

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the Application of
David Porter

19-PPC-09

FINAL ORDER

NOW, on this 14th day of May 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. David Porter did not appear. The Kansas State Department of Education appeared through its attorney, Scott Gordon. After reviewing the evidence, the Commission voted **8 - 0**, to recommend the Board deny the application of David Porter for an emergency substitute license.

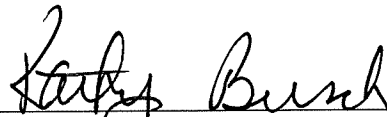
WHEREUPON the Board reviewed the Commission's Initial Order and after considering the presentation by Linda Sieck, Commission Chair, who was available to answer the Board's questions and being otherwise duly advised in the premises, the Board adopted the Commission's findings of fact and conclusions 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 David Porter's application for an emergency substitute teaching license is denied.

This Final Order is made and entered this 14th day of May 2019.

Kansas State Board of Education



BY: Kathy Busch, Chairman

Signed May 15, 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

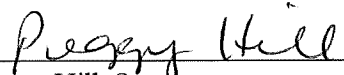
CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of May 2019, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

David Porter
1217 N. Mill Street
Beloit, Kansas 67420

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 BOARD OF EDUCATION
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of
the Application of
David Porter

19-PPC-09

INITIAL ORDER

The above-captioned case comes on for hearing before the Professional Practices Commissioner (Commission) of the Kansas State Board of Education (State Board) upon the Complaint filed by the Kansas State Department of Education seeking denial of David Porter's application of an emergency substitute license.

The hearing on this matter was held on April 26, 2019. Appearing for the Commission were chairperson, Linda Sieck, and members, William Anderson, Aaron Edwards, Jennifer Holt, Nathan Reed, Sylvia Ramirez Stan Ruff, and Maret Schrader. The KSDE appeared by and through its attorney, General Counsel, R. Scott Gordon. David Porter did not appear.

FINDINGS OF FACT

1. David Porter applied for an emergency substitute license. He is not currently licensed.
2. On August 6, 2012, Mr. Porter was charged with one count of misdemeanor Possession of a Hallucinogenic Drug as described in K.S.A. 21-5706(b)(3); and two counts of Possession of Drug Paraphernalia as described in K.S.A. 21-5709(b)(2) in Mitchell County District Court, all of which occurred on July 22, 2012.
3. On August 9, 2012, Mr. Porter entered into a Diversion Agreement with the Mitchell County Attorney's Office whereby he agreed to comply with certain terms of his diversion to avoid criminal prosecution. Within that diversion agreement, Mr. Porter admitted to having possessed a hallucinogenic drug and drug paraphernalia. Mr. Porter successfully completed diversion on February 1, 2013.

4. On September 7, 2018, Mr. Porter was charged with one count of misdemeanor Possession of Marijuana as described in Section 9.9.1 of the Uniform Public Offense Code for Kansas Cities; and one count of misdemeanor Possession of Drug Paraphernalia as described in Section 9.9.2 of the Uniform Public Offense Code for Kansas Cities in the Municipal Court of the City of Beloit, Kansas, both offenses occurred on August 26, 2018.
5. On September 10, 2018, Mr. Porter pleaded guilty to and was convicted of one count of misdemeanor Possession of Marijuana and one count of misdemeanor Possession of Drug Paraphernalia.
6. The Kansas State Department of Education mailed a copy of the Complaint via certified mail to David Porter's last known address. It was delivered February 20, 2019. Mr. Porter did not request a hearing nor did he submit an Answer to the Complaint.

CONCLUSIONS OF LAW

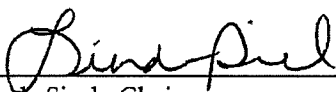
1. The Kansas State Board of Education (State Board) is responsible for the general supervision of Kansas education, including the certification and licensure of teachers. Kan. Const., Art. VI and K.S.A. 72-255.
2. The State Board may deny an application for license for conviction of any misdemeanor involving drug-related conduct as provided for in K.A.R. 91-22-1a(a)(4) and (b).
3. One of the obvious goals of education is to "instill respect for the law." Hainline v. Bond, 250 Kan. 217 (1992). An educator is a role model. Hainline at 224.
4. Teaching and school administration are professions with all the similar rights, responsibilities and privileges accorded other legally recognized professions. K.S.A. 72-2308.
5. David Porter'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. Mr. Porter'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 to deny his application for license.

THEREFORE the Professional Practices Commission, by vote of 8-0, recommends the Kansas State Board of Education deny the application of David Porter for an emergency substitute license based on his conviction of misdemeanor drug charges, and for not requesting a hearing or submitting an answer in response to the Complaint.

This Initial Order is made and entered this May 2, 2019.

PROFESSIONAL PRACTICES COMMISSION



Linda Sieck, Chairman
Order signed on May 2, 2019.

NOTICE TO LICENSEE

This Order 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 State Board will review all issues. Notice of review with the specific date and time will be provided to the parties within 15 days of the review.

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. 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, Suite 600
Topeka, KS 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 upon 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

I hereby certify that on this 2nd day of May, 2019, 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:

David Porter
1217 N. Mill Street
Beloit, Kansas 67420

And via interoffice mail to:
R. Scott Gordon
Kansas State Department of Education
900 SW Jackson Street, Suite 102
Topeka, Kansas 66612



Gwen Kramer
Secretary, Professional Practices Commission