

**KSDE'S PROPOSED FINAL ORDER**

**BEFORE THE KANSAS STATE BOARD OF EDUCATION**

In the Matter of  
The Professional License  
of Trenton Banning

Case No. 17-PPC-42  
OAH No. 18ED0009

**FINAL ORDER**

Now, on this the 10<sup>th</sup> day of July, 2018, the above-captioned matter comes on for consideration by the Kansas State Board of Education ("State Board") upon the Complaint filed by the Kansas State Department of Education ("KSDE") requesting revocation of Trenton Banning's teaching license. Appearing for the State Board are Chairman Jim Porter and members John Bacon, Kathy Busch (by telephone), Deena Horst, Jim McNiece, Janet Waugh, Ken Willard, Steve Roberts, Sally Cauble, and Ann Mah. KSDE appeared through General Counsel R. Scott Gordon. Trenton Banning appeared in person, pro se.

WHEREUPON a full evidentiary hearing was held before the Professional Practices Commission ("Commission") and such hearing was conducted on April 23, 2018. At that hearing Mr. Banning appeared on his own behalf. KSDE appeared by and through counsel Kelly M. Broers.

WHEREUPON the State Board reviewed the recommendations of the Commission, the video recording of all but a small portion of the April 23<sup>rd</sup> hearing, and all evidence made available to the Commission including the video-taped forensic interview of the alleged victim. The State Board granted the Request for Oral Argument filed by KSDE. Mr. Banning filed no similar request and did not file an objection to KSDE's request. The State Board permitted Mr. Banning to address the State Board and present argument on his behalf. After hearing oral argument by KSDE's General Counsel R. Scott Gordon and Licensee Trenton Banning and considering all of the evidence, the State Board moved to go into closed session for the purpose of deliberating over the evidence in Mr. Banning's licensure as a quasi-judicial body. The State Board decides to reject the findings of fact and conclusions of law issued by the Commission. Instead, the State Board enters the following findings of fact and conclusions to support the decision to cancel and revoke the professional teaching license of Trenton Banning.

1. Trenton Banning holds a BSE from Pittsburg State University. He was first licensed by the State Board in 2017.
2. USD 242 (Weskan) hired Mr. Banning as a 7-12 grade social studies teacher in August, 2017.
3. All employees of USD 242, including Mr. Banning, were instructed to not add students to their personal social media accounts such as Facebook or Snapchat. Mr. Banning chose to ignore the school policy and added some students to his personal accounts even after having been told to remove them.
4. The social media platform "Snapchat" deletes text and photo messages by default. Although the setting may be changed and there are ways of preserving photographs, the purpose and appeal of Snapchat is that messages become inaccessible after a short amount of time.

5. The Standard of Proof required for proving a criminal case is different and higher than the standard of proof required for proving a licensure matter.
6. In late October/early November 2017 the superintendent of USD 242 (David Hale) investigated complaints from female students regarding Mr. Banning. At that time there was no finding of misconduct.
7. On November 17<sup>th</sup>, a student told officers with the Wallace County Sheriff's Office she had seen a photograph of Mr. Banning's penis on another student's cell phone. The owner of that phone is the 15-year-old victim in Mr. Banning's pending criminal case, hereinafter referred to as the victim.
8. On November 19<sup>th</sup>, Superintendent Hale learned of allegations involving the exchange of nude photographs and a possible sexual relationship between Mr. Banning and a student. Mr. Banning was suspended with pay pending further notice.
9. Although the victim initially denied the allegations to Superintendent Hale, she eventually disclosed to close friends and her own family that she had had sexual intercourse with Mr. Banning. Those friends came forward and disclosed to law enforcement and to Superintendent Hale what the victim told them.
10. On November 30<sup>th</sup>, 2017, Mr. Banning resigned from USD 242.
11. On December 11, 2017, the victim was interviewed by Kelly Robbins. Ms. Robbins is the Director of the Western Kansas Child Advocacy Center.
12. The victim disclosed to Ms. Robbins that she and Mr. Banning had initially connected on Snapchat and after flirting for a few months engaged in sexual intercourse. The intercourse took place sometime between October 10, 2017 and November 17, 2017 in Mr. Banning's vehicle.
13. The victim's family withdrew her from USD 242. She now lives in Germany with her older sister.
14. The State Board reviewed all of the evidence presented to the PPC, including the recorded interview of the victim conducted by Ms. Robbins, which was reviewed by the State Board, but not published to others because of a Protective Order issued to protect the identity of the victim. The video of the interview was provided to the State Board to review.
15. The State Board found the statements of the victim to be persuasive. The State Board found the testimony of Mr. Banning to not adequately rebut the allegations against him.
16. The actions of Mr. Banning occurred when the victim was 15 years old, and he was a teacher and in a position of authority.
17. The nature of the actions engaged in by Mr. Banning, regardless of whether rising to the level of criminal in nature, support a decision by the State Board that Mr. Banning be prevented from being in the classroom.

