

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the License
of Tyson McGuire

Case No: 17-PPC-44

OAH No: 18ED0012

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. Tyson McGuire 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 revoke Tyson McGuire’s professional 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 Tyson McGuire’s professional license be revoked.

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

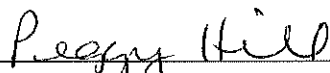
CERTIFICATE OF SERVICE

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:

Tyson McGuire
2501 Cheyenne Rd.
Liberal, Kansas 67901

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
PROFESSIONAL PRACTICES COMMISSION

In the Matter of
the License
of Tyson McGuire

Case No. 17-PPC-44

OAH No. 18ED0012

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 revocation of the license of Tyson McGuire.

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

Mr. McGuire did not appear, having previously submitted a Notice to Withdraw Appeal on March 21, 2018.

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

Findings of Fact

1. As of the date of the Complaint filed in this matter, Mr. McGuire held a teaching license.

2. Mr. McGuire was employed by Unified School District 480 ("USD 480") in Seward County, Kansas, as a teacher and a coach during the 2015-2018 school years.
3. During the 2015-16 school year a complaint was received alleging that Mr. McGuire had engaged in inappropriate physical contact with a student that caused the student to be very uncomfortable.
4. In November of 2016 a student complained that Mr. McGuire engaged in inappropriate physical contact with the student in a manner which made the student uncomfortable. As a result of the conduct, Mr. McGuire was provided a written Letter of Expectations, prohibiting him from one-on-one contact with students. Mr. McGuire was required to report any interaction with a student that would be perceived as inappropriate to either an administrator or other staff member.
5. In November of 2017 a student reported that Mr. McGuire had engaged in inappropriate physical contact with the student during the spring semester of 2017. The contact made the student feel very uncomfortable. The contact was found to violate the terms of the Letter of Expectations in that it constituted inappropriate interaction but was not reported to an administrator.
6. On or about December 4, 2017, the USD 480 Board of Education determined that Mr. McGuire's employment contract should be terminated based upon the misconduct set forth above.

7. On or about December 6, 2017 a criminal complaint was filed against Mr. McGuire in the District Court of Seward County, Kansas, Case No. 17-CR-549. In the complaint it was alleged that Mr. McGuire had committed one count of rape in violation of K.S.A. 2013 Supp. 21-5503(a)(1)(A) and one count of sexual battery in violation of K.S.A. 21-5505(a).
8. On or about December 20, 2017, Mr. McGuire was terminated by USD 480 based upon the misconduct set forth above.
9. On or about February 28, 2018 Mr. McGuire appeared before the criminal court in the District Court of Seward County, Kansas in Case No. 17-CR-549, and entered a plea of no contest to two (2) counts of sexual battery based upon a plea agreement.
10. At the time Mr. McGuire was convicted, sexual battery was a class A person misdemeanor.
11. On December 29, 2017, the KSDE filed the Complaint against Mr. McGuire seeking revocation of his teaching license based on his alleged misconduct.
12. On or about January 18, 2018 Mr. McGuire filed a request for a hearing on the Complaint filed by KSDE.
13. On March 21, 2018 Mr. McGuire, by his attorney, filed a Notice to Withdraw Appeal, notifying the Commission of his intent withdraw his request for an appeal.

14. On June 7, 2018, the KSDE presented its evidence to the Commission regarding this matter. Mr. McGuire did not appear.

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 that “[a]ny license issued by the state board may be suspended or revoked,... for misconduct or other just cause, including... (2) conviction of any crime involving a minor;... (7) commission or omission of any act that injures the health or welfare of a minor through physical or sexual abuse or exploitation; (8) engaging in any sexual activity with a student;...” K.A.R. 91-22-1a.
3. The State Board may cancel Mr. McGuire’s license on the grounds of immorality. K.S.A. 2017 Supp. 72-2155.
4. 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.
5. An educator is in a position of public trust.
6. Mr. McGuire’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.

7. Mr. McGuire'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 revoking his license.
8. On a vote of 5-0, the Commission finds that Mr. McGuire's license to teach should be revoked as a consequence of his criminal conviction, the underlying misconduct that led to the criminal conviction and his failure to appear before the Commission.

IT IS THEREFORE RECOMMENDED by the Professional Practices Commission to the Kansas State Board of Education that the license of Mr. McGuire be revoked.

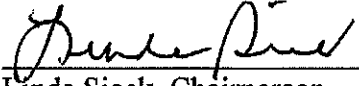
This Initial Order of the Professional Practices Commission is not a Final Order and is required to be reviewed by the Kansas State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act.

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

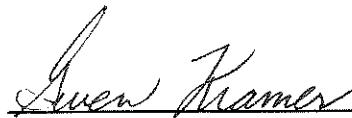
I hereby certify that on this 13th day of July, 2018, a true and correct copy of the above and foregoing Initial Order was deposited in the U.S. Mail, postage paid, addressed to:

Tyson McGuire
2501 Cheyenne Road
Liberal, KS 67901

Derek W. Miller
Miller and French, LLC
604 North Washington
Liberal, KS 67901

and via interoffice mail to:

R. Scott Gordon, Chief 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