

OKLAHOMA STATE BOARD OF EDUCATION  
ADMINISTRATIVE COMPLAINT

STATE OF OKLAHOMA, ex. rel. )  
STATE DEPARTMENT OF EDUCATION, )  
 )  
Applicant, )  
 )  
vs. ) 2019-21  
 )  
DEREK FLEEMAN, )  
 )  
Respondent. )

**FINAL ORDER**

On May 5, 2022, the above-entitled matter came for hearing before the Administrative Law Judge, Gay Abston Tudor, pursuant to assignment from the State Board of Education (the “Board”). Now, on this 26th day of May, 2022, the Board voted to accept the proposed order to revoke the Oklahoma teaching certificate and certificate number of Respondent, Derek Fleeman (“Fleeman”).

**STATEMENT OF FACTS**

1. Fleeman holds an Oklahoma teaching certificate (the “Certificate”), number 411412.
2. Fleeman is certified to teach Instrumental / General Music, Grades PreK-12.
3. Fleeman was most recently employed at Durant Public Schools (the “District”).
4. On December 21, 2018, Fleeman was charged in the District Court of Bryan County, State of Oklahoma, with the following: 1) one count of Possession of Child Pornography, a felonious violation of Oklahoma law at 21 O.S. § 1024.2; 2) one count of Distribution of Child Pornography, a felonious violation of Oklahoma law at 21 O.S. § 1040.8; and, 3) one count of Violation of Computer Crimes Act, a felonious violation of 21 O.S. § 1958. *See* Information, attached to original Application as Exhibit “A.”

5. From January 25, 2017 through February 1, 2017, the Department of Homeland Security, in coordination with the Department of Justice Exploitation and Obscenity Section, conducted undercover investigations into several internet-based group chat websites, including (“Chatstep”) that were known to have users post child sexual abuse material. *See* Affidavit of Probable Cause, attached to original Application as Exhibit “B.” On January 29, 2017, the user “Banana” posted four (4) web links in the chat room “wetradeyoung” that contained four image files of child abuse sexual material. *Id.* Details descriptions of the four images shared are contained in the Affidavit, attached to original Application as Exhibit “B.”

6. The IP address indicated for user “Banana” a location near Durant, Oklahoma. Using administrative subpoenas with further investigation techniques, law enforcement identified the location and subscriber information associated with the IP address for the four (4) shared files as the address and residence of Derek and Julie Fleeman. *Id.*

7. Subsequent to executing search warrants and obtaining electronics from the identified residence of Fleeman, Fleeman made post-Miranda statements to authorities admitting to viewing and posting the child sexual abuse material and exploitation material on Chatstep under the user name “Banana.” *Id.*

8. On August 22, 2019, the Applicant, Oklahoma State Department of Education, filed an Application to Suspend and Revoke the Certificate of Fleeman. *See* Application, on file herein. The Application was sent to Fleeman on August 19, 2019. On August 22, 2019, an Emergency Order granting the same was entered, and sent to Fleeman on August 27, 2019. *See* Emergency Order, on file herein.

9. Notice of a hearing on the Application scheduled for May 5, 2022, was sent to Fleeman on March 15, 2022. *See* Notice of Hearing, on file herein. Further, Applicant sent its proposed witness and exhibit list, with exhibits, to Respondent on April 20, 2022. *See* Witness and Exhibit List, on file herein.

10. Fleeman did not respond to any of the above pleadings and furnished no witness or exhibit list within the time period provided by rule OAC 210:1-5-6.

11. On the 5<sup>th</sup> day of May, 2022, the above-entitled matter came for hearing on the Application before the Administrative Law Judge, Gay Abston Tudor, pursuant to assignment from the Board. Fleeman did not appear at the hearing on May 5, 2022.

### Conclusions of Law

1. The Board is vested with the general authority to provide for the health and safety of schoolchildren while under the jurisdiction of school authorities. *See* 70 O.S. § 3-104(17).

2. 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....

3. The Oklahoma Administrative Procedures Act, 75 O.S. § 250 *et seq.*, governs the State Board's administrative actions relating to teacher disciplinary matters. *See* 75 O.S. § 250.3(3). More specifically, 75 O.S. § 314(C)(2) provides:

If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.  
*See* 75 O.S. § 314.

4. Further, 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 . . .

5. The Board'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.

Oklahoma law and Board 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* 70 O.S. § 6-189(F); *see also* OAC 210:1-5-6(b).

6. Further, the Board’s 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. Additionally, the Board’s 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.

8. 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.* That based upon the information and evidence presented, and the foregoing authority, proper cause exists to revoke the Teaching Certificate and certification number 411412 of Derek Fleeman.

9. Fleeman was properly served with notice of the hearing on the Application.

10. Fleeman failed to appear at the hearing on the Application. Board rules state that if the holder of the certificate fails to appear at the scheduled hearing, the Board or hearing officer shall hold the party in default and issue an order sustaining the allegations set forth in the application for revocation. OAC 210: 1-5-6 (g)(1)(C).

11. WHEREFORE, based on the evidence presented and considered, in light of the foregoing, the teaching certificate and certification number of Respondent, Derek Fleeman, number 411412 is hereby revoked, effective May 26, 2022.

IT IS SO ORDERED.



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Joy Hofmeister  
Chairperson of Oklahoma State Board of Education