

BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of
the License of
Dheyaa A. Alibadi

PPC No. 21-PPC-16
OAH No. 22ED0005 ED

FINAL ORDER

NOW, on this 9th day of August 2022, 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, Betty Arnold, Jean Clifford, Michelle Dombrosky, Melanie Haas, Deena Horst, Ben Jones, Jim McNiece, Ann Mah and Janet Waugh.

WHEREUPON the Professional Practices Commission (Commission) considered the matter on April 29, 2022. Dheyaa Alibadi appeared on his behalf. The Kansas State Department of Education appeared through its attorney, General Counsel, R. Scott Gordon. After reviewing the evidence, the Commission voted **6 – 0**, to recommend the Board deny Dheyaa Alibadi's application for an emergency substitute license.

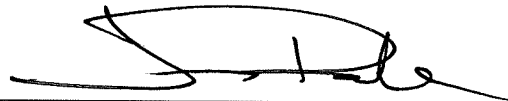
WHEREUPON the Board reviewed the Commission's Initial Order, a written brief submitted by Mr. Alibadi and the responsive brief filed by the Kansas State Department of Education. After considering the presentation by Jennifer Holt, Commission Chair, who was available to answer the Board's questions and 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 Dheyaa Alibadi's application for an emergency substitute license is denied.

This Final Order is made and entered this 9th day of August 2022.

Kansas State Board of Education



BY: Jim Porter, Chairman
Signed August 8th, 2022

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.

Barbara Hughes
Secretary, Kansas State Board of Education
Landon State Office Building
900 SW Jackson Ave. Suite 600N
Topeka, Kansas 66612

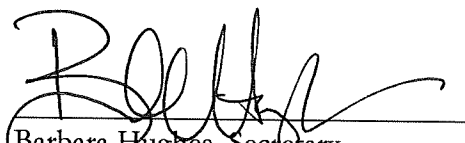
CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of August 2022, a true and correct copy of the above and foregoing was mailed by certified mail, return receipt requested, to:

Dheyaa A. Alibadi
6564 W. 91st Street, #158C
Overland Park, Kansas 66212

And via interoffice mail to:

R. Scott Gordon
Kansas State Department of Education
900 SW Jackson Street, Ste. 102
Topeka, Kansas 66612


Barbara Hughes, Secretary
Kansas State Board of Education

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION
PROFESIONAL PRACTICES COMMISSION

In the Matter of
the License of

Dheyaa Alwan Alibadi

OAH Case No.: 22ED0005 ED
KSDE Case No.: 21-PPC-16

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 6 to 0 recommends to the Kansas State Board of Education (State Board) that the Complaint filed by KSDE seeking to deny the application for a teaching license submitted by Dheyaa Alwan Alibadi (Alibadi) be affirmed.

Statement of Case

This matter comes on for hearing before the Commission upon the request for hearing made by Alibadi concerning a complaint filed by the KSDE on November 3, 2021 seeking denial of Alibadi's application for an emergency substitute teaching license.

The hearing was held on April 29, 2022. Appearing for the Commission were Chairperson, Jennifer Holt, and members Caroline Spaulding, Jamie Wetig, Darrin San Romani, Eric Filippi, and Charrica Osborne.

Alibadi appeared in person without an attorney.

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

Evidentiary Rulings

KSDE offered documents marked as Exhibits A through F and requested they be admitted as evidence. Alibadi had no objection. Exhibits A through F were admitted.

Alibadi offered a document identified as Exhibit 1 and requested it be admitted as evidence. KSDE objected to the admission of Exhibit 1 because Alibadi had failed to adhere to the deadlines imposed by the ALJ for listing and exchanging exhibits. Having considered KSDE's objections, Exhibit 1 was admitted.

