

on the Petition and make an appropriate recommendation to the State Board of Education as is warranted by the evidence.

On or about April 14, 2011, Kathi Vontz, Clerk of the Commission, filed a Notice of Hearing which was sent to the Petitioner by U.S. Mail, postage prepaid and delivered by hand a copy of the same to the Commissioner's General Counsel. The Notice of Hearing advised that a public hearing on the Petition and Answer would be held on the 15th day of June, 2011, commencing at approximately 10:30 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 approximately 10:30 a.m. at the above time and place before a Hearing Panel of the Commission consisting of Commission Members Susan J. Anglemeyer, Robert Beck, Sarah Brown, Susan Johnson, Raymond Keller, Jodi Kupper, Brian Maher, Cindy Serfass, Karen Shelton, Lana Sides, Jane Stavem and Lynn Strack. Commissioner Beck served as Chairperson. The proceedings were reported by Wendy Cutting of General Reporting Services, Lincoln, Nebraska. The Petitioner appeared in person. The Commissioner appeared by his General Counsel, Brian L. Halstead. Exhibits and testimony were received in evidence. Thereafter, the Petitioner and the Commissioner's General Counsel 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, previously held a public Nebraska standard teaching certificate, number XXX-XX-8637, endorsed in English 7-12, Foreign Language-Spanish 7-12, Language Arts 4-9, Middle Grades/Natural Sciences 4-9, Middle Grades 4-9, and Social Science 4-9, with an expiration date of August 31, 2013.

2. From the date of revocation until the date of the hearing, the Petitioner has not violated any laws, and has been gainfully employed.

3. The Petitioner has met the requirements of Neb. Rev. Stat., Section 79-1282 (Supp.1996) and Title 92, Nebraska Administrative Code, Chapter 21, for the issuance of teaching certificates, all as required by Neb. Rev. Stat. Section 79-869 (Supp.1996). The Petitioner understands those requirements and has stated that he will not violate nor fail to comply with any of the same if he is issued a new teaching certificate.

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.

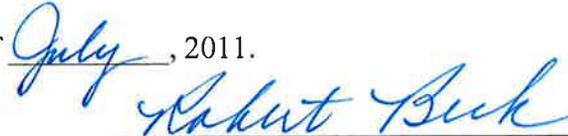
2. The Petitioner has proven by a preponderance of the evidence that he has met all the requirements of Neb. Rev. Stat. Section 79-806 through 79-815 (Reissue 2003), and Title 92, Nebraska Administrative Code, Chapter 21, for the issuance of a Nebraska teaching certificate, all as required by Neb. Rev. Stat. 79-869 (Reissue 2003).

3. The Petitioner has further proven by a preponderance of the evidence that he should be allowed to apply to the State Department of Education for the issuance of a new teaching certificate.

IV. RECOMMENDATION

Therefore, the Commission respectfully recommends to the State Board of Education that Mark Heaton has met all of the statutory and regulatory requirements for the issuance of a Nebraska public schools teaching certificate, and that he accordingly be allowed to apply for the same before the Commissioner of Education, State of Nebraska.

Dated this 8th day of July, 2011.



Robert Beck, 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 Recommendation of the Commission was served upon Petitioner, Mark Heaton, by U.S. Mail, postage prepaid. It was also hand delivered to Brian Halstead, General Counsel for the Commissioner, on this 8th day of July, 2011, at the following addresses.

Mark Heaton
Petitioner
7 Canal Heights Dr.
Kearney, NE 68845

Brian L. Halstead
Attorney for Respondent
301 Centennial Mall South
Lincoln, NE 68528


Kathi Vontz
Clerk of the Commission

BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

IN THE MATTER OF THE
REINSTATEMENT OF

Mark H. Heaton
7 Canal Heights Drive
Kearney, NE 68845

Case No. 11-06

TRANSCRIPT

VOLUME I of I
(Pages 1 through 18)
EXHIBITS 1-4

Nebraska State Office Building
301 Centennial Mall South
Department of Education Board Room
Sixth Floor
Lincoln, NE

Convened, pursuant to notice, at 11:12 a.m., on
June 15, 2011,

BEFORE:

ROBERT BECK, Hearing Officer.

