



JOY HOFMEISTER

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
OKLAHOMA STATE DEPARTMENT OF EDUCATION

MEMORANDUM

TO: The Honorable Members of the State Board of Education

FROM: Joy Hofmeister

DATE: February 25, 2016

SUBJECT: Application for Suspension and Revocation of School Teaching Certificates

The attached Applications for Suspension and Revocation of Teaching Certifications (the "Applications") seeks the Suspension of the Oklahoma School Teaching Certification and Certificate number of 1) Patricia Catlin; 2) Marsha Gore; 3) Buck Hammers; 4) Jandolyn Overton; 5) Austin Quinton; 6) Jimmy Steinbach; and, 7) Kyle Whitmus pursuant to the State Board of Education's rules OAC 210:1-5-6 and Oklahoma Statutes 70 O.S. §3-104. Further, the Application requests that the State Board utilize a hearing officer to conduct proceedings for revocation of the aforementioned certifications. The State Department of Education requests that action be taken on this request.



**Oklahoma
State Board
of
Education**

Oliver Hodge Building
2500 N. Lincoln Boulevard
Oklahoma City, OK 73105
(405) 521-3308
<http://sde.ok.gov>

JOY HOFMEISTER
State Superintendent
of Public Instruction
Chairperson of the Board

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BRADLEY CLARK
General Counsel

TERRIE CHEADLE
Chief Executive Secretary

February 23, 2016

VIA CERTIFIED U.S. MAIL

Patricia Catlin
7020 South Hiwassee Rd.
OKC, OK. 73150

Re: Teaching Certificate, Number 229137

Dear Ms. Catlin,

Enclosed is an Application for Emergency Order to Summarily Suspend and Revoke Teaching Certification (the "Application") that has been filed with the Oklahoma State Board of Education (the "Board"). More particularly, the Application seeks the emergency suspension of your teaching certificate (the "Certificate") pending a hearing to revoke or take other action relating to the Certificate. Further, the proposed effective date for revocation of the Certificate is April 9, 2016, or thereafter as determined by the Board.

At this time, a hearing on possible revocation of the Certificate has not been scheduled. By way of separate letter, when a hearing has been scheduled for possible revocation of the Certificate, I will be providing you with the time, date, and location of such hearing. You will have the right to appear at the hearing, in person or through legal counsel. If you wish to contest the revocation of your teaching certificate and/or have a person attend the hearing to testify on your behalf, you are required to notify my office no later than fifteen (15) calendar days prior to the hearing. Such notice must be in writing, and provide the name and address of the desired witness(es). Additionally, no later than fifteen (15) calendar days prior to the hearing for possible revocation of the Certificate, you are required to provide this office with any witness and exhibit lists, including exhibits, which you may use at the hearing. Should you fail to appear for the hearing and contest the revocation, the allegations in the Application will be deemed confessed and the Board may issue a final order to effect revocation of the Certificate as of the effective date proposed herein.

Please send all correspondence to the Oklahoma State Board of Education, 2500 North Lincoln Boulevard, Suite 119, Oklahoma City, Oklahoma 73105.

Sincerely,

Brad Clark,
General Counsel

Enclosures

7. On or about January 21, 2016, Catlin is alleged to have intentionally, willfully and unlawfully assaulted and battered the student. *See* Information, attached as Exhibit “B.” The student, a twelve (12) year old special education student, who was attending class in the District. *Id.* Further, the student has cerebral palsy and is greatly impaired in his verbal communication skills, mainly communicating by uttering tones and gestures. *See* Affidavit, attached as Exhibit “A.”

8. According to the charges filed, Catlin forcefully grabbed the victim, jerked him in an attempt to throw him from the desk, while screaming at him to “use his words,” and then raising the desk off of the ground, “thereby placing the victim in immediate apprehension of receiving bodily harm” and keeping the victim against his will and without his consent. *See* Information, attached as Exhibit “B.”

9. District personnel reported hearing “whimpering and crying, yelling and screaming” coming from Catlin’s classroom. *See* Affidavit, attached as Exhibit “A.” Upon arriving at Catlin’s classroom, District staff reporting seeing Catlin at the student’s desk, with the student in it, “off the ground, and she was trying to flip it over.” *Id.* Further, Catlin was allegedly in the student’s face, screaming at him, as he was just crying. *Id.*

10. According to additional District staff, Catlin was on one side of the student, “jerking and yanking and pulling on him [student] trying to get him out of the desk. *Id.* Teacher, Kristin Hooper stated that she also heard yelling and moaning from Catlin’s classroom, which became progressively louder. *Id.* Furthermore, Hooper stated that Catlin was “in the student’s face yelling ‘use your words! Why wouldn’t you run! Use your words.’” *Id.* While yelling at the student, Hooper advised that Catlin was lifting the student’s desk off of the ground, the student bracing himself so as not to fall and his face red, as he was crying.”

Conclusions of Law

1. That Title 70 O.S. § 3-104(6) provides:

“The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall...[h]ave authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state...and shall formulate rules governing the issuance and revocation of certificates....”

2. The State Board of Education’s rules in OAC 210:1-5-6(e) provides:

Pursuant to 75 O.S. § 314.1, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered mail, delivery restricted to the certificate holder, with return receipt requested.

3. Title 75 O.S. § 314.1 provides:

As authorized by or pursuant to law, if an agency finds that the public health, safety, or welfare imperatively requires emergency action, has promulgated administrative rules which provide for such action and incorporates a finding regarding the emergency in its order, emergency actions may be ordered pending the final outcome of proceedings instituted”

4. State Board of Education rules provide that a certificate shall be revoked for a “willful violation of a rule or regulation of the State Board of Education, a willful violation of any federal or state law...or for other proper cause.” *See* OAC 210:1-5-6(b).

5. State Board of Education rules further provide that upon the filing of an application to revoke a certificate, the Board, at its discretion, may utilize a hearing officer to conduct the revocation hearing and such individual shall be appointed by the Chairperson of the Board. *See* OAC 210:1-5-6(f)(1).

6. Further, State Board of Education rules provide that “[t]eachers are charged with the education of the youth of this State. In order to perform effectively, teachers must demonstrate a belief in the worth and dignity of each human being, recognizing the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic principles.” See OAC 210:20-29-1(b). (Emphasis added).

7. Through their conduct, teachers must demonstrate the respect of their students, such being a responsibility that is inherent in the profession. OAC 210:20-29-2.

8. In addition, a teacher shall “strive to help each student realize his or her potential as a worthy and effective member of society.” OAC 210:20-29-3. In fact, in fulfillment of the obligations to the student, a teacher shall:

- a. make reasonable effort to protect the student from conditions harmful to learning or to health and safety; and
- b. not intentionally expose the student to embarrassment or disparagement.
Id.

9. Additionally, State Board of Education rules, at OAC 210:20-29-4, provide:

- a. The teaching profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.
- b. In order to assure that the quality of the services of the teaching profession meets the expectations of the State and its citizens, the teacher shall exert every effort to raise professional standards, fulfill professional responsibilities with honor and integrity, promote a climate that encourages the exercise of professional judgment, achieve conditions which attract persons worthy of the trust to careers in education, and assist in preventing the practice of the profession by unqualified persons.

10. Pursuant to the Standards of Performance and Conduct for Teachers, State Board of Education rules provide that a teacher may be dismissed or not reemployed for “any reason involving moral turpitude.” See OAC 210:20-29-5.

11. It has been held by Oklahoma courts that “a teacher...in the public school system is regarded by the public and pupils in the light of an exemplar, whose words and actions are likely to be followed by the children coming under her care and protection.” *Vaughn v. Board of Bar Examiners for the Oklahoma Bar Association*, 1988 OK 87, 759 P.2d 1026, 1030. The teaching profession, not unlike the legal profession, imposes a code of ethics upon its members. *Id.*

12. Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law. *See Andrews v. Independent Sch. Dist. No. 57*, 2000 OK CIV APP 103, 12 P.3d 491.

13. That based upon the information and evidence presented, proper cause exists to suspend and revoke the Teaching Certificate and certification number 229137 of Patricia Elizabeth Catlin.

WHEREFORE, the Oklahoma State Department of Education requests that the State Board of Education suspend the teaching certificate and certification number of Respondent, Patricia Elizabeth Catlin, pending an individual proceeding for revocation or other action, that the State Board of Education, or its designee, set a time and date for hearing on proceedings to revoke Respondent’s teaching certification and certification number, and that the teaching certificate and certification number of Respondent be revoked, effective April 9, 2016 or thereafter as determined by the Board.

