

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the Application
of Devin Gillette

Case No: 18-PPC-03

OAH No: 18ED0014

FINAL ORDER

NOW, on this 14th day of August 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 June 7, 2018. Devin Gillette appeared not. The Kansas State Department of Education appeared through its attorney, General Counsel, R. Scott Gordon. After reviewing the evidence, the Commission voted **5 – 0**, to recommend the Board deny Devin Gillette’s application for an emergency substitute license.

WHEREUPON the Board reviewed the Commission’s Initial Order and after considering the presentation by Linda Sieck, Commission 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 Devin Gillette’s application for an emergency substitute license be denied.

This Final Order is made and entered this 14th day of August 2018.

Kansas State Board of Education



BY: Jim Porter, Chairman
Signed August 14th, 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

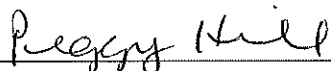
CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of August 2018, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Devin Gillette
1712 N. Fairview
Wichita, Kansas 67203

And via interoffice mail to:

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



Peggy Hill, Secretary
Kansas State Board of Education

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION
PROFESIONAL PRACTICES COMMISSION

In the Matter of
the Application
of Devin Gillette

Case No. 18-PPC-03

OAH No. 18ED0014 ED

INITIAL ORDER

Statement of Case

This matter comes on for hearing before the Professional Practices Commission (“Commission”) of the Kansas State Department of Education (“KSDE”) upon the application of Devin Gillette for an emergency substitute license.

The hearing was held on June 7, 2018. Appearing for the Commission were chairperson, Linda Sieck, vice chairperson, Jessica Snider, and members John McKinney, Nathan Reed, and Maret Schrader.

Mr. Gillette did not appear.

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

Findings of Fact

1. On or about January 6, 2012, Mr. Gillette was charged with misdemeanor possession or control of marijuana in violation of the Code of Ordinances of the City of Wichita, Kansas, Section 5.26.010, Wichita Municipal Court, Case No. 12DR00056.
2. Mr. Gillette entered into a diversion agreement in Wichita Municipal Court, Case No. 12DR00056, in March of 2012.

3. On October 9, 2012, Mr. Gillette completed the diversion agreement, resulting in the dismissal of the charge.
4. On or about January 1, 2017, Mr. Gillette was charged with possession or control of marijuana/hallucinogenics and was convicted of the same on March 7, 2017, in Wichita Municipal Court, Case No. 17DR000023.
5. On April 11, 2017, Mr. Gillette was sentenced in Wichita Municipal Court, Case No. 17DR000023, to six (6) months in the Sedgwick County Jail and fined \$200.00, plus court costs. Mr. Gillette requested and was granted probation for a period of twelve (12) months, which was scheduled to conclude on April 11, 2018.
6. On August 3, 2017, Mr. Gillette applied for an Emergency Substitute License.
7. On the application Mr. Gillette indicated that he had been convicted of a "crime involving theft, drugs, or a child" and further indicated that he had entered into a diversion agreement after being charged with a "crime involving theft, drugs, or a child".
8. On February 14, 2018, the KSDE filed a formal complaint, 18-PPC-03, requesting denial of Mr. Gillette's application for an Emergency Substitute License, which is now at issue.
9. On March 2, 2018, Mr. Gillette submitted a letter to the Commission requesting a hearing to allow him the opportunity to present evidence to

prove that he is fit to perform the responsibilities and duties of a substitute teacher.

10. A prehearing conference was scheduled in this matter to commence on April 2, 2018 at 11:30 a.m. Mr. Gillette did not participate in the prehearing conference.
11. A second prehearing conference was scheduled to take place on April 30, 2018 at 8:30 a.m. Mr. Gillette failed to participate in the prehearing conference.
12. A review of the file revealed that Mr. Gillette had been provided with the prehearing conference notices and that the notices were not returned as undeliverable.
13. Mr. Gillette did not provide any notification that he was not going to participate in the scheduled hearings.
14. The matter was placed on the Commission's June 7, 2018, docket under a default setting.
15. An evidentiary hearing was commenced on the proposed default, at which time evidence was offered in support of the complaint.

Conclusions of Law
and
Discussion

1. The Kansas State Board of Education ("State Board") is responsible for the general supervision of education, including the certification and licensure of teachers, in Kansas. Kan. Const., Art. VI and K.S.A. 2017 Supp. 72-255.

2. K.A.R. 91-22-1a(b) provides that a “license may be denied by the state board to any person . . . for any act for which a license may be suspended or revoked pursuant to subsection (a).”
3. K.A.R. 91-22-1a(a) provides, in pertinent part, that “[a]ny license issued by the state board may be suspended or revoked, or the license holder may be publicly censured by the state board for misconduct or other just cause” including: “(4) conviction of any misdemeanor involving drug-related conduct;” and “(11) entry into a criminal diversion agreement after being charged with any offense or act described in this section [in this case, drug-related conduct].”
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. *Wright v. State Bd. of Educ.*, 268 P.3d 1231 (Kan.App. 2012).
5. The evidence reflects that Mr. Gillette was charged with a drug-related misdemeanor and that he entered into and successfully completed a criminal diversion agreement related to such charge.
6. The evidence further reflects Mr. Gillette was charged with a second drug-related misdemeanor which resulted in a conviction.
7. While Mr. Gillette successfully completed the criminal diversion agreement in his first criminal case, he was charged with the same or similar conduct in

a second criminal case, resulting in a conviction. Moreover, Mr. Gillette has repeatedly failed to participate in these proceedings or to appear before the Commission to demonstrate that he has rehabilitated to the extent that he is fit to be a member of the teaching profession.

8. Pursuant to K.S.A. 72-8501, the Legislature has declared teaching and school administration to be professions in Kansas with all the similar rights, responsibilities and privileges accorded other legally recognized professions.
9. An educator is in a position of public trust.
10. Mr. Gillette'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.
11. Mr. Gillette's conduct demonstrates a lack of fitness to perform the duties and responsibilities of a member of the teaching and school administration professions and is sufficient and just cause for denying his application.
12. On a vote of 5-0, the Commission finds that Mr. Gillette's application for an Emergency Substitute License should be denied due to his criminal misconduct and his failure to participate in prehearing conferences scheduled in this matter.

IT IS THEREFORE RECOMMENDED by the Professional Practices Commission to the Kansas State Board of Education that the application by Mr. Gillette for an Emergency Substitute License be denied.

Notice

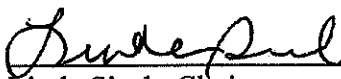
This Initial Order of the Professional Practices Commission is not a Final Order and is required to be reviewed by the Kansas State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act.

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 **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,
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 on the opposing party. Any response or reply briefs must also be filed with the State Board Secretary at the address indicated above.

IT IS SO ORDERED.

 7/12/18
Linda Sieck, Chairperson
Professional Practices Commission

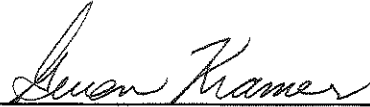
CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July, 2018, a true and correct copy of the above and foregoing Initial Order was deposited in the U.S. Mail, postage paid, addressed to:

Devin Gillette
1712 N. Fairview
Wichita, KS 67203

and via interoffice mail to:

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



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