COMMISSION MEMBERS PRESENT:

BRIAN MAHER, Chairperson; SUSAN ANGLEMEYER; SARAH
BROWN; SUSAN JOHNSON; RAYMOND KELLER; JODI KUPPER; CINDY
SERFASS; KAREN SHELTON; LANA SIDES; JANE STAVEM; and LYNN
STRACK.

OTHERS PRESENT:

KATHI VONTZ, Clerk of the Commission

- - -

GENERAL REPORTING SERVICE (402) 477-8425

1 PROCEEDINGS:

2 (Exhibits 1 through 4 were marked for
3 identification.)

4 THE HEARING OFFICER: Ladies and gentlemen, I am
5 Robert Beck, chairperson of this hearing panel of the
6 Nebraska Professional Practices Commission. I convene this
7 hearing at 11:12 a.m. for the purpose of receiving evidence
8 on a petition filed by Mark Heaton, Petitioner, against
9 Roger D. Breed, Commissioner of Education, Respondent, Case
10 No. 11-06.

11 The members of the hearing committee are Susan
12 Anglemeyer, Sarah Brown, Susan Johnson, Raymond Keller, Jodi
13 Kupper, Brian Maher, Karen Shelton, Lana Sides, Jane Stavem,
14 Lynn Strack, and Cindy Serfass.

15 The Commission's attorney is absent.

16 The court reporter is Wendy Cutting. Her purpose
17 is to record the testimony of the witnesses and mark the
18 exhibits.

19 The Clerk of the Commission is Kathi Vontz. Her
20 purpose is administrative.

21 This case arises from a request by the State Board
22 of Education that the Commission hear this matter pursuant
23 to Sections 79-859 through 79-871 of the Nebraska statutes
24 and the rules and regulations thereunder.

25 At this time, I ask the attorneys to make their
08.11.11 State Board of Education 7.13-10

1 presence. State your name.

2 MR. HEATON: My name is Mark Heaton. I reside at
3 7 Canal Heights, Kearney, Nebraska 68845.

4 MR. HALSTEAD: Brian Halstead, 301 Centennial Mall
5 South, Sixth Floor, Lincoln, Nebraska 68509, on behalf of
6 the Commissioner of Education.

7 THE HEARING OFFICER: At this time, if there are
8 no objections, I will enter into the record the pleadings
9 which are marked as Exhibit 1; the standards of ethics and
10 competency, which is 92 Nebraska Administrative Code,
11 Chapter 27, and is marked as Exhibit 2; and the regulations
12 concerning teacher and administrator certificate
13 reinstatement, which is 95 Nebraska Administrative Code,
14 Chapter 2, and is marked as Exhibit 3. Are there any
15 objections?

16 MR. HALSTEAD: I have no objections to Exhibits 1,
17 2, and 3.

18 MR. HEATON: I have no objections to the exhibits.

19 THE HEARING OFFICER: Exhibits 1, 2, and 3 are
20 received.

21 (Exhibits 1 through 3 were received in evidence.
22 See Index.)

23 Were there any other exhibits?

24 MR. HEATON: Yes, I have Exhibit 4.

25 MR. HALSTEAD: I have no objections to his

1 Exhibit 4. It's his written statement along with some
2 letters of individuals regarding his character. I have no
3 objections to Exhibit No. 4 being received.

4 THE HEARING OFFICER: Thank you, if you'd go ahead
5 and pass those out to the Commission.

6 (Exhibit 4 was received in evidence. See Index.)

7 And we'll take just a couple minutes so we can
8 look over these.

9 (Off the record.)

10 Would you like to make an opening statement?

11 MR. HEATON: Well, actually, this personal
12 narrative was meant to be. I don't want to be redundant. I
13 mean, you have the words in front of you, but I was prepared
14 to read the personal statement.

15 THE HEARING OFFICER: Go ahead if you so choose.

16 MR. HEATON: Thank you. I may summarize it.

17 THE HEARING OFFICER: That would be fine.

18 MARK HEATON

19 Called as a witness on his own behalf, testified
20 as follows:

21 OPENING STATEMENT AND DIRECT TESTIMONY

22 BY MR. HEATON:

23 I'd like to open by saying that -- to reiterate
24 the former petitioner and as far as that day that I was
25 informed and called into my superintendent's office, Dr.

1 Shafer, at that time, and my principal, Ken Kujath, that as
2 he said, everything kind of closed in and I just saw a very
3 small black tunnel. There was also, at the same time,
4 ironically, a great weight lifted off of me at that point,
5 which I will refer to later.