Respectfully Submitted,



Brad S. Clark, OBA #22525
2500 North Lincoln Boulevard
Oklahoma City, OK 73105
Phone: (405) 522-3274
E-mail: Brad.Clark@sde.ok.gov
General Counsel, State Board of Education



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BRADLEY CLARK
General Counsel

TERRIE CHEADLE
Chief Executive Secretary

February 23, 2016

VIA CERTIFIED U.S. MAIL

Marsha Gore
1904 Sandpiper St.
McAlester, OK. 74501

Re: Teaching Certificate, Number 117538

Dear Ms. Gore,

Enclosed is an Application for Emergency Order to Summarily Suspend and Revoke Teaching Certification (the "Application") that has been filed with the Oklahoma State Board of Education (the "Board"). More particularly, the Application seeks the emergency suspension of your teaching certificate (the "Certificate") pending a hearing to revoke or take other action relating to the Certificate. Further, the proposed effective date for revocation of the Certificate is April 9, 2016, or thereafter as determined by the Board.

At this time, a hearing on possible revocation of the Certificate has not been scheduled. By way of separate letter, when a hearing has been scheduled for possible revocation of the Certificate, I will be providing you with the time, date, and location of such hearing. You will have the right to appear at the hearing, in person or through legal counsel. If you wish to contest the revocation of your teaching certificate and/or have a person attend the hearing to testify on your behalf, you are required to notify my office no later than fifteen (15) calendar days prior to the hearing. Such notice must be in writing, and provide the name and address of the desired witness(es). Additionally, no later than fifteen (15) calendar days prior to the hearing for possible revocation of the Certificate, you are required to provide this office with any witness and exhibit lists, including exhibits, which you may use at the hearing. Should you fail to appear for the hearing and contest the revocation, the allegations in the Application will be deemed confessed and the Board may issue a final order to effect revocation of the Certificate as of the effective date proposed herein.

Please send all correspondence to the Oklahoma State Board of Education, 2500 North Lincoln Boulevard, Suite 119, Oklahoma City, Oklahoma 73105.

Sincerely,

Brad Clark,
General Counsel

Enclosures

Cc: Joe White – via e-mail only

OKLAHOMA STATE BOARD OF EDUCATION
ADMINISTRATIVE COMPLAINT

STATE OF OKLAHOMA, ex. rel.)
STATE DEPARTMENT OF EDUCATION,)
Applicant)
vs.) 2016-4
MARSHA GORE)
Respondent)

**APPLICATION FOR EMERGENCY ORDER TO
SUMMARILY SUSPEND TEACHING CERTIFICATION
AND APPLICATION TO REVOKE TEACHING CERTIFICATION**

COMES NOW, the Oklahoma State Department of Education (the “Department”), and hereby asserts the following statement of facts and matters asserted against Respondent, Marsha Gore (“Gore”). The Department seeks emergency action to summarily suspend and revoke Gore’s teaching certificate, as more particularly set forth herein.

STATEMENT OF FACTS

1. Gore holds a valid Oklahoma teaching certification (the “Certificate”), number 117538.
2. The Certificate is scheduled to expire on June 30, 2018.
3. Gore is certified as 1) Superintendent; 2) Secondary Principal, Grades 5-12; 3) Elementary Principal, Grades PK-8; 4) English, Grades 5-12; 5) Speech/Drama, Grades 5-12; and, 6) American History, Grades 5-12.
4. Gore was most recently employed as superintendent of McAlester Public Schools (the “District”), State of Oklahoma.
5. In November, 2015, Gore was suspended from her duties as superintendent for alleged violations of school policies, acts of moral turpitude, unprofessional conduct, and conduct violating Oklahoma law.

6. On November 24, 2015, the District's attorney sent correspondence to Gore setting forth allegations of misconduct.

7. In the letter to Gore, it is alleged that Ms. Gore lied to the District Board of Education to remove the then-existing treasurer in order to cover up her improper spending practices. Subsequent to replacing the treasurer, the newly hired individuals were instructed by Gore "not to contact an auditor, never to call the former treasurer of the district (Nancy Hughes [State Department of Education employee]), and 'while attending training sessions, they were never to ask any questions that might raise red flags regarding McAlester's district finances.'"

8. Further, when asked to explain the uses of the District's activity fund, Gore purportedly refused.

9. Gore also utilized the District's activity account for improper purposes and used such account to receive improper sources of revenue. More particularly, Gore used the District's activity fund to purchase a \$2,000 treadmill, a \$300 hourglass for adorning her office desk, her husband's travel on trips unrelated to his official job duties with the District or official business which he may reasonably have been traveling for, a battery for her privately-owned vehicle, and for campaign expenditures.

10. Gore's contract (the "Contract") with the District provides that Gore shall "perform in good faith the duties required of District's superintendent of schools...[s]aid duties shall be those prescribed by federal and state law, Oklahoma State Department of Education regulations, policies established by the District Board of Education, the job description of Superintendent, and all evaluation documents concerning Superintendent." *See* Contract, attached as Exhibit "A."

11. Oklahoma law, at 70 O.S. §5-135, requires school districts to implement internal controls and procedures over purchasing to provide reasonable assurance that all district assets are adequately safeguarded.

12. Oklahoma law, at 70 O.S. §5-106, provides that the superintendent of schools “appointed and employed by the board [of education of a school district] shall be the executive officer of the board and shall perform duties as the board directs.”

13. The Oklahoma Cost Accounting System (“OCAS”) Manual provides that it is the duty of each authorized district user to submit accurate information to the Department, and certify that “all reports are correct by activating the ‘certify’ option on the OCAS screen.” *See* OCAS Manual, p.12, attached as Exhibit “B”

14. At all times pertinent, upon information and belief, Gore certified the financial reports of the District, including but not limited to the payments to the questionable vendors, as true and correct.

15. Standards for Accreditation of Oklahoma Schools (“Accreditation Standards”) provide:

All schools are required to make available, to personnel of the State Department of Education, all records pertaining to Federal programs, state aid appropriations and expenditures from the general fund of the previous year; making it possible to complete an audit on all funds. Public officials, members of the boards of education, superintendents, principals, and any other persons, whose duty it is to make appropriations and/or expenditures in accordance with the provisions of the state aid law, the federal law and regulations of the State Board of Education, will be held responsible for any misappropriation or illegal expenditure of such funds. *See* Accreditation Standards, p. 22, attached as Exhibit “C.” (Emphasis added).

16. Recently, Oklahoma State Department of Education (“OSDE”) staff have been provided with, and reviewed, a draft of the Financial Statements-Regulatory Basis and Reports of Independent Auditor of McAlester Independent School District No. I-80, Pittsburg County, Oklahoma, dated June 30, 2015 (the “Audit”).

17. In a summary of the Audit results, the District received the following disclosures:

- a. Audit disclosed significant deficiencies in the internal controls, over financial reporting;
- b. Audit disclosed significant deficiencies in the internal controls over major programs; and,
- c. Audit disclosed audit findings which are required to be reported under OMB Circular A-133 §510(a). *See* Audit, attached as Exhibit “D.”

18. Further, the Audit disclosed that the District did not comply with the District policy nor the Public Competitive Bidding Act of 1974. *Id.*, at 2015-1.

19. Finding 2015-4 of the Audit reveals that during the audit of payroll, several extra duty payments were made on the authority of an email and not approved by the District Board of Education. *Id.*, at 2015-4.

20. According to the Audit, there were instances in each month where meals were purchased that did not include an overnight stay, and some which were at local restaurants. *Id.*, at 2015-6. More specifically, the Audit reveals that purchases were made by Gore which were of a personal nature and evidenced by checks written by Gore to reimburse the District, in amounts totaling \$1,039.91. *Id.*

21. During the auditors' review of District credit cards, it was observed by credit card payments in the amount of \$1,053.60 were made for a three (3) night stay at a hotel in Washington D.C., and the individual named on the invoice was not an employee of the District. *Id.*, at 2015-7.

22. Approximately \$13,679 from the sale of surplus items, scrap, and other miscellaneous items were deposited into the District's activity fund. *Id.*, at 2015-8. Notwithstanding that the types of revenue were not approved by the District Board of Education, Oklahoma law expressly provides that "Income or revenue resulting from the operation of student organizations or club projects" may be deposited into an activity account, "provided, such revenue is not derived from the lease, rental or sale of property, supplies, products or other assets belonging to the school district." *See* 70 O.S. §5-129(B)(5). As such, the aforementioned sale of surplus items was not properly deposited into the District's activity fund.