In light of these facts, the State Board reaches the following conclusions:

1. Any license issued by the State Board may be cancelled by the State Board in the manner provided by law. K.S.A. 72-2155.
2. The Commission conducted a full evidentiary hearing on the matter. All of the materials involving the licensure of Trenton Banning were included in the Board packet and were submitted to the Board for review prior to the meeting.
3. The Initial Order of the PPC is not a Final Order and is required to be reviewed by the Kansas State Board of Education. K.S.A. 72-2313, K.A.R. 91-22-25(b).
4. The State Board of Education is responsible for the general supervision of education, including the certification and licensure of teachers, in Kansas. K.S.A. 72-255 and Kan. Const., Art. VI.

5. The State Board finds the victim's statements during her interview to be trustworthy and compelling. Ms. Robbins testified during the Commission's hearing that based on her experience and her research, she believes many times children will accidentally disclose information by sharing with a close friend or friends because they just need to talk to someone about it. The State Board believes this is what happened in this case. The victim disclosed to her friends, who eventually talked to their own parents and to the police. Ms. Robbins also testified that based on her research and her experience, only .5% of disclosures of sexual activity from children turn out to be false. The State Board has no reason to believe that the victim has not been truthful in this case.
6. The State Board finds Superintendent Hale's testimony about the district's decision to terminate Mr. Banning compelling. District staff knew the victim, the other students that came forward, and Mr. Banning. Hale testified that staff believed the victim was initially lying about not having a relationship with Mr. Banning and believed she was trying to cover for him. Hale also testified that they were proceeding with termination even before giving Mr. Banning the opportunity to resign.
7. When asked if he knew of any reason for the victim to make up allegations of a sexual relationship, Mr. Banning's only response was that many people did not like him in the school district because of his high expectations. That does not mesh with his later testimony, during which he states the victim performed well in his class and had no academic or disciplinary problems.
8. The State Board is bothered that Mr. Banning brought up his then-girlfriend's dislike of the victim without giving any reasonable explanation as to why his girlfriend would know the victim much less have any reason to dislike her. In light of the allegations against him, it was a bizarre revelation.
9. The State Board is also bothered by the rebuttal testimony from Superintendent Hale. Although not much information was available, there appears to be a pattern of allegations of inappropriate relationships with students going back to Mr. Banning's days as a student teacher. This pattern reflects an inability to maintain appropriate boundaries between himself and the student body. The State Board is not insensitive to the desire of a young teacher to be the popular teacher or to be seen as someone to whom students are comfortable talking. However, there is a line that should never be crossed, and Mr. Banning has demonstrated an inability to stop himself from crossing it.
10. An important responsibility of the State Board is to determine whether the licensee engaged in any form of misconduct as described in K.A.R. 91-22-1a. The State Board disagrees with the Commission's ultimate recommendation, and finds that there is sufficient evidence to believe Mr. Banning engaged in professional misconduct as described in K.A.R. 91-22-1a(7) and (8).
11. The State Board is aware of the Department for Children and Family's investigation and lack of a finding of child abuse. The State Board is also aware of the pending criminal case and is aware that no conviction has occurred. There is a recognition that criminal investigations and actions take time, but the Board recognized that the presence or absence of a criminal charge or conviction is not the accurate standard for evaluation of an allegation of misconduct against a teacher. The existence or absence of any criminal investigation is separate from and independent of any findings by the State Board. Each agency is charged with answering different questions. Each agency's proceedings have evidentiary limitations and/or higher burdens of proof than State Board licensure cases. The State Board finds these other investigations have no bearing on the State Board's ability to find that Mr. Banning engaged in professional misconduct.

12. The State Board is not suspending Mr. Banning as recommended by the Commission. The State Board does not believe the recommended discipline is sufficient. The State Board finds that it has no choice but to err on the side of caution and protect Kansas Students. There is substantial competent evidence to support the conclusion that an inappropriate relationship with a student occurred. This warrants more severe discipline and Mr. Banning should be removed from the classroom.
13. It should be noted that under current Kansas law, a revocation in this circumstance (without a criminal conviction) is not the equivalent of a lifetime ban. If, for example, Mr. Banning is completely exonerated during the pendency of his criminal case or if he is somehow able to show rehabilitation, he has the option of applying for re-licensure at a later date.
14. When there is a substantiated allegation of inappropriate relationships with a student, the State Board is justified in revoking the license of that teacher.

Therefore, having regard for the nature and seriousness of Mr. Banning's misconduct, it is ordered by the Kansas State Board of Education that Trenton Banning's license and any endorsements which may be attached to it are hereby revoked. The State Board voted 10-0 in favor of the motion to revoke the license of Trenton Banning.

This Final Order is made and entered this 10<sup>th</sup> day of July, 2018.

Kansas State Board of Education



By: Jim Porter, Chairman  
Signed July 11, 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

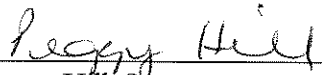
**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of July 2018, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Trenton Banning  
512 Tank Avenue  
Neodesha, Kansas 66757

And via interoffice mail to:

R. Scott Gordon  
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