6 My principal, Mr. Kujath, was such a caring,
7 decent individual -- that I was asked to leave immediately
8 and, you know, turned in my keys. Over the next -- the
9 course of the next three days, he called me each day to make
10 sure that I was okay, because he knew that I was emotionally
11 distraught at that time. And I'll never forget that
12 consideration and caring nature of his. We waited until
13 summer for me to pack up my personal belongings and he was
14 there to help me pack my boxes or help me load them into my
15 car when I said goodbye. And even though I had betrayed him
16 and his program, my students, the community, he was just a
17 very considerate, thoughtful man who allowed me to retain as
18 much dignity as I could at that time. And I told him I know
19 that this was a big blow to his program and to the community
20 but that he would -- they would overcome that, because his
21 program and the education profession is much bigger -- much
22 bigger than me, much bigger than what I did. And I knew he
23 was going to be okay, because he had a very positive program
24 going on at that time and he still does.

1 important part, and that is, I became complacent and I
2 started to take my teaching role as a teacher for granted.
3 That's something I came to after -- I tried to run away from
4 it, run away from what I had done. It followed me, as I
5 said in here like a shadow. And, you know, I eventually had
6 to face myself and face what I had done, this lapse in
7 judgment and unprofessionalism.

8 For 20 years, I'd been a respected educator and a
9 darn good teacher who enjoyed good rapport with my students,
10 lively classroom. I considered myself to be an excellent
11 English literature and writing composition teacher. And
12 with the simple double click of a mouse, all that ended.
13 The shame I felt, you know, it's just unbelievable at that
14 point to know what I had done to my students to betray them.

15 The State Patrol came in instantly that morning
16 and seized the hard drive and concluded there were -- and
17 there were no crimes committed, as was mentioned earlier by
18 another gentleman. There were no illegal sites, no crimes,
19 and this was -- I'm not trying to minimize it at all, but I
20 just wanted to let you know how that ironed out, basically,
21 that I used the computer to access sexually explicit
22 material. And in addition to dishonoring my profession, I
23 have potentially irreparably damaged my reputation.

24 Then the following year, in 2009, from that point
25 on, from April 2nd, I believe, from that point on, there was

1 no work to be found. I was not in any condition to work
2 emotionally at that point. So, I just tried to kind of
3 close in and kind of protect myself and figure out what
4 happened, why did I get to this point.

5 My parents were very old, very -- had real health
6 issues, so it was an opportunity for me. Someone needed to
7 be in the home, so I filled that gap. My siblings kind of
8 pushed me toward that and said, "Well, now that you're not
9 working, could you please fill that gap and take care of our
10 parents?" My father's condition worsened through last year
11 and into early this year. He finally died in February, but
12 I was there and I took care of -- that was a huge
13 responsibility. That's basically what I did for the year of
14 2009. And then, in 2010, I took a position at the Hastings
15 Juvenile Chemical Dependency Program at the Hastings
16 Regional Center. It's a residential program and the youth
17 there are adjudicated from the YRTC in Kearney. These are
18 the same types of youths that I -- that many educators,
19 including myself, it was a bittersweet thing. If you had
20 them in your classroom, when they did show up, you never
21 knew what they were going to do. They were quite
22 interesting. Unfortunately, they didn't last long in
23 classrooms. They were usually, because of their
24 altercations with the law, they were -- would soon
25 disappear. The bittersweetness came because you were able

1 to get some control of your classroom back, but also you
2 knew that this young person was just kind of lost in this
3 vortex of the correctional system.

4 So, what I do now is work as a front line staff
5 with these adolescents. I've been there since June 1 of
6 2010. And so, I'm right in the room right with them,
7 mentoring, security, counseling with them, listening to
8 them, mostly. And these are the hardened youth of Nebraska,
9 and this is their last chance. And for many of them, if
10 they don't succeed at this, the next step is the penal
11 system. I never in my wildest dreams thought I would ever
12 find myself at a job like this. It's a somewhat of a high
13 stress job, but it's very rewarding, very satisfactory to
14 work with these young male adolescents who are trying to get
15 off of drugs.