23. Additionally, there was approximately \$14,546, of expenditures made out of the activity fund account that were not on the approved expenditures for said account. *See* Audit, Finding 2015-9, attached as Exhibit "D."

24. Finding 2015-10 evidences that the donation made to the District in the amount of \$7,873 was not expended in the manner that was stipulated in the agreement with the Choctaw Nation. *Id.*, at 2015-10.

25. Upon information and belief, Gore approved the expenditure in excess of \$300,000 on travel and conference registration in her short time as superintendent.

26. Upon information and belief, the District had in excess of \$2,000,000 in its general fund balance when Gore became superintendent.

27. According to the District, Gore continued her financial habits upon becoming superintendent, which placed the district in financial crisis. Further, according to the District, the District needs at least \$1.5 million in its general fund to operate, but the balance now sits well below that amount.

28. On or near February 2, 2016, Gore was terminated by the District.

Conclusions of Law

1. That Title 70 O.S. § 3-104(6) provides:

“The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall...[h]ave authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state...and shall formulate rules governing the issuance and revocation of certificates....”

2. The State Board of Education’s rules in OAC 210:1-5-6(e) provides:

Pursuant to 75 O.S. § 314.1, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered mail, delivery restricted to the certificate holder, with return receipt requested.

3. Title 75 O.S. § 314.1 provides:

As authorized by or pursuant to law, if an agency finds that the public health, safety, or welfare imperatively requires emergency action, has promulgated administrative rules which provide for such action and incorporates a finding regarding the emergency in its order, emergency actions may be ordered pending the final outcome of proceedings instituted . . .”

4. State Board of Education rules provide that a certificate shall be revoked for a “willful violation of a rule or regulation of the State Board of Education, a willful violation of any federal or state law....or for other proper cause.” *See* OAC 210:1-5-6(b).

5. State Board of Education rules further provide that upon the filing of an application to revoke a certificate, the Board, at its discretion, may utilize a hearing officer to conduct the revocation hearing and such individual shall be appointed by the Chairperson of the Board. *See* OAC 210:1-5-6(f)(1).

6. Oklahoma law, at 70 O.S. §5-106, provides that the superintendent of schools “appointed and employed by the board [of education of a school district] shall be the executive officer of the board and shall perform duties as the board directs.”

7. The Contract with the District provides that Gore shall “perform in good faith the duties required of District’s superintendent of schools. Said duties shall be those prescribed by federal and state law, Oklahoma State Department of Education regulations, policies established by the District Board of Education, the job description of Superintendent, and all evaluation documents concerning Superintendent.” *See* Contract, attached as Exhibit “A.”

8. The Oklahoma Cost Accounting System (“OCAS”) Manual provides that it is the duty of each authorized district user to submit accurate information to the Department, and certify that “all reports are correct by activating the ‘certify’ option on the OCAS screen. *See* OCAS Manual, p.12, attached as Exhibit “B.”

9. The Accreditation Standards expressly state as follows:

All schools are required to make available, to personnel of the State Department of Education, all records pertaining to Federal programs, state aid appropriations and expenditures from the general fund of the previous year; making it possible to complete an audit on all funds. Public officials, members of the boards of education, superintendents, principals, and any other persons, whose duty it is to make appropriations and/or expenditures in accordance with the provisions of the state aid law, the federal law and regulations of the State Board of Education, will be held responsible for any misappropriation or illegal expenditure of such funds. *See Accreditation Standards, p. 22, attached as Exhibit "C."*

10. Pursuant to the Standards of Performance and Conduct for Teachers, State Board of Education rules provide that a teacher may be dismissed or not reemployed for "any reason involving moral turpitude." *See OAC 210:20-29-5.*

11. Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law. *See Andrews v. Independent Sch. Dist. No. 57, 2000 OK CIV APP 103, 12 P.3d 491.*

12. That based upon the information and evidence presented, proper cause exists to suspend the Teaching Certificate and certification number 117538 of Marsha Gore.

WHEREFORE, the Oklahoma State Department of Education requests that the State Board of Education suspend the teaching certificate and certification number of Respondent, Marsha Gore, pending an individual proceeding for revocation or other action, that the State Board of Education, or its designee, set a time and date for hearing on proceedings to revoke Respondent's teaching certification and certification number, and that the teaching certificate and certification number of Respondent be revoked, effective April 9, 2016 or thereafter as determined by the Board.

Respectfully Submitted,

Brad Clark

Brad S. Clark, OBA #22525
2500 North Lincoln Boulevard
Oklahoma City, OK 73105
Phone: (405) 522-3274
E-mail: Brad.Clark@sde.ok.gov
General Counsel, State Board of Education



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BRADLEY CLARK
General Counsel

TERRIE CHEADLE
Chief Executive Secretary

February 22, 2016

VIA CERTIFIED U.S. MAIL

Buck Hammers
PO Box 1164
Atoka, OK. 74525

Re: Teaching Certificate, Number 158494

Dear Mr. Hammers,

Enclosed is an Application for Emergency Order to Summarily Suspend and Revoke Teaching Certification (the "Application") that has been filed with the Oklahoma State Board of Education (the "Board"). More particularly, the Application seeks the emergency suspension of your teaching certificate (the "Certificate") pending a hearing to revoke or take other action relating to the Certificate. Further, the proposed effective date for revocation of the Certificate is April 9, 2016, or thereafter as determined by the Board.

At this time, a hearing on possible revocation of the Certificate has not been scheduled. By way of separate letter, when a hearing has been scheduled for possible revocation of the Certificate, I will be providing you with the time, date, and location of such hearing. You will have the right to appear at the hearing, in person or through legal counsel. If you wish to contest the revocation of your teaching certificate and/or have a person attend the hearing to testify on your behalf, you are required to notify my office no later than fifteen (15) calendar days prior to the hearing. Such notice must be in writing, and provide the name and address of the desired witness(es). Additionally, no later than fifteen (15) calendar days prior to the hearing for possible revocation of the Certificate, you are required to provide this office with any witness and exhibit lists, including exhibits, which you may use at the hearing. Should you fail to appear for the hearing and contest the revocation, the allegations in the Application will be deemed confessed and the Board may issue a final order to effect revocation of the Certificate as of the effective date proposed herein.

Please send all correspondence to the Oklahoma State Board of Education, 2500 North Lincoln Boulevard, Suite 119, Oklahoma City, Oklahoma 73105.

Sincerely,

Brad Clark,
General Counsel

Enclosures

OKLAHOMA STATE BOARD OF EDUCATION
ADMINISTRATIVE COMPLAINT

STATE OF OKLAHOMA, ex. rel.)
STATE DEPARTMENT OF EDUCATION,)
Applicant)
vs.) 2016-3
BUCK HAMMERS)
Respondent)

**APPLICATION FOR EMERGENCY ORDER TO
SUMMARILY SUSPEND TEACHING CERTIFICATION
AND APPLICATION TO REVOKE TEACHING CERTIFICATION**

COMES NOW, the Oklahoma State Department of Education (the “Department”), and hereby asserts the following statement of facts and matters asserted against Respondent, Buck Hammers (“Hammers”). The Department seeks emergency action to summarily suspend and revoke Hammers’ teaching certificate, as more particularly set forth herein.

INTRODUCTION

Oklahoma State Department of Education (“OSDE”) staff have been provided with, and reviewed, the Financial Statements-Regulatory Basis and Reports of Independent Auditor of Grant-Goodland Dependent School District No. C-3, Choctaw County, Oklahoma, dated June 30, 2015 (the “Audit”). As a part of the Audit, Note 15-1 titled “Questionable Vendors” outlines an analysis of blanket purchase orders for large amounts made to at least fourteen (14) vendors, and identifies what are believed to be fraud, and/or evidence of embezzlement and/or the misappropriation of funds. Notably, all purchase orders were signed by the encumbrance clerk, and signed as approved by the superintendent and had invoices attached for the goods or services. The Audit recommends the appropriate law enforcement officials be notified immediately and request them to take the appropriate action regarding this apparent fraudulent activity. On January 28, 2016, the Federal Bureau of Investigation and the

United States Department of Education visited the District, and collected records and data. As such, and in light of the foregoing, the Department is recommending the action set forth hereinbelow.

