

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the License of
Julia Abellera

17-PPC-04
OAH No. 17ED0013

FINAL ORDER

NOW, on this 9th day of May 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, 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 April 3, 2017. Julia Abellera appeared in person and with counsel David Schauner. The Kansas State Department of Education appeared through its attorney, Kelli M. Broers. After reviewing the evidence, the Commission voted 5 – 0, with one member abstaining, to recommend the State Board publicly censure Julia Abellera.

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 Julia Abellera shall be publicly censured.

This Final Order is made and entered this 9th day of May 2017.

Kansas State Board of Education



BY: Jim Porter, Chairman
Signed June 13, 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

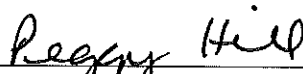
I hereby certify that on this 14th day of June 2017, a true and correct copy of the above and foregoing was mailed by U.S. mail to:

Julie Abellera
3005 Oakwood Drive
Junction City, Kansas 66441

David M. Schauner
KNEA General Counsel
Kansas National Education Association
715 SW 10th Avenue
Topeka, Kansas 66612

And via interoffice mail to:

Kelli Broers
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

In the Matter of
the Professional License
of Julia Abellera

Case No. 17-PPC-04
OAH No. 17ED0013

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 complaint filed by the KSDE seeking suspension of Julia Abellera's professional teaching license.

The hearing was held on April 3, 2017. Appearing for the Commission were chairperson, Linda Sieck, and members, Dorsey Burgess, Maret Schrader, Jessica Snyder, John McKinney, and Sylvia Ramirez.

Ms. Abellera appeared in person and with counsel, David Schauner. The KSDE appeared by and through its attorney, Kelli Broers.

Findings of Fact

1. Ms. Abellera has held a teaching license in Kansas since 2007.
2. Prior thereto, Ms. Abellera was a teacher in the Philippines for twelve years. She came to the United States through a program in which school districts would recruit special education, science and math teachers.
3. Ms. Abellera has been employed by USD 475 since 2007, with her last assignment as a special education teacher.

4. In the spring of 2015, Ms. Abellera took a second job at Walmart as a cashier.
5. During this time, Ms. Abellera's daughter and baby were living with her and her husband.
6. Also during this time, Ms. Abellera and her daughter began what she referred to as "super couponing." This involved obtaining large numbers of coupons for certain items by purchasing numerous newspapers and obtaining coupons through the internet, then stacking the coupons, leaving only a small amount, often just tax, to be paid.
7. Between September 1, 2015 and January 15, 2016, Ms. Abellera's daughter would shop for the couponed items at the Walmart during Ms. Abellera's shift. She would then check-out with Ms. Abellera. Ms. Abellera would give her daughter an employee discount. Both of these practices were against store policy. Ms. Abellera would take off the coupons then do a price adjust on the items often leaving her daughter with paying only the tax.
8. On or about January 15, 2016, Ms. Abellera was confronted about this practice by Walmart management and security. She testified that she came up with the \$4,150 amount after repeatedly being asked to provide an amount.

9. She was arrested and, on January 25, 2016, was charged with one count of felony theft, in violation of K.S.A. 2014 Supp. 21-5801(a)(1) & (b)(3), in the District Court of Geary County, Kansas.
10. To avoid going to court and future embarrassment to her family, Ms. Abellera entered a plea of "Nolo Contende" to an amended count of misdemeanor theft, in violation of K.S.A. 2014 Supp. 21-5801(a)(1) & (b)(4).
11. Ms. Abellera was placed on supervised probation and ordered to pay restitution to Walmart in the amount of \$4,150.00 and court costs and fees.
12. On September 26, 2016, Ms. Abellera submitted her application to renew her license in which she disclosed she had been convicted of theft and provided the requested supporting documents to verify the same.
13. Ms. Abellera's probation was terminated on October 15, 2016, after she completed six months of probation and paid all restitution, fees, and costs.
14. On January 19, 2017, the KSDE filed its complaint requesting that Ms. Abellera's license be suspended.
15. Ms. Abellera timely requested a hearing.

Conclusions of Law
and
Discussion

1. The Kansas State Board of Education (State Board) is responsible for licensing Kansas educators and may suspend a license for misconduct or other just cause. K.A.R. 91-22-1a(a).