16 And I had mentioned here in the second-to-the-last
17 paragraph that in helping them try to recover their losses
18 and rebuild their relationships with their families, because
19 they're pretty good at burning bridges at that age, I have
20 also -- began to believe in myself again. So, it's been, as
21 unintendedly so, but it's become a therapeutic vehicle for
22 me to work with these young people. It's pretty rough
23 lives. And mine was a very privileged life compared to
24 theirs, you know, with the profession I was in, a
25 professional in a career. So, this has been a very good

1 thing for me this last year. That's primarily what I've
2 done.

3 I can remember sometime in junior high was when I
4 first wanted to be a teacher, because I was just enamored
5 with my English teacher, my literature teacher, and I
6 discovered Charles Dickens because of her. And from that
7 point on, I said, "I want to be a teacher." And I was very
8 passionate about it and I still am.

9 I accept full responsibility for what I did. I
10 will never, never do anything to jeopardize the profession,
11 my standing, if I'm -- if you vote in favor of recommending
12 to the State Board of Education that I be -- have my
13 certificate reinstated, I would never do anything, and I
14 would conduct myself professionally and ethically and with
15 good moral character.

16 I'm very passionate about teaching, and actually,
17 this two-year revocation which began June 10th, as you know,
18 even if you do look favorably upon it, it's really
19 a -- basically, a three-year sentence, because by the time I
20 do get a certificate back, the school year has begun, the
21 window has closed. It will be September, so I go then
22 another year. I plan to take some classes to -- some
23 classes to brush up on my profession. And then, even after
24 that, I know that before this, I have very good paper, very
25 good credentials. I would send out ten letters. I would

1 get four or five phone calls, three interviews, and a job.
2 And now, I suspect I may have to send out 100 letters, if
3 there are that many districts left, down the road. And
4 there's going to be, I pray, someone who will give me the
5 second chance as I'll have to look them in the eye as I am
6 you and let them know, this is what I've done. I lost my
7 license. If you're willing to take a chance on me, I will
8 not let you down.

9 I have letters of support from Donna Stamp, who
10 taught with me at Broken Bow. And I found out right away,
11 and I know this sounds cliché, but you do find out who your
12 real friends are when something happens like this. And she
13 has maintained a professional relationship and a friendship
14 with me throughout this. So, there is that document from
15 her. And we often would have discourses on teaching and
16 methods, methodology.

17 The next one is from Valenzuela where I work at
18 HRC. And I can't say enough about Mike. He was my
19 supervisor. He was front line staff, but yet he was mobile.
20 He was able to move around the building, move around the
21 units. When I was there, if you were my youths, I had to be
22 here all the time. I did not leave unless someone came in
23 to relieve me. His recommendation is very succinct, but I
24 can tell you from my heart, it means a great deal what he
25 said for me, because he's a wonderful man and he knows what

1 it's like to work there, what caliber, how you have to have
2 patience and flexibility to work with the youths.

3 The last document, I almost didn't include this,
4 because this is from Mr. Kujath, Ken Kujath, my former
5 principal who I stepped into his office that morning. This
6 was written after the fact, and I really struggled with
7 including this, because I -- in a way, I felt like, you
8 know, I don't want to draw him into this, and yet, he speaks
9 of how I was as a teacher. And he told me that it was a
10 great loss to him, that when I left, it was a great loss to
11 his teaching staff and he was genuinely sorry for losing me.
12 He was quite angry at first, obviously, when it first came
13 down. He was quite angry and -- but he maintained his
14 composure and allowed me to maintain my dignity throughout
15 the entire ordeal. I can't speak highly enough of Ken
16 Kujath.

17 And I guess, that's my opening statement.

18 MR. HALSTEAD: I don't have an opening, Your
19 Honor.

20 THE HEARING OFFICER: Okay, did you have any other
21 evidence or witnesses that you'd like to call?

22 MR. HEATON: No, sir.

23 THE HEARING OFFICER: Do you have a closing
24 statement other than what you've already shared?

25 MR. HEATON: I think I've pretty well summed it
08.11.11 State Board of Education 7.13-19

1 up.

2 THE HEARING OFFICER: Closing statement?

3 MR. HALSTEAD: I'd waive a closing. I'd leave it
4 for you if you have any questions of the petitioner.

5 THE HEARING OFFICER: Does any member of the
6 Commission have any questions for Mr. Heaton?

7 He needs to be sworn in before we have questions.

8 THE REPORTER: Will you raise your right hand,
9 please? Do you solemnly swear or affirm the testimony
10 you're about to give will be the truth, the whole truth, and
11 nothing but the truth?