STATEMENT OF FACTS

1. Hammers holds a valid Oklahoma teaching certification (the "Certificate"), number 158494.
2. The Certificate is scheduled to expire on June 30, 2019.
3. Hammers is certified as: 1) Superintendent, Grades PK-12;; 2) Secondary Principal, Grades 5-12; 3) Agriculture teacher, Grades 5-12; and, 4) Vocational Agriculture teacher, Grades 9-12.
4. Hammers was most recently employed as superintendent of Grant-Goodland Public School, State of Oklahoma.
5. Upon information and belief, Hammers has been an Oklahoma public school superintendent for approximately sixteen (16) years.
6. On or near February 1, 2016, the District Board of Education accepted the Audit of the District, for year ending June 30, 2015.
7. A summary of the Audit results, including but is not limited to:
 - a. An adverse opinion was issued on the financial statements with respect to the regulatory basis of accounting period;
 - b. The Audit disclosed a significant deficiency in the internal controls over the financial reporting, 2015-1, which was a material weakness; and,
 - c. The Audit disclosed an instance of noncompliance that is required to be reported under Government Audit Standards described as item 2015-1. *See* Audit, attached as Exhibit "A."
8. The referenced item 2015-1 relates to "Questionable Vendors", and outlines an analysis of blanket purchase orders in the amount of \$386,211, allegedly made payable to fourteen (14) vendors, for the year ending June 30, 2015. *Id.*
9. All of the purchase orders were approved by Hammers. *Id.*

10. One of the questionable vendor checks was issued to vendor Danny Carter, containing the endorsement signature of Hammers. *Id.*; *see also* Check, attached as Exhibit “B.” Further, the check was deposited into Hammers’ personal bank account. *Id.*

11. The Audit disclosed that the District had blanket purchase orders made payable to Janet Storie in the amounts of \$51,470 and \$13,380 for her services as a contract school psychologist. *See* Audit; *see also* Accounting Purchase Order(s) for Janet Storie, attached as Exhibit “C.” Upon information and belief, when interviewed by federal officials, Ms. Storie claimed that she did not receive these amounts and was not paid with District general funds, but rather was paid by a grant. Upon information and belief, Hammers knew of the discrepancy and failed to disclose the misappropriation and/or illegal expenditure of District funds.

12. Multiple checks made payable to a questionable vendor also included the signature of Wes Bailey. *See* Audit, p. 11, attached as Exhibit “A.” Wes Bailey is a member of the District Board of Education. *Id.* The total amount of the checks endorsed by Wes Bailey in 2014-15 was \$33,800. *Id.* Upon information and belief, Hammers knew and/or should have known that it was against Oklahoma law for a member of a board of education to provide services to the school district and receive compensation therefrom.

13. Nine (9) of the checks issued to questionable vendor Cross K Supplies had an endorsement of the company name. *Id.*, at p.12; *see also* Accounting Purchase Order, Cross K Supplies, attached as Exhibit “D.” A cursory review of records filed with the Oklahoma Secretary of State reveals that there does not exist an entity with the name “Cross K Supplies.” Further, according to the Audit, the auditors “drove to the address shown on the invoices in Valliant, Oklahoma, and only found a vacant building.” *Id.*

14. Payments were approved by Hammers to vendor, Robert Greggs, for IT services in the amount of \$85,042.62 for year ending June 30, 2015.¹ See Robert Greggs 1099-MISC, attached as Exhibit “F.” Upon information and belief, Greggs was actually paid approximately \$15,000-20,000 for year ending June 30, 2015. Further, upon information and belief, the difference in the amount allegedly paid to Greggs and the amount actually paid to Gregg is an instance of misappropriation and/or illegal expenditure of assets, including but not limited to fraud.

15. Oklahoma law, at 70 O.S. §5-135, requires school districts to implement internal controls and procedures over purchasing to provide reasonable assurance that all district assets are adequately safeguarded.

16. The Audit discloses that due to a lack of implementation, oversight, and execution of procedures, several instances of misappropriation of assets appeared to have occurred in year ending June 30, 2015. *Id.* Upon information and belief, a majority of the checks made payable to the questionable vendors in the Audit were fraudulent, totaling an approximate amount of \$350,246. *Id.*

17. Oklahoma law, at 70 O.S. §5-106, provides that the superintendent of schools “appointed and employed by the board [of education of a school district] shall be the executive officer of the board and shall perform duties as the board directs.”

18. The Contract with the District provides that Hammers “shall serve as the executive officer of the District’s Board of Education (“Board”) and administrative head of the school system, functioning according to federal and state laws, Oklahoma State Department of Education regulations, policies established by the District Board of Education, any applicable job description, and all evaluation documents concerning Superintendent [Hammers].” See Contract, attached as Exhibit “E.” Further,

¹ For reference, Hammers contract (the “Contract”) for his services as superintendent and chief executive officer of the District only totals \$78,000. See Contract, attached as Exhibit “E.”

the Contract states that Hammers “shall perform those duties imposed upon, or delegated to, the Superintendent by law, regulation, and/or District policy.” *Id.*

19. The Oklahoma Cost Accounting System (“OCAS”) Manual provides that it is the duty of each authorized district user to submit accurate information to the Department, and certify that “all reports are correct by activating the ‘certify’ option on the OCAS screen. *See* OCAS Manual, p.12, attached as Exhibit “G.”

20. At all times pertinent, upon information and belief, Hammers certified the financial reports of the District, including but not limited to the payments to the questionable vendors, as true and correct.

21. Standards for Accreditation of Oklahoma Schools (“Accreditation Standards”) provide:

All schools are required to make available, to personnel of the State Department of Education, all records pertaining to Federal programs, state aid appropriations and expenditures from the general fund of the previous year; making it possible to complete an audit on all funds. Public officials, members of the boards of education, superintendents, principals, and any other persons, whose duty it is to make appropriations and/or expenditures in accordance with the provisions of the state aid law, the federal law and regulations of the State Board of Education, will be held responsible for any misappropriation or illegal expenditure of such funds. *See* Accreditation Standards, p. 22, attached as Exhibit “H.”

Conclusions of Law

1. That Title 70 O.S. § 3-104(6) provides:

“The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall...[h]ave authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state...and shall formulate rules governing the issuance and revocation of certificates....”

2. The State Board of Education’s rules in OAC 210:1-5-6(e) provides:

Pursuant to 75 O.S. § 314.1, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly

instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered mail, delivery restricted to the certificate holder, with return receipt requested.

3. Title 75 O.S. § 314.1 provides:

As authorized by or pursuant to law, if an agency finds that the public health, safety, or welfare imperatively requires emergency action, has promulgated administrative rules which provide for such action and incorporates a finding regarding the emergency in its order, emergency actions may be ordered pending the final outcome of proceedings instituted . . .”

4. State Board of Education rules provide that a certificate shall be revoked for a “willful violation of a rule or regulation of the State Board of Education, a willful violation of any federal or state law....or for other proper cause.” *See* OAC 210:1-5-6(b).

5. State Board of Education rules further provide that upon the filing of an application to revoke a certificate, the Board, at its discretion, may utilize a hearing officer to conduct the revocation hearing and such individual shall be appointed by the Chairperson of the Board. *See* OAC 210:1-5-6(f)(1).

6. Oklahoma law, at 70 O.S. §5-106, provides that the superintendent of schools “appointed and employed by the board [of education of a school district] shall be the executive officer of the board and shall perform duties as the board directs.”

7. The Contract with the District provides that Hammers “shall serve as the executive officer of the District’s Board of Education (“Board”) and administrative head of the school system, functioning according to federal and state laws, Oklahoma State Department of Education regulations, policies established by the District Board of Education, any applicable job description, and all evaluation documents concerning Superintendent [Hammers].” *See* Contract, attached as Exhibit “E.” Further, the Contract states that Hammers “shall perform those duties imposed upon, or delegated to, the Superintendent by law, regulation, and/or District policy.” *Id.*

8. The Oklahoma Cost Accounting System (“OCAS”) Manual provides that it is the duty of each authorized district user to submit accurate information to the Department, and certify that “all reports are correct by activating the ‘certify’ option on the OCAS screen. *See* OCAS Manual, p.12, attached as Exhibit “G.”

9. The Accreditation Standards expressly state as follows:

All schools are required to make available, to personnel of the State Department of Education, all records pertaining to Federal programs, state aid appropriations and expenditures from the general fund of the previous year; making it possible to complete an audit on all funds. Public officials, members of the boards of education, superintendents, principals, and any other persons, whose duty it is to make appropriations and/or expenditures in accordance with the provisions of the state aid law, the federal law and regulations of the State Board of Education, will be held responsible for any misappropriation or illegal expenditure of such funds. *See* Accreditation Standards, p. 22, attached as Exhibit “H.”