Findings of Fact

1. Alibadi submitted an application to KSDE for an emergency substitute teaching license. (Exhibit A to the original Complaint). The exact date of the application is unknown to the PPC.
2. On or about November 9, 2020 Alibadi was arrested and ordered to appear before the Johnson County District Court in case number 20DV1558. (KSDE Exhibit D).
3. On November 10, 2020 a No Contact Order was issued in Johnson County District Court, case number 20DV1558, prohibiting Alibadi from having contact with Inas Rushdi Abbas Al Darraji. (KSDE Exhibit E).
4. On or about January 4, 2021 an Amended Complaint was filed in Johnson County District Court, case number 20DV1558, charging Alibadi with one (1) count of aggravated battery in violation of K.S.A. 21-5413(b), a level 8 person felony. (KSDE Exhibit C). The Amended Complaint related to events occurring on or about November 5, 2020 involving Inas Al Darraji.
5. On or about April 7, 2021 Alibadi entered into a Diversion Agreement with the Johnson County District Attorney's Office in Johnson County District Court case number 20DV1558. (KSDE Exhibit F).
6. On April 13, 2022 an Order of Dismissal-Diversion was filed in Johnson County District Court case number 20DV1558. (Exhibit 1). According to the order, Alibadi had complied with the terms of the diversion agreement and the case was dismissed.
7. On November 3, 2021 KSDE filed a Complaint against Alibadi, requesting that the application for emergency substitute teaching license be denied. (KSDE Exhibit A).
8. On November 16, 2021 Alibadi requested a hearing before the PPC suggesting his application was denied because he had mistakenly answered a question on the application "yes" when it should have been "No." (KSDE Exhibit B). The question Alibadi suggested he answered wrong, Question 3: "Have you ever entered into a criminal diversion agreement, after being charged with any offense described in question 1 [a felony] or 2 [ANY crime involving theft, drugs, or a child]?"
9. Despite his suggestion otherwise, Alibadi correctly answered question 3.
10. When testifying, Alibadi again suggested he had answered the question incorrectly because he was not convicted.

11. When questioned, Alibadi state that his wife called the police but refused to answer any questions concerning the events leading up to the felony aggravated battery charge. Alibadi testified that he had done nothing wrong since coming to the United States and that these were just the normal kinds of problems.

Conclusions of Law

The State Board is responsible for the general supervision of education, including the certification and licensure of teachers, in Kansas.¹

“Any 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: “entry into a criminal diversion agreement after being charged with an offense or act described in this subsection.”²

Kansas regulation allows for denial, suspension or revocation of a teaching license if an individual has been convicted “of any crime punishable as a felony”³

The Commission concluded Allibadi was eligible to receive an emergency substitute teaching license, but the question was whether he should be issued a license?

The Commission was provided with court documentation concerning the criminal case filed against Alibadi. Based upon events occurring on or about November 5, 2020, Alibadi was charged with aggravated battery, a level 8 person felony, after which he entered into a criminal diversion agreement. Alibadi’s testimony that he answered the question on the application about a diversion was wrong. Based upon the evidence presented, Alibadi had entered into a diversion agreement after being charged with aggravated battery, a level 8 person felony according to the laws of the State of Kansas.

Alibadi refused to talk about or answer any questions regarding the criminal charge and subsequent criminal diversion agreement. However, during his testimony Alibadi did acknowledge that something occurred, his wife called the police, and that he had entered into diversion agreement that had been completed on or before April 13, 2022.

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.⁴ Included in that analysis is looking at “[t]he nature and seriousness of the conduct.”

¹ Kan. Const., Art. VI and K.S.A. 72-255.

² K.A.R. 91-22-1a(a)(11).

³ K.A.R. 91-22-1a(a)(1) and (b).

⁴ *Wright v. State Bd. of Educ.*, 46 Kan.App.2d 1046, 1052, 268 P.3d 1231 (2012).

It was noted by the Commission that Alibadi refused to provide any information concerning the conduct that led to his criminal charge and criminal diversion. Alibadi suggested he had answered a question incorrectly on the application; however, based upon the record, Alibadi answered the questions correctly. The concern for the Commission was whether Alibadi had taken responsibility for his actions, had any remorse for his actions, or was fit for a teaching license. As Alibadi was unwilling to discuss the events or provide any details, the Commission was unable to ascertain Alibadi's fitness to be a member of the teaching profession.

The Commission also noted the recentness of the criminal activity that resulted in the criminal diversion.

On a vote of six (6) in favor and zero (0) opposed, the Commission recommends to the State Board that the Complaint filed by KSDE seeking to deny the issuance of an emergency substitute teaching license to Alibadi be affirmed.

IT IS SO ORDERED.



Jennifer Holt, 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.

Marisa Seele
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.

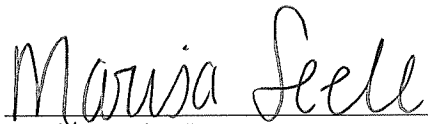
Certificate of Service

On June 2, 2022, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Dheyaa Alwan Alibabi
6564 W. 91st St.
Overland Park, KS 66212

and, I further certify that I caused a copy of the foregoing to be hand-delivered to:

R. Scott Gordon, Attorney
Kansas State Department of Education
900 SW Jackson, Ste. 102
Topeka, KS 66612
Tel: (785) 296-3204



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