

**BEFORE THE KANSAS STATE BOARD OF EDUCATION**

In the Matter of  
the Application of  
Elisabeth Ruff

18-PPC-2

**FINAL ORDER**

NOW, on this 9th day of July 2019, the above-captioned matter comes for consideration by the Kansas State Board of Education (Board). Appearing for the Board are Chairman, Kathy Busch, and members, Jean Clifford, Michelle Dombrosky, Deena Horst, Ben Jones, Jim McNiece, Ann Mah, Jim Porter, Steve Roberts, and Janet Waugh.

WHEREUPON the Professional Practices Commission (Commission) considered the matter on April 26, 2019. Elisabeth Ruff appeared in person and with counsel, Sylvia Penner, attorney. The Kansas State Department of Education appeared by General Counsel, R. Scott Gordon. After reviewing the evidence, the Commission voted **7 – 1**, to recommend the Board suspend Ms. Ruff's license until June 1, 2021.


WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Nathan Reed, Acting 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 **9 – 1**.

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 Elisabeth Ruff's license be suspended until June 1, 2021.

This Final Order is made and entered this 9th day of July 2019.

Kansas State Board of Education

  
BY: Kathy Busch, Chairman  
Signed July 17 2019

**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

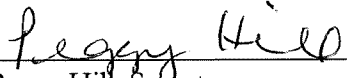
**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of July 2019, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Sylvia B. Penner  
Fleeson, Gooing, Coulson & Kitch, LLC  
1900 Epic Center  
301 N. Main, PO Box 997  
Wichita, KS 67201

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

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION  
PROFESSIONAL PRACTICES COMMISSION

In the Matter of the Professional License of,  
**Elisabeth Ruff,**

Case No. 18-PPC-22  
OAH No. 19ED0001

**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 7 to 1 recommends to the Kansas State Board of Education that the Complaint filed by KSDE seeking to revoke the teaching license of Elisabeth Ruff (Ruff) be denied and that in the alternative Ruff's license be suspended until June 1, 2021.

**Statement of Case**

This matter comes before the Commission upon the Complaint filed by KSDE seeking revocation of the teaching license of Elisabeth Ruff.

The hearing was held on April 26, 2019. Appearing for the Commission were chairperson, Linda Sieck, and members, Stan Ruff, William Anderson, Aaron Edwards, Jennifer Holt, Sylvia Ramirez Maret Schrader and Nathan Reed. Loren F. Snell, Jr., Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH), served as the presiding officer on behalf of the Commission.

Elisabeth Ruff (Ruff) appeared in person and with counsel, Sylvia Penner, attorney. KSDE appeared by and through its attorney, R. Scott Gordon.

**Procedural**

On April 24, 2019 Ruff filed a Motion to Leave Open the Record of the Hearing. According to Ruff's motion, Joanne Martelli (Martelli), a witness to Ruff's medical condition, notified Ruff's counsel on April 22, 2019 that she was unavailable to testify at the hearing scheduled for April 26, 2019. Counsel advised that Martelli was available for a deposition on May 1, 2019 and that a transcript of the deposition could be prepared and submitted as part of the record. Counsel further offered that counsel for KSDE would be able to cross-examine Martelli during the deposition and leaving the record open would not prejudice either party or create an undue delay in issuing a decision in this matter.

K.S.A. 77-523(b) states” “To the extent necessary for full disclosure of all relevant facts and issues, the presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination and submit rebuttal evidence, except as restricted by a limited grant of intervention or by prehearing order.”

“It is the function of the administrative hearing body to determine the weight or credibility of the testimony of witnesses.” *Lacy v. Kansas Dental Bd.*, 274 Kan. 1031, 1047-48 (2002) (citing *Swezey v. State Department of Social and Rehabilitation Services*, 1 Kan. App. 2d 94, 98, 562 P.2d 117 (1977)).