10. Pursuant to the Standards of Performance and Conduct for Teachers, State Board of Education rules provide that a teacher may be dismissed or not reemployed for “any reason involving moral turpitude.” *See* OAC 210:20-29-5.

11. Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law. *See Andrews v. Independent Sch. Dist. No. 57*, 2000 OK CIV APP 103, 12 P.3d 491.

12. That based upon the information and evidence presented, proper cause exists to suspend the Teaching Certificate and certification number 158494 of Buck Hammers.

WHEREFORE, the Oklahoma State Department of Education requests that the State Board of Education suspend the teaching certificate and certification number of Respondent, Buck Hammers, pending an individual proceeding for revocation or other action, that the State Board of Education, or its designee, set a time and date for hearing on proceedings to revoke Respondent’s teaching certification and certification number, and that the teaching certificate and certification number of Respondent be revoked, effective April 9, 2016 or thereafter as determined by the Board.

Respectfully Submitted,

Brad Clark

Brad S. Clark, OBA #22525

2500 North Lincoln Boulevard

Oklahoma City, OK 73105

Phone: (405) 522-3274

E-mail: Brad.Clark@sde.ok.gov

General Counsel, State Board of Education



**Oklahoma
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of
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State Superintendent
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Chairperson of the Board

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WILLIAM E. FLANAGAN
Claremore

BRADLEY CLARK
General Counsel

TERRIE CHEADLE
Chief Executive Secretary

February 19, 2016

VIA CERTIFIED U.S. MAIL

Jandolyn Overton
49205 S. Country Road 205
Sharon, OK. 73857

Re: Teaching Certificate, Number 412085

Dear Ms. Overton,

Enclosed is an Application for Emergency Order to Summarily Suspend and Revoke Teaching Certification (the "Application") that has been filed with the Oklahoma State Board of Education (the "Board"). More particularly, the Application seeks the emergency suspension of your teaching certificate (the "Certificate") pending a hearing to revoke or take other action relating to the Certificate. Further, the proposed effective date for revocation of the Certificate is April 9, 2016, or thereafter as determined by the Board.

At this time, a hearing on possible revocation of the Certificate has not been scheduled. By way of separate letter, when a hearing has been scheduled for possible revocation of the Certificate, I will be providing you with the time, date, and location of such hearing. You will have the right to appear at the hearing, in person or through legal counsel. If you wish to contest the revocation of your teaching certificate and/or have a person attend the hearing to testify on your behalf, you are required to notify my office no later than fifteen (15) calendar days prior to the hearing. Such notice must be in writing, and provide the name and address of the desired witness(es). Additionally, no later than fifteen (15) calendar days prior to the hearing for possible revocation of the Certificate, you are required to provide this office with any witness and exhibit lists, including exhibits, which you may use at the hearing. Should you fail to appear for the hearing and contest the revocation, the allegations in the Application will be deemed confessed and the Board may issue a final order to effect revocation of the Certificate as of the effective date proposed herein.

Please send all correspondence to the Oklahoma State Board of Education, 2500 North Lincoln Boulevard, Suite 119, Oklahoma City, Oklahoma 73105.

Sincerely,

Brad Clark,
General Counsel

Enclosures

OKLAHOMA STATE BOARD OF EDUCATION
ADMINISTRATIVE COMPLAINT

STATE OF OKLAHOMA, ex. rel.)
STATE DEPARTMENT OF EDUCATION,)
Applicant)
vs.) 2016-2
JANDOLYN OVERTON)
Respondent)

**APPLICATION FOR EMERGENCY ORDER TO
SUMMARILY SUSPEND TEACHING CERTIFICATION
AND APPLICATION TO REVOKE TEACHING CERTIFICATION**

COMES NOW, the Oklahoma State Department of Education (the "Department"), and hereby asserts the following statement of facts and matters asserted against Respondent, Jandolyn Overton ("Overton"). The Department seeks emergency action to summarily suspend and revoke Overton's teaching certificate, as more particularly set forth herein.

STATEMENT OF FACTS

1. Overton holds a valid Oklahoma teaching certification (the "Certificate"), number 412085.
2. The Certificate is scheduled to expire on June 30, 2017.
3. Overton is certified to teach in English, Grades 5-12.
4. Overton was most recently employed as a teacher at Woodward Public Schools, State of Oklahoma.
5. On or near February 5, 2016, pursuant to 70 O.S. §6-101.25, Kyle Reynolds, Superintendent of Woodward Public Schools (the "District"), delivered information to the Department pertaining to Ms. Overton, including but not limited to an investigation into inappropriate sexual conduct by Ms. Overton.

6. On Tuesday, January 19, 2016, Woodward High School personnel were informed of possible misconduct by Ms. Overton with a male student. *See* Letter from Kyle Reynolds, attached as Exhibit "A." More particularly, Ms. Overton was alleged to have sent two inappropriate images of herself to a minor student, having multiple text message conversations with a minor student, and receiving an image of a male student's genitals via Snapchat. *Id.*

7. Upon receipt of the information relating to the allegations involving Ms. Overton and the male student, District personnel interviewed students and received sufficient information therefrom to substantiate the allegations of inappropriate conduct. Specifically, interviews with the students and Ms. Overton revealed that Ms. Overton had sent inappropriate photos of herself, including but not limited to one photo of her lying on a bed in a t-shirt with her underwear on, and another photo of her bare breasts exposed. Furthermore, interviews with the students detailed the pattern and color of the under garments worn by Ms. Overton such that District officials were able to substantiate the allegations and turn the matter over to investigative authorities.

8. Further, Overton allegedly transported a male student to a movie theater and spent an evening with the male student until approximately 4:00 A.M.

9. During an interview, Ms. Overton admitted to the allegations of inappropriate conduct and has resigned her employment with Woodward Public Schools. *Id.* In her interview with District personnel, Overton stated that she and her husband were going through a rough patch, and he [male student] was giving me attention and my husband was not.

10. In response to whether Overton desired a hearing before the District relating to her continued employment, Overton stated that she did "not want a hearing, I did it." Further, upon admitting to her actions and agreeing to resign her employment, Overton inquired as to whether she can

“say that I decided to not return to teaching here, because of the baby.”¹ Finally, in her interview, Overton recognized the possibility of losing her teaching certificate as she noted that she was “worried about that.”

11. Incredulously, Overton requested during her interview as to whether one of the District officials would “write me a recommendation letter...is that too crazy to ask.”

Conclusions of Law

1. That Title 70 O.S. § 3-104(6) provides:

“The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall...[h]ave authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state...and shall formulate rules governing the issuance and revocation of certificates....”

2. The State Board of Education’s rules in OAC 210:1-5-6(e) provides:

Pursuant to 75 O.S. § 314.1, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered mail, delivery restricted to the certificate holder, with return receipt requested.

3. Title 75 O.S. § 314.1 provides:

As authorized by or pursuant to law, if an agency finds that the public health, safety, or welfare imperatively requires emergency action, has promulgated administrative rules which provide for such action and incorporates a finding regarding the emergency in its order, emergency actions may be ordered pending the final outcome of proceedings instituted . . .”

4. State Board of Education rules provide that a certificate shall be revoked for a “willful violation of a rule or regulation of the State Board of Education, a willful violation of any federal or state law....or for other proper cause.” *See* OAC 210:1-5-6(b).

¹ At the time of the interview, Overton was pregnant.

5. State Board of Education rules further provide that upon the filing of an application to revoke a certificate, the Board, at its discretion, may utilize a hearing officer to conduct the revocation hearing and such individual shall be appointed by the Chairperson of the Board. *See* OAC 210:1-5-6(f)(1).

6. Further, State Board of Education rules provide that “[t]eachers are charged with the education of the youth of this State. In order to perform effectively, teachers must demonstrate a belief in the worth and dignity of each human being, recognizing the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic principles.” *See* OAC 210:20-29-1(b). (Emphasis added).

7. Through their conduct, teachers must demonstrate the respect of their students, such being a responsibility that is inherent in the profession. OAC 210:20-29-2.

8. State Board of Education rules expressly state that “[i]n fulfillment of the obligation to the student, the teacher shall not use professional relationships with students for private advantage.” *See* OAC 210:20-29-3.

9. In addition, a teacher shall “strive to help each student realize his or her potential as a worthy and effective member of society.” OAC 210:20-29-3. In fact, in fulfillment of the obligations to the student, a teacher shall:

- a. make reasonable effort to protect the student from conditions harmful to learning or to health and safety
- b. not intentionally expose the student to embarrassment or disparagement.
Id.