12 MR. HEATON: I do.

13 MARK HEATON, PETITIONER, SWORN

14 MR. HALSTEAD: Mr. Beck, may I ask him one
15 question?

16 THE HEARING OFFICER: Yes.

17 MR. HALSTEAD: Mr. Heaton, you made an opening
18 statement that included a lot of information. Did
19 everything you said in that opening statement, was it the
20 truth, the whole truth, and nothing but the truth?

21 MR. HEATON: Yes, sir.

22 MR. HALSTEAD: I don't have any more questions.

23 THE HEARING OFFICER: Brian?

24 COMMISSIONER MAHER: Mr. Heaton, you mentioned
25 that the State Patrol came in and seized the hard drive, I'm

1 assuming. How was the State Patrol notified of the -- how
2 did they become involved in this situation?

3 MR. HEATON: I'm not exactly sure, but I think it
4 was just the protocol at that time. If they -- I don't know
5 if Dr. Shafer just -- that was a safeguard or if it was the
6 school policy. That was to ensure that they could go
7 through that hard drive and make sure that no crimes were
8 committed.

9 COMMISSIONER STAVEM: Did you complete any form of
10 counseling?

11 MR. HEATON: I did go to a therapist for about
12 three months and some support groups.

13 COMMISSIONER STAVEM: And for what duration did
14 you attend those?

15 MR. HEATON: The therapist about three months and
16 the support group for about four months.

17 THE HEARING OFFICER: Any other questions?

18 (No response.)

19 The hearing committee will now adjourn and will
20 consider the evidence. The hearing committee's decision
21 will be reduced to writing. A copy of the hearing
22 committee's findings, conclusions, and decision will be
23 furnished to the parties. If the decision includes a
24 recommendation to allow the petitioner to apply for a new
25 certificate, the findings, conclusions, and recommendation

1 will be presented to the State Board of Education.

2 I now declare this hearing adjourned at 11:32 a.m.

3 (Whereupon, the hearing was adjourned at 11:32
4 a.m. to be reconvened after executive session and
5 deliberation of the evidence.)

6 (Back on the record 3:40 p.m.)

7 CHAIRPERSON MAHER: Is there a motion regarding
8 the Commission's recommendation on Case No. 11-06. We are
9 on the Heaton case.

10 COMMISSIONER STRACK: I move that the Nebraska
11 Professional Practices Commission adopts the findings of
12 facts and conclusions of law and recommend to the State
13 Board of Education that Mark Heaton be allowed to apply for
14 issuance of a public school teaching certificate.

15 COMMISSIONER SIDES: Second.

16 CHAIRPERSON MAHER: It has been moved and seconded
17 to accept the findings of fact and the conclusions of law
18 and recommend to allow to apply for the issuance of a public
19 school teaching certificate. Is there discussion?

20 (No response.)

21 CHAIRPERSON MAHER: Will the clerk please call the
22 roll?

23 THE CLERK: Anglemeyer.

24 COMMISSIONER ANGLEMEYER: Yes.

25 THE CLERK: Beck.

1 COMMISSIONER BECK: Yes.

2 THE CLERK: Brown.

3 COMMISSIONER BROWN: Yes.

4 THE CLERK: Johnson.

5 COMMISSIONER JOHNSON: Yes.

6 THE CLERK: Keller.

7 COMMISSIONER KELLER: Yes.

8 THE CLERK: Kupper.

9 COMMISSIONER KUPPER: Yes.

10 THE CLERK: Maher.

11 CHAIRPERSON MAHER: Yes.

12 THE CLERK: Serfass.

13 COMMISSIONER SERFASS: Yes.

14 THE CLERK: Shelton.

15 COMMISSIONER SHELTON: Yes.

16 THE CLERK: Sides.

17 COMMISSIONER SIDES: Yes.

18 THE CLERK: Stavem.

19 COMMISSIONER STAVEM: Yes.

20 THE CLERK: Strack.

21 COMMISSIONER STRACK: Yes.

22 (Whereupon, at 3:42 p.m. on June 15, 2011, the
23 proceedings were concluded.)