In this case, the Commission serves as the “administrative hearing body.” For the Commission to determine the weight and credibility of the testimony of Martelli in this matter, she must appear, either in person or via telephone, before the Commission to provide her testimony. As a “material witness”, as characterized by Ruff, a transcript of a deposition conducted outside of the presence of the Commission restricts the Commission’s ability to make a weight and/or credibility determination. Furthermore, allowing for testimony outside of the presence of the Commission restricts the Commission’s ability to question Martelli as to the evidence and testimony she may present. Therefore, having considered the motion filed by Ruff, the objections stated by counsel for KSDE, reviewed the applicable statutes, regulations and caselaw, and having reviewed the case file, Ruff’s motion is denied.

Ruff was provided an opportunity to confer with her counsel and determine if she wanted to proceed with the hearing absent the testimony of Martelli or if she would make a request to continue the hearing. Ruff advised the Commission that she wished to proceed with the hearing and forego the testimony of Martelli.

### **Evidentiary Rulings**

Counsel for KSDE requested that Exhibits A-1 through HH-4 be admitted. Having received no objections from Ruff either prior to or at the time of counsel’s request, Exhibits A-1 through HH-4 were admitted as evidence in this matter.

Counsel for Ruff requested that Exhibits 1 through 6, as well as the Medical Records provided by Martelli (identified at the hearing as Exhibit 7), be admitted as evidence. Counsel for KSDE had no objection to Exhibits 1 through 6; however, did object to the admission of the Medical Records provided by Martelli. Exhibits 1 through 6 were admitted as evidence in this matter. The Medical Records, Exhibit 7, were not admitted.

## Discussion

### Findings of Fact

1. Ruff was licensed to teach in the State of Kansas, having received her initial teaching license in June of 2017.

2. Ruff was hired by the Clearwater Unified School District, USD 264 (Clearwater) in August of 2017 to teach 7<sup>th</sup> and 8<sup>th</sup> grade visual arts at the middle school.

3. In mid-October of 2017 Ruff started offering an after school tutoring program for art students. One student (Student C) participated in Ruff's tutoring program. Ruff provided one-on-one tutoring to Student C in her classroom.

4. Ruff was advised by Kelly Bielefeld (Bielefeld), Principal of Clearwater Intermediate and Middle Schools, that conducting a one-on-one tutoring program was not a "good idea" and that the lunchtime and after school tutoring program was suspended. Bielefeld testified that he directed Ruff to focus on the classroom and that Student C was not to stay in her classroom during lunch or after school.

5. On December 15, 2017 Ruff sent an email to Bielefeld in which she reported on her afterschool activities with students and stated that she wanted "to be as transparent with my interactions with students after school." Specific to Student C, Ruff reported that Student C had stopped by her classroom on the way to a basketball game. Ruff reported that a custodian was present during the visit and she asked Student C to leave when the custodian left. (*See* KSDE Exhibit D).

6. Clearwater was on winter break from December 18, 2017 through January 2, 2018, during which time there were no classes.

7. On or about January 19, 2018 a counselor at Clearwater Middle School overheard discussion about emails sent by Ruff to a student(s).

8. Ruff's school email account was reviewed and Bielefeld and Superintendent Paul Becker (Becker) learned of "hundreds" of emails exchanged between Ruff and Student C between the dates of December 6, 2017 and January 15, 2018.

9. The email correspondence was offered and admitted into evidence, and testimony was offered from multiple witnesses concerning the content of the emails. The full content of the emails will not be set forth herein; however, the emails set forth in KSDE's Exhibits E-1 through HH-4 are incorporated herein by reference.