10. Additionally, State Board of Education rules, at OAC 210:20-29-4, provide:

- a. The teaching profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.

- b. In order to assure that the quality of the services of the teaching profession meets the expectations of the State and its citizens, the teacher shall exert every effort to raise professional standards, fulfill professional responsibilities with honor and integrity, promote a climate that encourages the exercise of professional judgment, achieve conditions which attract persons worthy of the trust to careers in education, and assist in preventing the practice of the profession by unqualified persons.

11. Pursuant to the Standards of Performance and Conduct for Teachers, State Board of Education rules provide that a teacher may be dismissed or not reemployed for “any reason involving moral turpitude.” *See* OAC 210:20-29-5.

12. It has been held by Oklahoma courts that “a teacher...in the public school system is regarded by the public and pupils in the light of an exemplar, whose words and actions are likely to be followed by the children coming under her care and protection.” *Vaughn v. Board of Bar Examiners for the Oklahoma Bar Association*, 1988 OK 87, 759 P.2d 1026, 1030. The teaching profession, not unlike the legal profession, imposes a code of ethics upon its members. *Id.* When a teacher engages in sexually provocative or exploitive conduct with his/her minor students, such conduct constitutes immorality and warrants his/her dismissal or the denial or revocation of his/her teaching certificate. *Id.* At 1030.

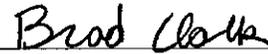
13. Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law. *See Andrews v. Independent Sch. Dist. No. 57*, 2000 OK CIV APP 103, 12 P.3d 491.

14. That based upon the information and evidence presented, proper cause exists to suspend the Teaching Certificate and certification number 412085 of Jandolyn Overton.

WHEREFORE, the Oklahoma State Department of Education requests that the State Board of Education suspend the teaching certificate and certification number of Respondent, Jandolyn Overton, pending an individual proceeding for revocation or other action, that the State Board of Education, or its designee, set a time and date for hearing on proceedings to revoke Respondent’s teaching certification

and certification number, and that the teaching certificate and certification number of Respondent be revoked, effective April 9, 2016 or thereafter as determined by the Board.

Respectfully Submitted,



Brad S. Clark, OBA #22525
2500 North Lincoln Boulevard
Oklahoma City, OK 73105
Phone: (405) 522-3274
E-mail: Brad.Clark@sde.ok.gov
General Counsel, State Board of Education



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Oklahoma City

WILLIAM E. FLANAGAN
Claremore

BRADLEY CLARK
General Counsel

TERRIE CHEADLE
Chief Executive Secretary

February 19, 2016

VIA CERTIFIED U.S. MAIL

Austin Quinton
8101 Sundown Ln.
Harrah, OK. 73045

Re: Teaching Certificate, Number 424970

Dear Mr. Quinton,

Enclosed is an Application for Emergency Order to Summarily Suspend and Revoke Teaching Certification (the "Application") that has been filed with the Oklahoma State Board of Education (the "Board"). More particularly, the Application seeks the emergency suspension of your teaching certificate (the "Certificate") pending a hearing to revoke or take other action relating to the Certificate. Further, the proposed effective date for revocation of the Certificate is April 9, 2016, or thereafter as determined by the Board.

At this time, a hearing on possible revocation of the Certificate has not been scheduled. By way of separate letter, when a hearing has been scheduled for possible revocation of the Certificate, I will be providing you with the time, date, and location of such hearing. You will have the right to appear at the hearing, in person or through legal counsel. If you wish to contest the revocation of your teaching certificate and/or have a person attend the hearing to testify on your behalf, you are required to notify my office no later than fifteen (15) calendar days prior to the hearing. Such notice must be in writing, and provide the name and address of the desired witness(es). Additionally, no later than fifteen (15) calendar days prior to the hearing for possible revocation of the Certificate, you are required to provide this office with any witness and exhibit lists, including exhibits, which you may use at the hearing. Should you fail to appear for the hearing and contest the revocation, the allegations in the Application will be deemed confessed and the Board may issue a final order to effect revocation of the Certificate as of the effective date proposed herein.

Please send all correspondence to the Oklahoma State Board of Education, 2500 North Lincoln Boulevard, Suite 119, Oklahoma City, Oklahoma 73105.

Sincerely,

Brad Clark,
General Counsel

Enclosures

that he had sexual intercourse with the victim five (5) different times at the aforementioned locations.

Id.

6. On February 2, 2016, a probable cause hearing was held on this matter and the Honorable Russell Hall, District Court Judge, Oklahoma County District Court, determined that probable cause existed to proceed with criminal charges of rape in the first degree.¹

Conclusions of Law

1. That Title 70 O.S. § 3-104(6) provides:

“The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall...[h]ave authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state...and shall formulate rules governing the issuance and revocation of certificates....”

2. The State Board of Education’s rules in OAC 210:1-5-6(e) provides:

Pursuant to 75 O.S. § 314.1, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered mail, delivery restricted to the certificate holder, with return receipt requested.

3. Title 75 O.S. § 314.1 provides:

As authorized by or pursuant to law, if an agency finds that the public health, safety, or welfare imperatively requires emergency action, has promulgated administrative rules which provide for such action and incorporates a finding regarding the emergency in its order, emergency actions may be ordered pending the final outcome of proceedings instituted . . .”

¹In addition to the pending criminal charges set forth herein, on January 19, 2016, the Midwest City Police Department arrested Quinton for petty larceny after he allegedly stole a microwave from a local Walmart.

4. State Board of Education rules provide that a certificate shall be revoked for a “willful violation of a rule or regulation of the State Board of Education, a willful violation of any federal or state law....or for other proper cause.” See OAC 210:1-5-6(b).

5. State Board of Education rules further provide that upon the filing of an application to revoke a certificate, the Board, at its discretion, may utilize a hearing officer to conduct the revocation hearing and such individual shall be appointed by the Chairperson of the Board. See OAC 210:1-5-6(f)(1).

6. Further, State Board of Education rules provide that “[t]eachers are charged with the education of the youth of this State. In order to perform effectively, teachers must demonstrate a belief in the worth and dignity of each human being, recognizing the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic principles.” See OAC 210:20-29-1(b). (Emphasis added).

7. Through their conduct, teachers must demonstrate the respect of their students, such being a responsibility that is inherent in the profession. OAC 210:20-29-2.

8. State Board of Education rules expressly state that “[i]n fulfillment of the obligation to the student, the teacher shall not use professional relationships with students for private advantage.” See OAC 210:20-29-3.

9. In addition, a teacher shall “strive to help each student realize his or her potential as a worthy and effective member of society.” OAC 210:20-29-3. In fact, in fulfillment of the obligations to the student, a teacher shall:

- a. make reasonable effort to protect the student from conditions harmful to learning or to health and safety
- b. not intentionally expose the student to embarrassment or disparagement.
Id.

10. Additionally, State Board of Education rules, at OAC 210:20-29-4, provide:
 - a. The teaching profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.
 - b. In order to assure that the quality of the services of the teaching profession meets the expectations of the State and its citizens, the teacher shall exert every effort to raise professional standards, fulfill professional responsibilities with honor and integrity, promote a climate that encourages the exercise of professional judgment, achieve conditions which attract persons worthy of the trust to careers in education, and assist in preventing the practice of the profession by unqualified persons.

11. Pursuant to the Standards of Performance and Conduct for Teachers, State Board of Education rules provide that a teacher may be dismissed or not reemployed for “any reason involving moral turpitude.” *See* OAC 210:20-29-5.

12. It has been held by Oklahoma courts that “a teacher...in the public school system is regarded by the public and pupils in the light of an exemplar, whose words and actions are likely to be followed by the children coming under her care and protection.” *Vaughn v. Board of Bar Examiners for the Oklahoma Bar Association*, 1988 OK 87, 759 P.2d 1026, 1030. The teaching profession, not unlike the legal profession, imposes a code of ethics upon its members. *Id.* When a teacher engages in sexually provocative or exploitive conduct with his/her minor students, such conduct constitutes immorality and warrants his/her dismissal or the denial or revocation of his/her teaching certificate. *Id.* At 1030.

13. Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law. *See Andrews v. Independent Sch. Dist. No. 57*, 2000 OK CIV APP 103, 12 P.3d 491.

14. That based upon the information and evidence presented, proper cause exists to suspend the Teaching Certificate and certification number 424970 of Austin Quinton.

WHEREFORE, the Oklahoma State Department of Education requests that the State Board of Education suspend the teaching certificate and certification number of Respondent, Austin Quinton, pending an individual proceeding for revocation or other action, that the State Board of Education, or its designee, set a time and date for hearing on proceedings to revoke Respondent's teaching certification and certification number, and that the teaching certificate and certification number of Respondent be revoked, effective April 9, 2016 or thereafter as determined by the Board.

