

**BEFORE THE KANSAS STATE BOARD OF EDUCATION**

In the Matter of  
the Application  
of Holly Brown

Case No: 17-PPC-24  
OAH No: 18ED0005

**FINAL ORDER**

NOW, on this 14h 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. Holly Brown 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 deny Holly Brown’s application for an emergency substitute 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 Holly Brown’s application for an emergency substitute license be denied.

This Final Order is made and entered this 14th day of August 2018.

Kansas State Board of Education



BY: Jim Porter, Chairman  
Signed August 14<sup>th</sup>, 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

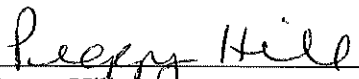
**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of August 2018, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Holly Brown  
255 N. Michigan #42  
Lawrence, Kansas 66044

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  
PROFESIONAL PRACTICES COMMISSION

In the Matter of  
the Application  
of Holly Brown

Case No. 17-PPC-24

OAH No. 18ED0005 ED

**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 Holly Brown for an emergency substitute teaching license.

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

Ms. Brown did not appear.

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

Findings of Fact

- 1 On the application Ms. Brown indicated that she had been convicted of a "crime involving theft, drugs, or a child" and further indicated that she had entered into a diversion agreement after being charged with a "crime involving theft, drugs, or a child".

2. On or about August 25, 2000, Ms. Brown, formerly Holly Ranker, pled no contest in the District Court of Riley County, Kansas, Case No. 00-CR-809, to one count of possession of "marihuana." A second count of possession of drug paraphernalia was dismissed. Ms. Brown was sentenced in the above-stated criminal case on or about September 25, 2000, to thirty (30) days in the Riley County jail. Ms. Brown was subsequently granted six (6) months of probation.
3. On or about August 27, 2002 Ms. Brown, formerly Holly M. Ranker, was charged in the Seventh Judicial District Court, Sierra County, New Mexico, Case No. D-0721-CR-2002-00083, with one count of possession of a controlled substance (methamphetamine), one count of possession of marijuana one ounce or less, and one count of possession of drug paraphernalia. Possession of a controlled substance was identified as a 4<sup>th</sup> degree felony by the State of New Mexico. Possession of methamphetamine is designated as a level 5 felony by the State of Kansas. K.S.A. 21-5706(a).
4. On or about April 29, 2010 Ms. Brown entered into the Pre-Prosecution Diversion Program for a period of twenty-four (24) months for the purpose of deferring prosecution on the criminal charges in the New Mexico case set forth above.

5. On or about April 27, 2012, Ms. Brown was discharged from the Pre-Prosecution Diversion Program after satisfactorily completing the terms and conditions of the program in the New Mexico case set forth above.
6. On or about February 9, 2017, Ms. Brown applied for an Emergency Substitute Teacher License.
7. On September 12, 2017 the KSDE filed a formal complaint, 17-PPC-24, requesting denial of Ms. Brown's application for an Emergency Substitute Teacher License, which is now at issue.
8. On or about September 14, 2017 Ms. Brown was charged with one count of domestic battery in District Court, Douglas County, Kansas, Case No. 2017-CR-922.
9. On October 27, 2017, Ms. Brown requested a hearing on the proposed denial.
10. The jury trial scheduled to commence in the Douglas County District Court matter on April 4, 2018 was continued to allow Ms. Brown to "attend inpatient alcohol/substance abuse treatment."
11. A review of the file revealed that Ms. Brown had been provided with a Second Amended Prehearing Order notifying the parties that the evidentiary hearing was scheduled to take place on June 7, 2018 commencing at 10:00 a.m., and that said notice was not returned as undeliverable.

12. At 10:14 a.m., after Ms. Brown had failed to appear, the evidentiary hearing was commenced.
13. Ms. Brown did not notify the Commission that she was not going to appear for the evidentiary hearing.

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(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).”
3. 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” including: “(4) conviction of any misdemeanor involving drug-related conduct;” and “(11) entry into a criminal diversion agreement after being charged with any offense or act described in this section [in this case, drug-related conduct].”

4. Pursuant to K.S.A. 2017 Supp. 72-2165(b), “Except as provided in subsection (c), the state board of education shall not knowingly issue a license to or renew the license of any person who has been convicted of, or has entered into a criminal diversion agreement after having been charged with: (1) A felony under ... article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto,...; or (11) an act committed in violation of a federal law or in violation of another state’s law that is comparable to any act described in this subsection.”
5. K.S.A. 2017 Supp. 72-2165(c) further provides that the state board of education may issue a license to an applicant that “has entered into a criminal diversion agreement after having been charged with an offense or act described in subsection (b) if the state board determines, **following a hearing**, that the person has ... in the case of a person who has entered into a criminal diversion agreement, that person has satisfied the terms and conditions of the agreement.” The statute goes on to set out factors that may be considered in determining whether to grant a license under this subsection.
6. Similar to the factors set forth in statute, K.A.R. 91-22-1a(g)(1) provides factors relevant to a determination as to rehabilitation. The factors are as follows:
  - (A) The nature and seriousness of the conduct that resulted in the denial or revocation of a license;

- (B) the extent to which a license may offer an opportunity to engage in conduct of a similar type that resulted in the denial or revocation;
  - (C) the present fitness of the person to be a member of the profession;
  - (D) the actions of the person after the denial or revocation;
  - (E) the time elapsed since the denial or revocation;
  - (F) the age and maturity of the person at the time of the conduct resulting in the denial or revocation;
  - (G) the number of incidents of improper conduct; and
  - (H) discharge from probation, pardon, or expungement.
7. 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).
8. The evidence reflects that Ms. Brown was charged with a drug-related felony, possession of methamphetamine, and that she entered into a criminal diversion agreement related to such charge. While Ms. Brown successfully completed the criminal diversion agreement, she has failed to appear before the Commission for this hearing and to demonstrate that she has rehabilitated to the extent that she is fit to be a member of the teaching profession.



9. 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.
10. An educator is in a position of public trust.
11. Ms. Brown'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.
12. Ms. Brown'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 denying her application.
13. On a vote of 5-0, the Commission finds that Ms. Brown's application for an Emergency Substitute Teacher License should be denied due to the criminal diversion entered into in the State of New Mexico, the continued pattern of drug use from as early as 1997 through 2017, and her failure to appear for the scheduled hearing before the Commission.

IT IS THEREFORE RECOMMENDED by the Professional Practices Commission to the Kansas State Board of Education that the application by Ms. Brown for an Emergency Substitute Teacher License 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.

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

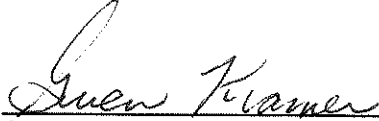
**CERTIFICATE OF SERVICE**

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

Holly Brown  
255 N. Michigan, #42  
Lawrence, KS 66044

and via interoffice mail to:

R. Scott Gordon, General Counsel  
Kansas State Department of Education  
900 SW Jackson, Ste. 102  
Topeka, KS 66612  
Telephone: 785-296-3204

  
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Gwen Kramer, Secretary  
Professional Practices Commission  
Kansas State Department of Education  
900 SW Jackson Street  
Topeka, KS 66612-1182