

**BEFORE THE KANSAS STATE BOARD OF EDUCATION**

In the Matter of  
the Professional License  
of Kelly Dockter

Case No. 14-PPC-14  
OAH No. 15ED0001

**FINAL ORDER**

NOW, on this 13<sup>th</sup> day of May, 2015, the above-captioned matter comes on for consideration by the Kansas State Board of Education (Board) upon the application of Kelly Dockter for renewal of her teaching license. Appearing for the Board are Chariman, Jim McNiece, and members, John Bacon, Kathy Busch, Carolyn Wims-Campbell, Deena Horst, Jim Porter, Janet Waugh, and Ken Willard.

WHEREUPON a full evidentiary hearing was held before the Professional Practices Commission (Commission) and such hearing was conducted February 26 and 27, 2015. At that hearing Kelly Dockter appeared in person and with her attorney William Michael Smith. The Kansas State Department of Education (KSDE) appeared by and through its attorneys R. Scott Gordon and Kelli M. Broers.

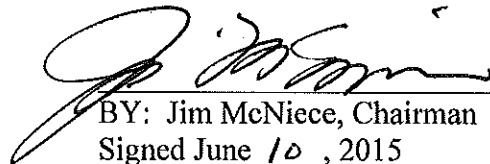
WHEREUPON the Board reviewed the Initial Order of the Commission and after considering the presentation by Calin Kendall, Chairman of the Commission, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings of fact and conclusions of law by a vote of 7 – 0, with Mr. Willard not present for the vote.

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.

Having regard for the nature and seriousness of Ms. Dockter's misconduct, the Kansas State Board of Education denies her application for renewal.

This Final Order is made and entered this 13th day of May, 2015.

Kansas State Board of Education

  
BY: Jim McNiece, Chairman  
Signed June 10, 2015

**NOTICE TO APPLICANT**

You may request a reconsideration of the above Order. To do so, you must file a Petition for Reconsideration with the Secretary to the State Board of Education, at the address stated below, within 15 days after service of this Final Order. The Petition must state the specific grounds upon which relief is requested.

The filing of a Petition for Reconsideration is not a prerequisite for seeking judicial review.

Peggy Hill  
Secretary, KSBE  
Landon State Office Building  
900 SW Jackson Ave. Suite 600N  
Topeka, Kansas 66612

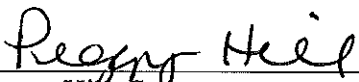
**CERTIFICATE OF SERVICE**

I hereby certify that on this 11<sup>th</sup> day of June, 2015, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Wm. Michael Smith  
3022 Bainbridge Circle  
Lawrence, Kansas 66049

And via interoffice mail to:

R. Scott Gordon  
General Counsel, Kansas State Department of Education  
Landon State Office Building  
900 SW Jackson Ave., Suite 102  
Topeka, Kansas 66612

  
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Peggy Hill, Secretary  
Kansas State Board of Education

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION  
PROFESSIONAL PRACTICES COMMISSION

In the Matter of  
The Professional License of  
Kelly Dockter

Case No. 14-PPC-14  
OAH No. 15ED0001

**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 Kelly Dockter for renewal of her teaching license.

The hearing was held on February 26 and 27, 2015. Appearing for the Commission were chairperson, Calin Kendall, and members, Dorsey Burgess, Phil Clark, Tavis DeSormiers, Kimberly Groom, Linda Sieck, and Jessica Snider.

The KSDE appeared by and through its attorneys, R. Scott Gordon and Kelli Broers. Ms. Dockter appeared in person and with her attorney, William Michael Smith.

The KSDE and Ms. Dockter presented evidence through documents and the testimony of witnesses. Testifying on behalf of the KSDE were: Nancy DeGarmo, Nicole Freeman, Holly Hudson and Emily Gawith. Ms. Dockter testified on her own behalf.

**Findings of Fact**

1. Ms. Dockter held a professional license issued by the Kansas State Board of Education beginning in 1993.

2. Ms. Dockter began working in special education for USD 497, Lawrence Public Schools, in 1993.

3. In August 2009, Ms. Dockter began working at New York Elementary School where she was assigned to the Behavioral and Emotional Support Team (BEST). The BEST program is designed to meet the needs of students with severe behavioral, emotional, and mental health disabilities.

4. Ms. Dockter had received Mandt System training on a regular basis and was to use the Mandt System in dealing with problems with the students in her school.

5. T.W. was a student in the BEST classroom and 11 years old during the 2012-2013 school year.

6. In April 2013, Ms. Dockter picked T.W. up by her arm and leg and carried her into the timeout room, which was not Mandt protocol. It is believed this is the same incident that T.W. reported to DCF that Ms. Dockter had thrown her down in the timeout room.

7. On May 3, 2013, in response to being kicked by T.W., Ms. Dockter grabbed T.W. by the foot and proceeded to lift T.W.'s foot high enough to cause her to fall backward. Paraprofessional Nicole Freeman, who was standing next to T.W., grabbed her, preventing T.W.'s upper body and head from hitting the floor. Ms. Dockter did not follow Mandt protocol in this situation. This incident was captured on video.