10. Having reviewed the email correspondence between Ruff and Student C, Bielefeld and Becker identified inappropriate emails that included the following:<sup>1</sup>

- a. Messages arranging for an after-school meeting between Ruff and Student C at the school, albeit during a public event, a school concert, after Ruff had been instructed to avoid one-on-one meetings with Student C.<sup>2</sup> (See KSDE Exhibits F-8 through F-11).
- b. Late night or very early morning conversations. For example:
  - i. Began an email conversation at 12:10 p.m. on December 20, 2017 that ended at 1:33 a.m. on December 21, 2017.
  - ii. (See KSDE Exhibits X-1 through Y-12).
  - iii. Another email conversation began on December 24, 2017 at 9:42 p.m. and concluded briefly at 12:38 a.m. on December 25, 2017. The messages started again at 11:13 a.m. and carried on until 4:36 a.m. on December 26, 2017. (See KSDE Exhibits Z-1 through Z-10).
- c. References topics that should be discussed “on the other account”, a private email account that is not on the Clearwater server. (See KSDE Exhibits Q-9 through R-10, AA-1, BB-1, DD-3 and HH-3).
- d. References to gifts Ruff had for Student C. (See KSDE Exhibits J-1 through J-7, M-1, N-1, N-2, V-2, X-1 through Y-12, and DD-1 through FF-1).
- e. Message in which Student C discussed the subject of suicide and Student C’s wanting to die and thoughts about “killing myself.” See KSDE Exhibit FF-1).
- f. Drawings of cartoon characters that were sexual in nature and discussions regarding Student C’s attraction to the cartoon character. (See KSDE Exhibits E-8, E-10, E-11, Q-9, Q-10, HH-2 and HH-3).

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<sup>1</sup> The emails offered and admitted as evidence in this matter contain multiple instances of what may be deemed inappropriate conduct. Those included within this order are some of the examples that were specifically discussed during the course of the hearing.

<sup>2</sup> Ruff testified that she thought the instructions only applied to her not having one-on-one meetings or tutoring with Student C in her classroom during lunch or after school

- g. Use of inappropriate conversations and language between a teacher and a student. For example, Ruff refers to one of their conversations and describes her conduct as “drunk texting without the alcohol.” (See KSDE Exhibits E-10, F-2, F-6, H-3, X-1 through Y-12, Z-1 through Z-10).
  - h. Acknowledgement by Ruff that she and Student C emailed each other too often and should stop emailing so much. At one-point on December 26, 2017 Ruff asked Student C “why does your mother hate me?” (12:13 a.m.) and then responded “It’s none of my concern. We email too often and that’s the problem.” at 12:23 a.m. (See KSDE Exhibits T-5, U-6 and Z-1 through Z-10).
  - i. On December 17, 2017 Ruff and Student C had a conversation discussing how Student C’s mother felt Ruff and Student C had a relationship. (See KSDE Exhibits T-3 through T-5).
  - j. Recognition by Ruff that the boundaries between her and Student C were not always appropriate. (See KSDE Exhibit P-2).
11. No steps were taken by Clearwater to remove Student C from Ruff’s classroom.
12. In February of 2018 Bielefeld and Becker met with Ruff to discuss the emails. Bielefeld testified that when confronted with the emails Ruff stated that she felt the emails were being misinterpreted. Ruff stated that by she was trying to help Student C through their issues. When shown specific concerns from the email conversations, Ruff reportedly acknowledged that she should not have done this.
13. On February 2, 2018 Ruff signed a letter of resignation as a teacher at Clearwater, in lieu of termination. The effective date of Ruff’s resignation was February 1, 2018.
14. Bielefeld testified that Ruff was as “strong” teacher in the classroom; however, he felt that she struggled with classroom management and organization. He felt that her experience working with different students stood out. Bielefeld also testified that he felt that Ruff was being insubordinate and potentially grooming Student C by giving gifts and breaking down teacher-student boundaries.
15. Bielefeld testified that Ruff’s assigned mentors were a first-year art teacher at the high school and a middle school vocal music teacher. Neither teacher was consulted in an effort to provide guidance to Ruff on appropriate teacher-student relationships.

16. Becker testified that he felt that Ruff was grooming Student C by stretching the student-teacher boundaries. Becker testified that Ruff had failed to abide by the Kansas Educator Code of Conduct, particularly the educator's responsibilities to the student.

