrase "jack him up" with the student and testified it was to get the student to understand the consequences of his actions.

¹ Cavitt's license renewal had not been granted pending the outcome of this hearing process.

10. In testifying about the use of the phrase “jack you up,” Cavitt testified that he was letting the student know that if he wanted to get physical it would not go the way the student wanted it to. Cavitt also testified that he would not physically fight a ten (10) year old. Cavitt testified that he did not intend to be threatening but acknowledged he was meeting the student’s aggression with a similar level of aggression, and he handled the situation wrong.

11. After the incident in the hall the student told Cavitt that he felt unsafe. Cavitt testified that he felt the student was attempting to manipulate him by using the term “safe.”

12. Cavitt testified that he met with the student’s mother and, when asked, told the mother that he “got a little physical with your son.”

13. Cavitt testified that he was told by the principal of Bluemont not to come in the next day, March 13, 2018. Cavitt was suspended with pay for the remainder of the school year and did not return to Bluemont, having resigned his teaching position. [Exs. 8, 9, and 10].

14. Cavitt’s contract with Manhattan-Ogden Unified School District 383 (USD 383) was not renewed at the conclusion of the 2017-18 school year by action of the USD 383 Board of Education. [Ex. 11].

15. Cavitt testified that he benefitted from the anger management program he participated in through the VA and felt it had helped him as a teacher. Cavitt testified about the takeaways he had from the anger management program, including learning coping skills and how to handle frustration. Cavitt provided a description of the steps he would take if he became frustrated with a student.

16. Cavitt testified that he has taken full responsibility for his actions on March 12, 2018, and has learned from the incident. Specifically, Cavitt testified that he can come across abrasive and that now when he talks to students, he does it in a calm counseling manner.

17. Karin Mohr (Mohr) is a teacher with Cavitt at St. Xavier School. Mohr testified about her experience with Cavitt, having observed him multiple times per day.

18. Sean Augustine (Augustine) is the Principal at St. Xavier School since 2015.

19. Augustine testified that he had been made aware of the incident between Cavitt and the student at Bluemont and was aware of the criminal conviction. Augustine testified that Cavitt had been at St. Xavier School for four (4) years and was a respectful, caring, kindhearted, passionate teacher who goes out of his way for the students. Augustine testified that he has not had any issues with Cavitt at St. Xavier School. Augustine wrote a letter of recommendation for Cavitt. [Ex. 19].

Conclusions of Law

The State Board is responsible for the general supervision of education, including the certification and licensure of teachers, in Kansas.²

“A license may be denied by the state board to any person who fails to meet the licensure requirements of the state board or for any act for which a license may be suspended or revoked pursuant to [K.A.R. 91-22-1a](a).”³ Conduct for which a license may be suspended or revoked includes, but is not limited to: “(1) Conviction of any crime punishable as a felony.”⁴

The Commission, in determining whether to recommend to the Board that an individual’s application should be granted, is required to determine the extent of the applicant’s efforts at rehabilitation as well as the fitness of the applicant to be a member of the teaching profession.⁵

The Commission felt it was appropriate to consider the factors set forth in K.A.R. 91-22-1a(g)(1) in determining if Cavitt’s application for a professional teaching license should be granted. The factors considered were:

- (A) The nature and seriousness of the conduct that resulted in the denial or revocation of a license;
- (B) the extent to which a license may offer an opportunity to engage in conduct of a similar type that resulted in the denial or revocation;
- (C) the present fitness of the person to be a member of the profession;
- (D) the actions of the person after the denial or revocation;
- (E) the time elapsed since the denial or revocation;
- (F) the age and maturity of the person at the time of the conduct resulting in the denial or revocation;
- (G) the number of incidents of improper conduct; and
- (H) discharge from probation, pardon, or expungement.

The Commission acknowledged that Cavitt’s criminal conduct was serious; however, felt that Cavitt acknowledged the wrongfulness of his criminal conduct, had taken responsibility for it, and made efforts to change to avoid the same conduct in the future. It was also noted by the Commission that Cavitt had demonstrated for the last four (4) years that he could avoid the

² Kan. Const., Art. VI and K.S.A. 72-255.

³ K.A.R. 9122-1a(b).

⁴ K.A.R. 91-22-1a(a).

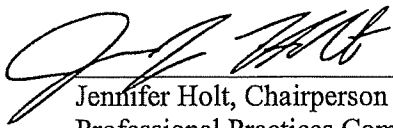
⁵ *Wright v. State Bd. of Educ.*, 268 P.3d 1231 (Kan.App. 2012).

situation that led to his criminal conduct in 2018.⁶ The Commission also noted that the incident in question happened during the his first year as a certified teacher and there was limited documentation available from the initial disciplinary action by the to help provide adequate context for the situation. The testimony provided offered a very different picture of what occurred.

The Commission felt Cavitt had taken steps to rehabilitate himself and separate himself from the conduct that led to his criminal conduct, his behavior had ceased to be a factor in his fitness for licensure, and that he was suitable to be a teacher and a role model for students. Especially given that he has had no additional similar circumstances in the past four years and that his current administration was willing to speak on his behalf.

On a vote of 9 in favor and 0 opposed the Commission recommends to the State Board that the professional teaching license, as well as any other licensure as long as Cavitt meets the requirements, be granted to Cavitt, and that Cavitt be publicly censured due to his criminal conduct.

IT IS SO ORDERED.


Jennifer Holt, Chairperson
Professional Practices Commission

Notice

This Initial Order of the Professional Practices Commission 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.

You may submit to the Kansas State Board of Education for its consideration as a 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 **fifteen (15) 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.

Barbara Hughes
Secretary, Kansas State Board of Education
900 SW Jackson Street,
Topeka, Kansas 66612

⁶ It was noted by the Commission that had this matter come before them four (4) years ago, right after it had occurred, it might have been handled differently, but that Cavitt had demonstrated an ability to do things correctly.

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 on 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

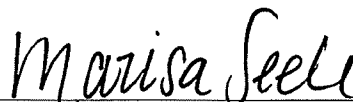
On June 8th, 2023, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Andre Kenyatta Cavitt
310 E 16th Street Circle
Junction City, KS 66441

and I further certify that I caused a copy of the foregoing to be served electronically through OAH's e-filing system to:

Vincent M. Cox
Cavanaugh, Biggs & Lemon, P.A.
3200 SW Huntoon Street
Topeka, KS 66604

R. Scott Gordon, General Counsel
Kansas State Department of Education
900 SW Jackson, Ste. 102
Topeka, KS 66612
Tel: (785) 296-3204



Marisa Seele, Secretary
Professional Practices Commission
Kansas State Department of Education
900 SW Jackson Street
Topeka, KS 66612-1182