8. On Monday, May 6, 2013, Ms. Dockter agitated T.W. by telling paraprofessional Holly Hudson in a loud enough voice for T.W. to hear that if T.W. didn't follow instructions, the entire class, except T.W., would have recess all day the

following day. T.W. became upset and got-up from her desk and moved towards Ms. Dockter. Rather than de-escalate the situation, as required by Mandt protocol, Ms. Dockter allowed T.W. to grab her hair with both hands. Rather than following her Mandt training which provides specific instructions on what to do when an individual is pulling your hair, Ms. Dockter pulled T.W.'s hair and asked T.W. how it felt to have her hair pulled. She further told T.W. that she was calling the cops. Ms. Hudson intervened and used a Mandt restraint to move T.W. to the timeout room. There were other children in the classroom at the time this occurred.

9. On May 7, 2013, T.W. was admitted to the Marillac psychiatric treatment facility in Overland Park, Kansas

10. On May 7, 2013, Emily Gawith with the Kansas Department of Children and Families (DCF) opened an investigation into Ms. Dockter's interactions with T.W. Ms. Gawith viewed the video of the incident that occurred on May 3rd and interviewed school staff, Ms. Dockter, T.W., T.W.'s father and step-mother, the parents of student witnesses, and a student witness.

11. On May 22, 2013, Ms. Dockter entered into a Summary of Understanding with the district wherein she effectively resigned May 24, 2013.

12. Ms. Gawith's investigation was completed on June 20, 2013, and notice of her findings was mailed June 21, 2013. Ms. Gawith concluded that two of the three incidents where Ms. Dockter used physical force on T.W. were unsubstantiated as child abuse. However, the third incident, where Ms. Dockter caught and lifted T.W.'s foot and

pulled her off of her feet, was substantiated as physical abuse of a child because Ms. Dockter's actions presented T.W. with the likelihood of physical harm.

13. As a result of DCF's substantiated finding of physical abuse, Ms. Dockter's name was placed on the Kansas Child Abuse and Neglect Registry. Pursuant to K.S.A. 65-516, she is prohibited from maintaining, residing, working, or volunteering at a child care facility.

14. Ms. Dockter had the right to appeal DCF's findings but did not do so.

15. On June 28, 2013, Dr. Rick Doll, Superintendent of Lawrence Public Schools, sent notification to the Kansas State Department of Education of Ms. Dockter's employment termination due to misconduct as required by K.A.R. 91-22-1a(i).

16. On July 29, 2013, KSDE received Ms. Dockter's application to renew her professional license. At that time, Ms. Dockter's transcript from Baker University did not show that she had completed the required college coursework to satisfy the Professional Development Point requirements.

17. As of July 31, 2013, Ms. Dockter had not provided a timely, complete application for renewal of her teaching license. Because she did not submit all required documentation, her license expired on that date.

18. On July 14, 2014, a Complaint was filed by KSDE alleging professional misconduct.

Conclusions of Law  
and  
Discussion

1. 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)."

2. 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."

3. Ms. Dockter has been substantiated by DCF as having committed an act of physical abuse of a child, T.W. As such, pursuant to K.S.A. 65-516, she is prohibited from residing, working or regularly volunteering in a home or facility licensed by the Kansas Department of Health and Environment for the care of children.

4. On this basis alone, the Commission finds that Ms. Dockter should not be a licensed educator.

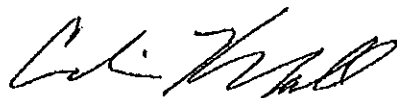
5. It is worth noting, however, that the Commission finds the other incidents in which Ms. Dockter was reportedly using excessive force with other children troubling as there appeared to be a pattern of inappropriate behavior by Ms. Dockter. Further, Ms. Dockter's testimony regarding her recollection of the various incidents was not credible.

IT IS THEREFORE RECOMMENDED by the Professional Practices Commission to the Kansas State Board of Education, on a vote of 7-1, that the renewal application of Kelly Dockter be denied.

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 applicant 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 fifteen days after service of the Initial Order for transmittal to the Kansas State Board of Education.

This Initial Order is made and entered this 13<sup>th</sup> day of March, 2015.



Calin Kendall, Chairman  
Professional Practices Commission



CERTIFICATE OF SERVICE

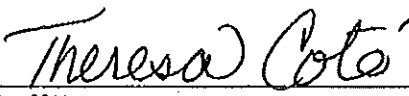
I hereby certify that on this 13<sup>th</sup> day of March, 2015 a true and correct copy of the above and foregoing Initial Order was served on:

Kelly Dockter  
18037 37<sup>th</sup> Street  
McLouth, KS 66054

William Michael Smith  
Attorney at Law  
3022 Bainbridge Circle  
Lawrence, KS 66049

R. Scott Gordon, General Counsel  
Kelli M. Broers, Assistant General Counsel  
Kansas State Department of Education  
900 SW Jackson Street  
Topeka, KS 66612

Theresa Cote  
Secretary to the Professional Practices Commission  
Kansas State Department of Education  
900 SW Jackson Street  
Topeka, KS 66612

  
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Staff Person