24

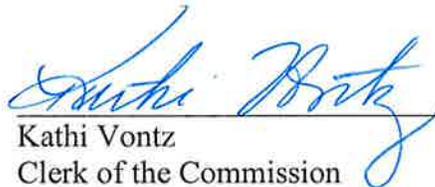
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above Notice dated April 14, 2011, for Case Number 11-06, was mailed to Mark Heaton, Petitioner, by U.S. Mail postage prepaid, and delivered by hand to Brian Halstead, Attorney for the Respondent, on this 14th day of April, 2011, at the following addresses.

Mark Heaton
Petitioner
7 Canal Heights Dr.
Kearney, NE 68845

Brian Halstead
Attorney for Respondent
301 Centennial Mall South
Lincoln, NE 68509


Kathi Vontz
Clerk of the Commission

COPY

BEFORE THE NEBRASKA STATE BOARD OF EDUCATION
STATE OF NEBRASKA

Roger D. Breed, Ed.D.)
Commissioner of Education)
301 Centennial Mall South – 6th Floor)
P.O. Box 94933)
Lincoln, NE 68509-4933,)

NDE Case No. 09-17

Petitioner,)

FINAL ORDER

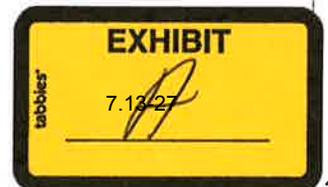
v.)

Mark Heaton)
240 South G, Apt. 4)
Broken Bow, NE 68822,)

Respondent.)

This matter came before the State Board of Education ("State Board"), Lincoln, Nebraska, on June 10, 2009, in accordance with Title 92, *Nebraska Administrative Code*, Chapter 28, Section 003.07 (effective date: December 25, 1989), which requires the State Board to approve any agreement entered into by the Commissioner of Education which revokes a Nebraska school certificate. In the present case, the Commissioner and the Respondent have entered into a settlement agreement, in which the parties have stipulated that the public school certificate of the Respondent, Mark Heaton, be revoked for a period of two (2) years. The parties were notified of the State Board's consideration in this matter. Appearing before the State Board were Brian L. Halstead, General Counsel, who presented a statement on behalf of the Commissioner of Education, and the Respondent's attorney, Scott Norby.

The record of the proceeding, containing the Settlement Agreement for Revocation of Certificate dated May 21, 2009, was received by the State Board into



evidence as "Exhibit 1." The Notice of Disposition and the certified return receipts were received into evidence as "Exhibit 2." Upon its independent review of the entire record, the State Board finds, concludes, and orders as follows:

1. The State Board has jurisdiction in this case pursuant to Neb. Rev. Stat. Section 79-866 (2008);

2. The Petitioner is Roger D. Breed, Ed.D., Commissioner of Education, 301 Centennial Mall South, 6th Floor, P.O. Box 94933, Lincoln, NE 68509.

3. The Respondent is Mark Heaton, 240 South G, Apt. 4, Broken Bow, NE 68822;

4. The Respondent holds a public Nebraska standard teaching certificate number XXX-XX-8637, endorsed in English 7-12, Foreign Language-Spanish 7-12, Language Arts 4-9, Middle Grades/Natural Sciences 4-9, Middle Grades 4-9, and Social Science 4-9, with an expiration date of August 31, 2013;

3. The Respondent was employed as a teacher by the Broken Bow Public Schools until the Respondent submitted a resignation that was effective on April 30, 2009, and was accepted by the Broken Bow Board of Education on May 18, 2009;

4. On or about March 31, 2009, the Respondent used school district equipment to access sexually explicit material;

5. The Respondent has violated Neb. Rev. Stat. Section 79-866(2) (2008), which states in pertinent part: "The board may, for just cause, revoke or suspend any teacher's or administrator's certificate. Violation of the standards established pursuant to this section, commission of an immoral act, or conviction of a felony under the laws of this state shall constitute just cause for the revocation or suspension of a teacher's or

administrator's certificate by the board"; Title 92, *Nebraska Administrative Code*, Chapter 27, Section 004.04B (effective date: November 12, 2003) ("the educator . . . shall not use institutional privileges for private gain or to promote political candidates, political issues, or partisan political activities"); Section 004.04E (same effective date) ("the educator . . . shall not commit any act of moral turpitude or any felony under the laws of the United States or any state or territory, and shall not have a misdemeanor conviction involving abuse, neglect, or sexual misconduct as defined in Sections 003.12 through 003.14 of 92 NAC 21"); Section 004.04F (same effective date) ("the educator . . . shall, with reasonable diligence, attend to the duties of his or her professional position"); and Section 004.06G (same effective date) ("the educator . . . shall use time on duty and leave time for the purpose for which intended");