17. Law enforcement was never involved in the matter. Ruff was never charged or arrested. Bielefeld testified that there was no evidence of an inappropriate physical relationship between Ruff and Student C. Becker testified that there were no criminal findings, so the matter was dropped.

18. Ruff testified that she had no physical attraction to Student C. She saw Student C as a talented artist that was often picked on by other students and was often alone. She inquired about the idea of tutoring, with Student C in mind, hoping that it would develop into an art club at the school.

19. Ruff testified that during winter break from Clearwater she sought care from a mental health provider and was diagnosed with Premenstrual Dysphoric Disorder. According to Ruff, her disorder contributed to her some mental health issues that manifested themselves when she was engaging in the email conversations with Student C. Ruff testified that she had begun taking medication and engaged in psychological therapy. Ruff felt that her condition had improved as she had learned the appropriate tools to manage her condition and the associated behaviors.

#### 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(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. KSDE is seeking revocation of Ruff's teaching license. For the following reasons, the Commission is not willing to revoke Ruff's license.

4. The Commission recognizes that the KSDE is obligated to ensure that the health, safety, and welfare of students are not placed at risk by licensed educators. Having considered the testimony and evidence presented, the Commission simply does not reach the same conclusion as KSDE and the administrators of Clearwater. There is no evidence that either Ruff or student C were physically attracted to each other or that either's actions were sexually motivated. Bielefeld and Becker both testified that they believed that Ruff was grooming Student C. The evidence presented to the Commission does not support such a conclusion. The Commission does recognize the serious nature of the actions by Ruff.



The activities that she engaged in with Student C were clearly improper and violated the Kansas Educator Code of Conduct; however, Ruff's conduct does not warrant revocation of her license. It was also noted by the Commission that there were many missing pieces of evidence. Other than the description provided by Ruff during her testimony, there was very little offered regarding the condition or demeanor of Student C that would assist the Commission. There was testimony regarding the use of private email accounts to discuss topics; however, those emails were not made available to the Commission for them to consider the content. Simply stated, the Commission does not feel that there was sufficient evidence to warrant a finding that Ruff had engaged in grooming.

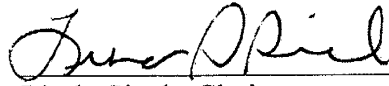
5. The Commission does note great concern regarding Ruff's apparent failure to recognize the seriousness of the content of some of the email conversations. Specifically, Ruff's failure to take appropriate steps relating to Student C's suicidal suggestions was very concerning. Moreover, the Commission is concerned by Ruff's failure to recognize the appropriate boundaries that must be in place between a teacher and a student to protect the well-being of the student.

6. 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). The Commission has applied these same principles when considering whether a teacher's professional license should be revoked.

7. The Commission feels that Ruff expressed remorse for her actions and recognition of the wrongfulness of the activity that she engaged in with Student C. Furthermore, Ruff has identified a medical condition and has taken steps to address those issues, both through medication and therapy. Provided that Ruff continues to seek treatment for her medical conditions and works to identify and develop proper boundaries with her students, the Commission feels that Ruff remains suitable to be placed in a position of trust and would be a suitable role model for students.

8. On a vote of 7-1, it is recommended by the Professional Practices Commission to the Kansas State Board of Education that Ruff's license be suspended until June 1, 2021.

IT IS SO ORDERED.

 5/24/19  
Linda Sieck, 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 **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.

**CERTIFICATE OF SERVICE**

On June 3, 2019, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Elisabeth Ruff  
6500 W. Central Avenue #814  
Wichita, KS 67212

Sylvia B. Penner  
Fleeson, Gooing, Coulson & Kitch, LLC  
1900 Epic Center  
301 N. Main, PO Box 997  
Wichita, KS 67201

and that the foregoing has been served electronically via the OAH's e-filing system to:

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