

STATE BOARD OF EDUCATION
ADMINISTRATIVE COMPLAINT

STATE OF OKLAHOMA, *ex. rel.*
STATE DEPARTMENT OF EDUCATION,

Applicant,

vs.

2021-15

HEATHER PORTER,

Respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the 27th day of October, 2023, this matter came on for consideration, the Application to Revoke Teaching Certification ("Application") of Heather Porter ("Porter"). The Hearing Officer granted the Motion for Leave to Amend the Application. The Amended Application was filed with the Oklahoma State Board of Education ("Board") and presented to a hearing officer by Bryan Cleveland, General Counsel for the State Department of Education, and Nathan Downey, Assistant General Counsel.

FINDINGS OF FACT

1. Porter holds a valid Oklahoma teaching certificate (the "Certificate"), number 415877, via Alternative certification.
2. Porter is currently certified to teach Elementary Education Grades 1 through 8.
3. Porter was most recently employed as a teacher at Moore Public Schools (the "District").

4. On July 7, 2021, Porter was charged in Beckham County with one count of Maintaining Place for Keeping/Selling Controlled Substance in violation of 63 O.S. § 2-404, a Felony, one count of Unlawful Possession of Controlled Drug with Intent to Distribute in Violation of 63 O.S. § 2-401(B)(2), a Felony, one count of Child Neglect in violation of 21 O.S. § 843.5 (C), a Felony, and seven counts of Unlawful Use of a Communication Facility in violation of 13 O.S. § 176.3(8), a Felony. *See* Beckham County Information (“Information”).

5. As described in the Information, Porter was charged for knowingly providing a place for people to use controlled substances, possessing over 1,000 containers/bottles/vials of steroids, exposing a child to illegal narcotics, and using a communication facility to facilitate the commission of crime. *Id.*

6. On May 4, 2022, Porter, in the United States District Court for the Western District of Oklahoma, pleaded guilty to one count of conspiracy to possess with the intent to distribute and to distribute anabolic steroids, a Schedule III controlled substance, in violation of 21 U.S.C. § 846.

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(A)(17).

2. That Title 70 O.S. § 3-104(A)(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).

4. 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.

5. 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 . . .

6. 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.

7. 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* OAC 210:1-5-6(b).

8. 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.


9. 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.*

10. Respondent was properly served with notice of the hearing on the Application by certified mail to the certificate holder’s last known address in compliance with OAC 210:1-5-6(d)(3). *See* Exhibit 1.

11. Respondent 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. *See* OAC 210:1-5-6(g)(1)(C).

WHEREFORE, in light of the foregoing, and after due consideration of the evidence and matters officially presented, the Hearing Officer hereby recommends that the Board find that good cause exists for the Application and that the Application should be granted.

A handwritten signature in cursive script that reads "Liz Stevens". The signature is written in black ink and is positioned above a horizontal line.

LIZ STEVENS
HEARING OFFICER