

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,)

Petitioner,)

vs.)

Mary Marjorie Keasling)
102 Palm, Box 387)
Harvard, NE 68944,)

Respondent.)

N.P.P.C. Case No. 06-05
Case No. 05012



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

I. STATEMENT OF THE CASE

This case commenced with the filing of a Petition on March 15, 2006, by Douglas D. Christensen, Commissioner of Education, Department of Education, State of Nebraska, hereinafter referred to as "Petitioner." The Petition was filed against Mary Marjorie Keasling, 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 004.002D, (effective date: November 12, 2003); Section 004.02H, (same effective date) of the above title and chapter of the Nebraska Administrative Code; Section 004.03C, (same effective date) of the above title and chapter of the Nebraska Administrative Code, Section 004.03D, (same effective date) of the above title and chapter of the Nebraska Administrative Code; Section 004.03G (same effective date) of the above title and chapter of the Nebraska Administrative Code; Section 004.06D (same effective date) of the above title and chapter of the Nebraska Administrative Code; Section 005.02B2 (same effective date) of the above title and chapter of the Nebraska Administrative Code; and Section 005.10C (same effective date) of the above title and chapter of the Nebraska Administrative Code.

On March 18, 2006, the Petition, Notice of Right to Submit an Answer, and a copy of Title 95, Nebraska Administrative Code, Chapter 1 (effective date: October 30, 1993), were served upon Respondent by certified mail, return receipt requested. On March 29, 2006, the Respondent, through her counsel, Rick Wade, of the McGuire & Norby law firm, filed an Answer to the Petition admitting the allegations in paragraphs 1, 2, 3, and 4 and denying the

allegations in paragraphs 5, 6, 7, and 8.

On or about May 15, 2006, Kathi Vontz, Clerk of the Commission, filed a Notice of Hearing which was sent to the Respondent, and her attorney, 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 the 16th day of June, 2006, commencing at approximately 1:00 p.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 date, time, and place before a Hearing Panel of the Commission consisting of Commission Members Robert Beck, Jay Bellar, Randy Butcher, Linda Mihm, Joan Reznicek, Daniel Ross, James Thomas, and Debra Wallman. Commissioner Wallman served as Chairperson. The proceedings were reported by Susan Moxham of General Reporting Services, Lincoln, Nebraska. The Petitioner appeared by Brian L. Halstead, General Counsel. The Respondent appeared with her attorney, Rick Wade. 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 -6630, endorsed in Mild/Moderate Disabilities K-12, with an expiration date of August 31, 2008.
2. The Respondent was employed as a special education teacher by the Grand Island Public Schools until her resignation was accepted by the Grand Island Board of Education on May 12, 2005.
3. During the 2003-2004 and 2004-2005 school years, the Respondent used inappropriate methods in attempts to control or modify the behavior of a special education student.
4. During the 2004-2005 school year, the Respondent was dishonest and encouraged a special education student to be dishonest to his parents in order to get a para professional terminated.
5. During the 2004-2005 school year, the Respondent was dishonest with a school official when confronted about taking pictures in the home of a para professional.

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 proven by a preponderance of the evidence that the Respondent:
(a) engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of professional duties in violation of Section 004.02H (effective date: November 12, 2003), and

(b) 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), and

(c) failed to conduct professional educational activities in accordance with sound educational practices that are in the best interest of the student, in violation of Section 004.03D (same effective date), and

(d) disciplined a student using corporal punishment, in violation of Section 004.036 (same effective date),

all in Title 92, Nebraska Administrative Code, Chapter 27.

3. The Petitioner has failed to prove by a preponderance of the evidence that Respondent violated any other standards of Professional Practices and Conduct alleged in the Petition.

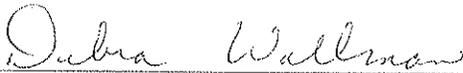
IV. DISCUSSION

All Commission members agreed that Respondent did not conduct professional educational activities in accordance with sound educational practices that were in the best interests of the student, and that Respondent disciplined the student using corporal punishment. A minority of three felt Respondent engaged in dishonesty, deceit, and misrepresentation, and seven found that she failed to make reasonable effort to protect the student from conditions which interfere with the learning process and were harmful to the students health and safety. Three felt that Respondent's certificate should be suspended for a period longer than one year. On the first motion and vote: a minority of three voted in favor of Respondent's certificate being suspended for a period of one year while five voted no. On a second motion and vote: a majority of five voted to issue a public reprimand to Respondent with three voting no.

IV. ORDER

Therefore, the Commission respectfully orders that Mary Marjorie Keasling, holder of Nebraska public schools teaching certificate number 6630, endorsed in Mild/Moderate Disabilities K-12, with an expiration date of August 31, 2008, be issued a public reprimand

Dated this 7th day of July, 2006.



Debra Wallman, Chairperson
Hearing Committee
Nebraska Professional Practices Commission

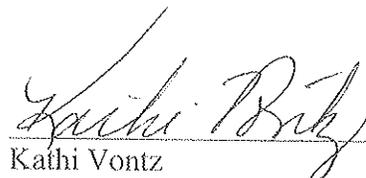
CERTIFICATE OF SERVICE

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.06-05 was served upon Respondent, Mary Marjorie Keasling, and Rick Wade, Respondent's attorney by U.S. Mail postage prepaid. It was also hand delivered to Brian Halstead, attorney for the Petitioner, on this 18th day of July, 2006, at the following addresses.

Mary Marjorie Keasling
Respondent
102 Palm, Box 387
Harvard, NE 68944

Brian L. Halstead
Attorney for Petitioner
301 Centennial Mall South
Lincoln, NE 68509

Rick Wade
Attorney for Respondent
McGuire & Norby
605 So. 14th Street, Suite 100
Lincoln, NE 68508



Kathi Vontz
Clerk of the Commission