Respectfully Submitted,



Brad S. Clark, OBA #22525
2500 North Lincoln Boulevard
Oklahoma City, OK 73105
Phone: (405) 522-3274
E-mail: Brad.Clark@sde.ok.gov
General Counsel, State Board of Education



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Oklahoma City

WILLIAM E. FLANAGAN
Claremore

BRADLEY CLARK
General Counsel

TERRIE CHEADLE
Chief Executive Secretary

February 19, 2016

VIA CERTIFIED U.S. MAIL

Jimmy Steinbach
Rt. 1, Box 1314
Longdale, OK. 73755

Re: Teaching Certificate, Number 231543

Dear Mr. Steinbach,

Enclosed is an Application for Emergency Order to Summarily Suspend and Revoke Teaching Certification (the "Application") that has been filed with the Oklahoma State Board of Education (the "Board"). More particularly, the Application seeks the emergency suspension of your teaching certificate (the "Certificate") pending a hearing to revoke or take other action relating to the Certificate. Further, the proposed effective date for revocation of the Certificate is April 9, 2016, or thereafter as determined by the Board.

At this time, a hearing on possible revocation of the Certificate has not been scheduled. By way of separate letter, when a hearing has been scheduled for possible revocation of the Certificate, I will be providing you with the time, date, and location of such hearing. You will have the right to appear at the hearing, in person or through legal counsel. If you wish to contest the revocation of your teaching certificate and/or have a person attend the hearing to testify on your behalf, you are required to notify my office no later than fifteen (15) calendar days prior to the hearing. Such notice must be in writing, and provide the name and address of the desired witness(es). Additionally, no later than fifteen (15) calendar days prior to the hearing for possible revocation of the Certificate, you are required to provide this office with any witness and exhibit lists, including exhibits, which you may use at the hearing. Should you fail to appear for the hearing and contest the revocation, the allegations in the Application will be deemed confessed and the Board may issue a final order to effect revocation of the Certificate as of the effective date proposed herein.

Please send all correspondence to the Oklahoma State Board of Education, 2500 North Lincoln Boulevard, Suite 119, Oklahoma City, Oklahoma 73105.

Sincerely,

Brad Clark,
General Counsel

Enclosures

OKLAHOMA STATE BOARD OF EDUCATION
ADMINISTRATIVE COMPLAINT

STATE OF OKLAHOMA, ex. rel.)
STATE DEPARTMENT OF EDUCATION,)
Applicant)
vs.) 2016-1
JIMMY STEINBACH)
Respondent)

**APPLICATION FOR EMERGENCY ORDER TO
SUMMARILY SUSPEND TEACHING CERTIFICATION
AND APPLICATION TO REVOKE TEACHING CERTIFICATION**

COMES NOW, the Oklahoma State Department of Education (the “Department”), and hereby asserts the following statement of facts and matters asserted against Respondent, Jimmy Steinbach (“Steinbach”). The Department seeks emergency action to summarily suspend and revoke Steinbach’s teaching certificate, as more particularly set forth herein.

STATEMENT OF FACTS

1. Steinbach holds a valid Oklahoma teaching certification (the “Certificate”), number 231543.
2. The Certificate is scheduled to expire on June 30, 2017.
3. Steinbach is certified to teach in the following areas: 1) Elementary/Secondary Principal, Grades PK-12; and, 2) Elementary Education, Grades 1-8.
4. Steinbach was most recently employed as a teacher at Wewoka Public Schools, State of Oklahoma.
5. On or near January 21, 2016, Torrey Gaines, Superintendent of Wewoka Public Schools, delivered information to the Department pertaining to Mr. Steinbach, including but not limited, to an investigation into inappropriate conduct by Mr. Steinbach.

6. On January 15, 2016, Mr. Gaines received information relating to students who were believed to have viewed inappropriate pictures on Mr. Steinbach's computer. *See* Letter from Torrey Gaines, attached as Exhibit "A." Subsequent to dispatching school personnel to retrieve Mr. Steinbach's computer, school personnel were unable to substantiate the allegations of inappropriate pictures on Mr. Steinbach's computer at that time. *Id.*

7. On January 20, 2016, a parent of a student at Wewoka Public Schools advised Mr. Gaines about her concerns relating to her child viewing inappropriate pictures on Mr. Steinbach's computer. *Id.* Shortly thereafter, Mr. Gaines requested school personnel to again retrieve Mr. Steinbach's computer, which was removed along with his classroom computer. *Id.*

8. At Mr. Gaines' request, school personnel reset the computer back to the morning of January 15, 2016, and retrieved pictures, files, and internet history that may have been deleted since that time. *Id.* Upon restoration of the computer to the requested date, there was evidence of a penis, which appeared to be "selfies" taken by Mr. Steinbach. *Id.*

9. On or near January 16, 2016, Steinbach resigned from his position with Wewoka Public Schools, effective immediately. *See* Resignation, attached as Exhibit "B."

Conclusions of Law

1. That Title 70 O.S. § 3-104(6) provides:

"The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall...[h]ave authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state...and shall formulate rules governing the issuance and revocation of certificates...."

2. The State Board of Education's rules in OAC 210:1-5-6(e) provides:

Pursuant to 75 O.S. § 314.1, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered mail, delivery restricted to the certificate holder, with return receipt requested.

3. Title 75 O.S. § 314.1 provides:

As authorized by or pursuant to law, if an agency finds that the public health, safety, or welfare imperatively requires emergency action, has promulgated administrative rules which provide for such action and incorporates a finding regarding the emergency in its order, emergency actions may be ordered pending the final outcome of proceedings instituted . . .”

4. State Board of Education rules provide that a certificate shall be revoked for a “willful violation of a rule or regulation of the State Board of Education, a willful violation of any federal or state law....or for other proper cause.” *See* OAC 210:1-5-6(b).

5. State Board of Education rules further provide that upon the filing of an application to revoke a certificate, the Board, at its discretion, may utilize a hearing officer to conduct the revocation hearing and such individual shall be appointed by the Chairperson of the Board. *See* OAC 210:1-5-6(f)(1).

6. Further, State Board of Education rules provide that “[t]eachers are charged with the education of the youth of this State. In order to perform effectively, teachers must demonstrate a belief in the worth and dignity of each human being, recognizing the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic principles.” *See* OAC 210:20-29-1(b). (Emphasis added).

7. Through their conduct, teachers must demonstrate the respect of their students, such being a responsibility that is inherent in the profession. OAC 210:20-29-2.

8. State Board of Education rules expressly state that “[i]n fulfillment of the obligation to the student, the teacher shall not use professional relationships with students for private advantage.” *See* OAC 210:20-29-3.

9. In addition, a teacher shall “strive to help each student realize his or her potential as a worthy and effective member of society.” OAC 210:20-29-3. In fact, in fulfillment of the obligations to the student, a teacher shall:

- a. make reasonable effort to protect the student from conditions harmful to learning or to health and safety
- b. not intentionally expose the student to embarrassment or disparagement. *Id.*

10. Additionally, State Board of Education rules, at OAC 210:20-29-4, provide:

- a. The teaching profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.
- b. In order to assure that the quality of the services of the teaching profession meets the expectations of the State and its citizens, the teacher shall exert every effort to raise professional standards, fulfill professional responsibilities with honor and integrity, promote a climate that encourages the exercise of professional judgment, achieve conditions which attract persons worthy of the trust to careers in education, and assist in preventing the practice of the profession by unqualified persons.

11. Pursuant to the Standards of Performance and Conduct for Teachers, State Board of Education rules provide that a teacher may be dismissed or not reemployed for “any reason involving moral turpitude.” *See* OAC 210:20-29-5.

12. It has been held by Oklahoma courts that “a teacher...in the public school system is regarded by the public and pupils in the light of an exemplar, whose words and actions are likely to be followed by the children coming under her care and protection.” *Vaughn v. Board of Bar Examiners for the Oklahoma Bar Association*, 1988 OK 87, 759 P.2d 1026, 1030. The teaching profession, not unlike the legal profession, imposes a code of ethics upon its members. *Id.* When a teacher engages in

sexually provocative or exploitive conduct with his/her minor students, such conduct constitutes immorality and warrants his/her dismissal or the denial or revocation of his/her teaching certificate. *Id.* At 1030.

13. Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law. *See Andrews v. Independent Sch. Dist. No. 57*, 2000 OK CIV APP 103, 12 P.3d 491.

14. That based upon the information and evidence presented, proper cause exists to suspend the Teaching Certificate and certification number 231543 of Jimmy Steinbach.

WHEREFORE, the Oklahoma State Department of Education requests that the State Board of Education suspend the teaching certificate and certification number of Respondent, Jimmy Steinbach, pending an individual proceeding for revocation or other action, that the State Board of Education, or its designee, set a time and date for hearing on proceedings to revoke Respondent's teaching certification and certification number, and that the teaching certificate and certification number of Respondent be revoked, effective April 9, 2016 or thereafter as determined by the Board.

Respectfully Submitted,



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General Counsel, State Board of Education



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Education**

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TERRIE CHEADLE
Chief Executive Secretary

February 19, 2016

VIA CERTIFIED U.S. MAIL

Kyle Whitmus
808 Scott Drive
Edmond, OK. 73013

Re: Teaching Certificate, Number 401011

Dear Mr. Whitmus,

Enclosed is an Application for Emergency Order to Summarily Suspend and Revoke Teaching Certification (the "Application") that has been filed with the Oklahoma State Board of Education (the "Board"). More particularly, the Application seeks the emergency suspension of your teaching certificate (the "Certificate") pending a hearing to revoke or take other action relating to the Certificate. Further, the proposed effective date for revocation of the Certificate is April 9, 2016, or thereafter as determined by the Board.

At this time, a hearing on possible revocation of the Certificate has not been scheduled. By way of separate letter, when a hearing has been scheduled for possible revocation of the Certificate, I will be providing you with the time, date, and location of such hearing. You will have the right to appear at the hearing, in person or through legal counsel. If you wish to contest the revocation of your teaching certificate and/or have a person attend the hearing to testify on your behalf, you are required to notify my office no later than fifteen (15) calendar days prior to the hearing. Such notice must be in writing, and provide the name and address of the desired witness(es). Additionally, no later than fifteen (15) calendar days prior to the hearing for possible revocation of the Certificate, you are required to provide this office with any witness and exhibit lists, including exhibits, which you may use at the hearing. Should you fail to appear for the hearing and contest the revocation, the allegations in the Application will be deemed confessed and the Board may issue a final order to effect revocation of the Certificate as of the effective date proposed herein.

Please send all correspondence to the Oklahoma State Board of Education, 2500 North Lincoln Boulevard, Suite 119, Oklahoma City, Oklahoma 73105.

Sincerely,


Brad Clark,
General Counsel

Enclosures

OKLAHOMA STATE BOARD OF EDUCATION
ADMINISTRATIVE COMPLAINT

STATE OF OKLAHOMA, ex. rel.)
STATE DEPARTMENT OF EDUCATION,)
Applicant)
vs.) 2016-5
KYLE WHITMUS)
Respondent)

**APPLICATION FOR EMERGENCY ORDER TO
SUMMARILY SUSPEND TEACHING CERTIFICATION
AND APPLICATION TO REVOKE TEACHING CERTIFICATION**

COMES NOW, the Oklahoma State Department of Education (the “Department”), and hereby asserts the following statement of facts and matters asserted against Respondent, Kyle Whitmus (“Whitmus”). The Department seeks emergency action to summarily suspend and revoke Whitmus’ teaching certificate, as more particularly set forth herein.

STATEMENT OF FACTS

1. Whitmus holds an Oklahoma teaching certification (the “Certificate”), number 401011.
2. The Certificate expired on June 30, 2015.
3. Whitmus was certified to teach Instrumental Music.
4. Whitmus was most recently employed as the band director at Luther Public Schools (the “District”), State of Oklahoma.
5. On or near February 2, 2016, Whitmus was arrested for having a sexual relationship with a child under the age of 14.
6. In March, 2015, a District counselor notified the middle school principal that she had heard a rumor that a 12-year-old female band student and Whitmus had engaged in sexual intercourse. Subsequent to the principal notifying the student’s parents, the parents informed the Luther police on April 5, 2015. *See* Original and Amended Affidavit of Probable Cause, attached as Exhibit “A.”

7. The student's father advised police that he had heard of the possible relationship between his daughter and Whitmus, and that the two had "sent texts to each other all hours of the day and night." According to phone records forensically seized, Whitmus began texting the student in November, 2014.

8. During an interview with the female student, Oklahoma State Bureau of Investigation officials were notified that the relationship commenced after the student sought Whitmus' help with her personal problems. *Id.* Further, according to the female student, Whitmus made "pervy" jokes, and the two exchanged texts and the relationship escalated from there, to include groping and having sex one time in the District's music room. *Id.* Further, according to the student, she knew that it was not a romantic relationship, but she "had big feelings" for Whitmus. *Id.* According to the student interview, Whitmus

"touched her hips, stomach, chest and grabbed her vagina and butt." More specifically, according to the student: The bus had to wait a little bit late for [student] because she would rub and kiss Whitmus quickly. It was little touches, like gropes. Whitmus did not tell [student] to do it. Which touched [student] on her hips, stomach, chest, and her 'no, no square.' Whitmus touched and grabbed her on her vagina and butt. [Student] touched Whitmus on the front. [Student] groped Whitmus on his penis over his clothing. Whitmus used his hand to touch her body parts over her clothes. Prior to sleeping together, Whitmus did not touch under her clothes. Kissing occurred during the same time. The kissing happened at other times before the touching but it was on the same day...[Student] could not recall what day it was but after the class, Whitmus told [student] to stay a little bit. She said okay. Whitmus wanted to have sex. *Id.*

9. A review of the female student's text messages revealed messages from Whitmus referencing a meeting between the two in the school restroom, and a message from Whitmus that said "I feel like a pedophile though when I think of you like that and I'm not." Another text message from Whitmus to the student evidences Whitmus telling the student "Let's not plan on it...I just saw another news post today about a teacher getting caught with a student...Doesn't help the nerves about it."

10. On or near October 27, 2015, Whitmus told investigators that he had been texting the student, even though he knew that such conduct was against school policy.

11. Students in the music classroom with Whitmus and the female student acknowledged the relationship, stating that they kept the relationship secret because Whitmus would let them do whatever they wanted, including turning on a movie really loud while he and the student were in his office.

12. In 2012, Whitmus was reprimanded by District officials for having another female student in his hotel room on a Dallas band trip.

13. On or near February 2, 2016, Whitmus was charged with one count of rape in the first degree, three counts of indecent or lewd acts with a child under 16, and one count of soliciting sexual conduct with a minor.

Conclusions of Law

1. That Title 70 O.S. § 3-104(6) provides:

“The supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall...[h]ave authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state...and shall formulate rules governing the issuance and revocation of certificates....”

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6. Further, State Board of Education rules provide that “[t]eachers are charged with the education of the youth of this State. In order to perform effectively, teachers must demonstrate a belief in the worth and dignity of each human being, recognizing the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic principles.” *See* OAC 210:20-29-1(b). (Emphasis added).

7. Through their conduct, teachers must demonstrate the respect of their students, such being a responsibility that is inherent in the profession. OAC 210:20-29-2.

8. State Board of Education rules expressly state that “[i]n fulfillment of the obligation to the student, the teacher shall not use professional relationships with students for private advantage.” *See* OAC 210:20-29-3.

9. In addition, a teacher shall “strive to help each student realize his or her potential as a worthy and effective member of society.” OAC 210:20-29-3. In fact, in fulfillment of the obligations to the student, a teacher shall:

- a. make reasonable effort to protect the student from conditions harmful to learning or to health and safety
- b. not intentionally expose the student to embarrassment or disparagement.
Id.

10. Additionally, State Board of Education rules, at OAC 210:20-29-4, provide:
 - a. The teaching profession is vested by the public with a trust and responsibility requiring the highest ideals of professional service.
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13. Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law. *See Andrews v. Independent Sch. Dist. No. 57*, 2000 OK CIV APP 103, 12 P.3d 491.

14. That based upon the information and evidence presented, proper cause exists to suspend the Teaching Certificate and certification number 401011 of Kyle Whitmus.

WHEREFORE, the Oklahoma State Department of Education requests that the State Board of Education suspend the teaching certificate and certification number of Respondent, Kyle Whitmus,

pending an individual proceeding for revocation or other action, that the State Board of Education, or its designee, set a time and date for hearing on proceedings to revoke Respondent's teaching certification and certification number, and that the teaching certificate and certification number of Respondent be revoked, effective April 9, 2016 or thereafter as determined by the Board.

Respectfully Submitted,



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