

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA



Douglas D. Christensen)
Commissioner of Education)
301 Centennial Mall South - 6th Floor)
P.O. Box 94933)
Lincoln, NE 68509-4933,)

N.P.P.C. Case No. 07-10
Case No. 07009

Petitioner,)

vs.)

Findings Of Fact, Conclusions
Of Law And Order of the
Commission

Debra Cavenee)
Lot 16, Brandt's Lakewood)
Kearney, NE 68845,)

Respondent.)

I. STATEMENT OF THE CASE

This case commenced with the filing of a Petition on July 24, 2007, by Douglas D. Christensen, Commissioner of Education, Department of Education, State of Nebraska, hereinafter referred to as "Petitioner." The Petition was filed against Debra Cavenee, hereinafter referred to as "Respondent." The Petition alleges certain acts of conduct by the Respondent in violation of Neb. Rev. Stat. Section 79-866(2) (Reissue 2003); Title 92, Nebraska Administrative Code, Chapter 27, Section 005.02B (effective date: November 12, 2003); and Section 004.03C (same effective date).

On July 25, 2007, the Petition, Notice of Right to Submit an Answer, and a copy of Title 95, Nebraska Administrative Code, Chapter 1, were served upon the Respondent by certified mail, return receipt requested.

On August 16, 2007, the Respondent through her attorney, filed an Answer with the Professional Practices Commission wherein the Respondent admitted the allegations contained in Paragraphs 1, 2, and 3, of the Commissioner's Petition and denied all other allegations unless specifically admitted and requested that the Petition be dismissed.

On August 21, 2007, Kathi Vontz, Clerk of the Commission, filed a Notice of Hearing which was sent to the Respondent and the Respondent's attorney, by U.S. Mail, postage prepaid, and delivered by hand to the Petitioner's General Counsel. The Notice of Hearing advised that a public hearing on the Petition and Answer would be held on September 7, 2007, commencing at approximately 9:30 a.m., in the State Board Hearing Room, 6th Floor, Nebraska State Office

Building, 301 Centennial Mall South, Lincoln, Nebraska. The Notice further advised that the hearing would be held before a designated hearing committee of the Commission, with Samuel Van Pelt serving as legal counsel to advise the Chair in the performance of his duties.

The Petition and Answer, came on for hearing at the above time and place before a Hearing Panel of the Commission consisting of Commission Members Robert Beck, Jay Bellar, Sharon Bohling, Kirby Eltiste, Jodi Kupper, Marie Meyers, Linda Mihm, Joan Reznicek, Daniel Ross, Lynn Strack, and Debra Wallman. Commissioner Ross served as Chairperson. The proceedings were reported by Wendy Cutting of General Reporting Services, Lincoln, Nebraska. The Petitioner appeared by Brian L. Halstead, General Counsel. The Respondent appeared with counsel, John R Higgins. Testimony and exhibits were received in evidence, and counsel for the Petitioner and Respondent made their closing arguments.

Thereupon, the Commission adjourned and deliberated based on the record before it, and makes the following Findings of Fact, Conclusions of Law, and Recommendation to the State Board of Education.

II. FINDINGS OF FACT

1. The Petitioner, Douglas D. Christensen, is the Commissioner of Education for the State of Nebraska. Respondent holds a public Nebraska standard teaching certificate number XXX-XX-5397 endorsed in Mild/Moderate Disabilities K-12 and Physical Education K-12, with an expiration date of August 31, 2008.

2. During the 2005-2006 and 2006-2007 school years, the Respondent failed to report inappropriate conduct by a male teacher toward a female student, which was disclosed to the Respondent by the female student.

III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this case and all proceedings have been in accordance with applicable Constitutional, Statutory, and Regulatory Requirements.

2. The Petitioner has failed to prove by a preponderance of the evidence that the Respondent committed an immoral act in violation of Neb. Rev. Stat. Sec. 79-866(2) (Reissue 2003) and Title 92. The Petitioner has proven by a preponderance of the evidence that the Respondent failed to adhere to and enforce written and dated administrative policy of the school which has been communicated to her in violation of Section 005.02B2 (effective date: November 12, 2003) and failed to make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety in violation of Section 004.03C (same effective date).

IV. DISCUSSION

All hearing committee members agreed that knowledge of abuse of a student

communicated to a teacher or administrator should be immediately reported to the proper authorities. Since the Respondent believed that she was acting in the student's best interest and was honoring the student's confidence, a Public Reprimand is more appropriate than the suspension or revocation of the Respondent's certificate.

V. ORDER

Therefore, the Commission respectfully orders that Debra Cavenee, holder of Nebraska Public Schools teaching certificate number XXX-XX-5397 endorsed in Mild/Moderate Disabilities K-12 and Physical Education K-12, with an expiration date of August 31, 2008, be issued a Public Reprimand for the conduct specified in paragraph two of the Findings of Fact above.

Dated this 8th day of Sept., 2007.

Daniel Ross

Daniel Ross, Chairperson

Hearing Committee

Nebraska Professional Practices Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Findings of Fact, Conclusions of Law, and Order of the Commission for Case No. 07-10, was served upon Respondent, Debra Cavenee, and Respondent's attorney, John R. Higgins, by U.S. Mail, postage prepaid. It was also hand delivered to Brian Halstead, attorney for the Petitioner, on this 19th day of September, 2007, at the following addresses.

Debra Cavenee
Respondent
Lot 16, Brandt's Lakewood
Kearney, NE 68845

Brian L. Halstead
Attorney for Petitioner
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Kathi Vontz
Clerk of the Commission