

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the Application of
Scott E. Smith

15-PPC-16

FINAL ORDER

NOW, on this 8th day of September, 2015, the above-captioned matter comes on for consideration by the Kansas State Board of Education (Board) upon the application of Scott E. Smith for an emergency substitute license. Appearing for the Board are Chairman, Jim McNiece, and members, Kathy Busch, Carolyn Wims-Campbell, Sally Cauble, Deena Horst, Jim Porter, Steve Roberts, Janet Waugh, and Ken Willard.

WHEREUPON, a complaint was filed by the Kansas State Department of Education and Mr. Smith had the opportunity to respond to the complaint. Mr. Smith did not respond to the complaint. The complaint and supporting evidence were reviewed by the Professional Practices Commission (Commission).

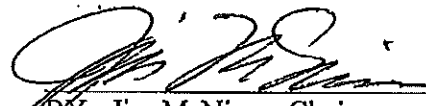
WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Linda Sieck, Chairman of the Commission, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings of fact and conclusions of law by a vote of 9 - 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 Scott Smith's application for an emergency substitute license is denied.

This Final Order is made and entered this 8th day of September, 2015.

Kansas State Board of Education


BY: Jim McNiece, Chairman
Signed September 17, 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 22nd day of September, 2015, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Scott E. Smith
1018 N. Sycamore
Iola, Kansas 66749

And via interoffice mail to:

Kelli M. Broers
Attorney, Kansas State Department of Education
Landon State Office Building
900 SW Jackson Ave., Suite 102
Topeka, Kansas 66612



Peggy Hill, Secretary
Kansas State Board of Education

**BEFORE THE KANSAS STATE BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Application of
Scott E. Smith

15-PPC-16

INITIAL ORDER

The above-captioned case comes on for hearing before the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) upon the application of Scott Smith for an emergency substitute license.

The hearing on this matter convened on August 5, 2015. Appearing for the Commission were chairperson, Linda Sleek, and members, Dorsey Burgess, Tavis Desormiers, Kimberly Groom, Justin Henry, John McKinney, Bradley Nicks, and Jason Silder. Kelli Broers appeared as counsel for KSDE. Scott Smith did not appear.

FINDINGS OF FACT

1. Scott E. Smith [Applicant], has submitted an application to the Kansas State Board of Education (State Board) requesting he be issued an emergency substitute teaching license.
2. The Applicant was convicted on November 3, 2003, in Butler County District Court of one count of Contributing to a Child's Misconduct or Deprivation, a level 7 Person Felony, as defined in K.S.A. 21-3612(a)(5) as amended. The Applicant was licensed as a teacher, and the victims were students.
3. Per the plea agreement in 03-CR-96, the Applicant voluntarily surrendered his teaching license. The surrender of his license was accepted by the State Board on February 10, 2004, whereby his license was revoked as a consequence of his misconduct.
4. Applicant's conviction was based on sexually motivated misconduct with students under the age of 16. More specifically, Applicant kissed and improperly touched female students ages 14 and 15.
5. Although Applicant's conviction has been expunged, the underlying misconduct for which he was convicted may still be considered by the State Board in determining whether to deny his application for licensure. KSDE files include information regarding Applicant's misconduct, and those files are not sealed by expungement. Wright v. Kansas State Bd. Of Educ., 46 Kan. App. 2d 1046, 1053 (2012).
6. The Applicant failed to disclose on his application for licensure that he'd previously had a teacher's or school administrator's certificate or license denied, suspended, revoked, or been the subject of other disciplinary action.

7. KSDE filed a Complaint pursuant to K.A.R. 91-22-5R on June 2, 2015. That Complaint was placed in the mail on June 3, 2015, by certified mail, return receipt requested. The Applicant signed for the Complaint on June 6, 2015.
8. The Applicant did not request a hearing, nor did he file an answer to KSDE's Complaint.

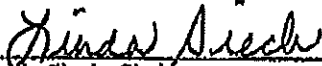
CONCLUSIONS

9. If no answer to a Complaint is filed within 20 days, the Applicant is deemed to have admitted the allegations contained in the Complaint and acquiesced in the proposed action. K.A.R. 91-22-9.
10. 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. An educator is in a position of public trust.
11. Pursuant to K.A.R. 91-22-1a, the State Board may deny a teacher's license/certificate to any person for misconduct or other just cause including engaging in any sexual activity with a student and commission of acts that endanger the health and welfare of minors through sexual abuse or exploitation.
12. The State Board has the authority pursuant to K.A.R. 91-22-1a(b) to deny a teaching license for misconduct or other just cause as provided in K.A.R. 91-22-1a(n). The State Board may also deny a license to a person who misrepresents or fails to disclose material facts on the application.
13. Though more than ten years have passed since the Applicant's conviction and surrender of his teaching license, he has failed to respond to KSDE's complaint and therefore failed demonstrate he is rehabilitated.

WHEREFORE the Professional Practices Commission recommends, by a vote of 8-0, subject to the State Board's review, that Mr. Smith's application for a teaching license should be denied.

This Initial Order is made and entered this August 5, 2015.

PROFESSIONAL PRACTICES COMMISSION


Linda Sleek, Chairperson
Order signed on August 13, 2015.

NOTICE TO APPLICANT

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

You may submit to the State Board for its consideration as 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 at the address indicated below within ten days after service of the Initial Order for transmittal to the State Board.

Theresa Coté
Secretary, Professional Practices Commission
Kansas State Department of Education
900 SW Jackson St.
Topeka, Kansas 66612-1182


CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of August, 2015, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one (1) copy was mailed by certified mail, return receipt requested, to:

Scott B. Smith
1018 N. Synamore
Topeka, Kansas 66749

And via interoffice mail to:

Kelli Broers
Assistant General Counsel
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612



Theresa Coté
Secretary, Professional Practices Commission