2. K.A.R. 91-22-1a provides that “[a]ny license issued by the state board may be suspended or revoked, or the license holder may publicly censured by the state board for misconduct or other just cause, including . . . (3) conviction of any misdemeanor involving theft.”
3. Educators, as licensed professionals, are held to a higher standard. Educators are in a position of public trust and are role models not only for the students but for the community.
4. While Ms. Abellera attempted to minimize her conduct by claiming it was “super couponing,” the mere fact that her daughter would check out with her, which Ms. Abellera knew was against store policy, at least indicates that the practice may have been questioned by other checkers.
5. Ms. Abellera also testified that she knew she did not have to seek management approval to override prices under \$5.00, which she would do with her daughter.
6. Ms. Abellera also claimed that she believed that she could give her daughter an employee discount since she lived with her. Again, the fact that her daughter would not go through anyone else’s register to get the discount is suspect.
7. There was no evidence to prove the amount of money Walmart was denied as a result of Ms. Abellera’s misconduct. She, however, willingly paid \$4,150.00 in restitution and completed her diversion in six months.

8. Ms. Abellera testified that she has never engaged in any similar conduct or even been in trouble which the Commission believes to be the truth.
9. The Commission finds that Ms. Abellera is sincerely remorseful for her conduct.
10. The Commission does not believe that she would ever engage in similar conduct if given the opportunity.

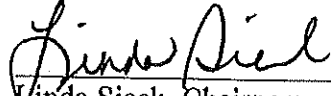
However, the Commission, on a vote of 6-1, with the one abstaining, finds that discipline is warranted and, in this case, recommends public censure.

IT IS THEREFORE RECOMMENDED by the Professional Practices Commission to the Kansas State Board of Education that Julia Abellera be publicly censured.

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.

The licensee 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. The legal brief must be filed with the Secretary of the Professional Practices Commission, Kansas State Department of Education, 900 SW Jackson Street, Topeka, Kansas 66612, within ten days after service of the Initial Order for transmittal to the Kansas State Board of Education.

This Initial Order is made and entered this 14 day of April, 2017.



Linda Sieck, Chairperson
Professional Practices Commission

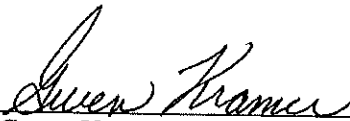
CERTIFICATE OF SERVICE

On April 14, 2017, I mailed a copy of this document to:

Julia Abellera
3005 Oakwood Drive
Junction City, KS 66441

David M. Schauner
KNEA General Counsel
Kansas National Education Association
715 SW 10th Ave.
Topeka, KS 66612-1686

Kelli M. Broers, Attorney
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

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Case No. 17-PPC-04

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NUNC PRO TUNC

The Initial Order issued in this case reflected that the vote was 6-1, with the one abstaining. That was incorrect as there were only six members in attendance for this hearing. Also, the wording regarding the abstention was somewhat confusing. This order is to correct those issues.

The Initial Order, in pertinent part, should read as follows:

However, the Commission, on a vote of 5-0, with one member abstaining, finds that discipline is warranted and, in this case, recommends public censure.

IT IS SO ORDERED.



Michele L. Tunnell
Administrative Law Judge
OFFICE OF ADMINISTRATIVE HEARINGS
1020 S. Kansas Ave.
Topeka, KS 66612

CERTIFICATE OF SERVICE

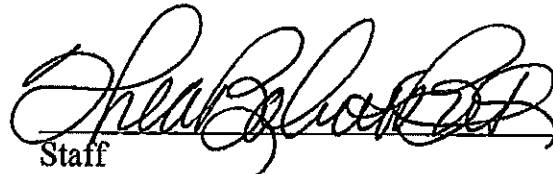
On April 25, 2017, I mailed a copy of this document to:

Julia Abellera
3005 Oakwood Drive
Junction City, KS 66441

David M. Schauner
KNEA General Counsel
Kansas National Education Association
715 SW 10th Ave.
Topeka, KS 66612-1686

and served electronically via the OAH's e-filing system to:

Kelli M. Broers, Attorney
Kansas State Department of Education
900 SW Jackson, Ste. 102
Topeka, KS 66612
Telephone: 785-296-3204



Staff

OFFICE OF ADMINISTRATIVE HEARINGS
1020 S. Kansas Ave.
Topeka, KS 66612