6. By a preponderance of the evidence, just cause exists pursuant to Neb. Rev. Stat. Section 79-866(2) (2008) to revoke the Respondent's certificate for a period of two (2) years; and

7. The public school certificate of Mark Heaton, number XXX-XX-8637, endorsed in English 7-12, Foreign Language-Spanish 7-12, Language Arts 4-9, Middle Grades/Natural Sciences 4-9, Middle Grades 4-9, and Social Science 4-9, with an expiration date of August 31, 2013, shall be revoked for a period of two (2) years beginning this date.

Dated this 10th day of June, 2009.

STATE BOARD OF EDUCATION

BY: 
Kandy Imes, President

The vote by the State Board of Education to approve the Final Order in Case No. 09-17, on June 10, 2009, was 8 in favor, 0 against, 0 abstaining, and 0 absent. Individual State Board members voted as follows:

IN FAVOR: K. Imes, J. Scheer, F. Meyer, R. Evnen, K. Winterer, P. Timm, J. Higgins, R. Valdez

AGAINST: _____

ABSTAINING: _____

ABSENT: _____

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Final Order was served upon Mark Heaton, 240 South G, Apt. 4, Broken Bow, NE 68822, via United States mail; Scott Norby, McGuire & Norby, 605 South 14th Street, Suite 100, Lincoln, NE 68508, via United States mail; and Brian L. Halstead, General Counsel, Nebraska Department of Education, 301 Centennial Mall South, Sixth Floor, Lincoln, NE 68509, via interoffice mail, all on this 10th day of June, 2009.



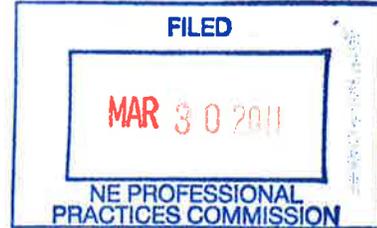
BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION
STATE OF NEBRASKA

IN THE MATTER OF THE)
REINSTATEMENT OF:)

Case No. 11-06

MARK H. HEATON)
7 CANAL HEIGHTS DR.)
KEARNEY, NE 68845)

PETITION FOR REINSTATEMENT



The undersigned Petitioner for reinstatement of a revoked Nebraska teaching, administrative and supervisory, or special services counseling public school certificate alleges:

1. The Petitioner holds a public Nebraska standard teaching certificate number 507-80-8637, endorsed in English 7-12, Foreign Language-Spanish 7-12, Language Arts 4-9, Middle Grades/Natural Sciences 4-9, Middle Grades 4-9, and Social Science 4-9, with an expiration date of August 31, 2013

2. Final Decision of the Nebraska State Board of Education: The public school certificate of Mark Heaton, number 507-80-8637, endorsed in English 7-12, Foreign Language-Spanish 7-12, Language Arts 4-9, Middle Grades/Natural Sciences 4-9, Middle Grades 4-9, and Social Science 4-9, with an expiration date of August 31, 2013, shall be revoked for a period of two (2) years beginning on this date of June 10, 2009.

3. Employment history during the period of certificate Revocation:

June 1, 2010 – present:

Hastings Juvenile Chemical Dependency Program
Hastings Regional Center
PO Box 579
4200 W Second Street
Hastings, NE 68902 Phone: 402-462-1971

May 2009 – June 2010

I worked as primary caregiver for my mother and father in their home. Their diminishing health required that someone be available round the clock. As I was unemployed, and unable to find work at the time, I took on this responsibility.

4. Witnesses that will testify on my behalf at the hearing:

Mark Heaton
7 Canal Hts. Dr.
Kearney, NE 68845
Phone (308) 224-1461

5. I, Mark Heaton, have fully complied with the Order of Revocation. I will not in the future engage in any practice which is listed in the statutes as grounds for revocation or suspension of a certificate. I am familiar with the criteria of professional practices adopted pursuant to 79-868.

Applicant affirms the statements in this Petition are true, correct, and complete to the best of his or her knowledge and belief.

Dated this 28th day of March, 2011

Mark Heaton

(Signature of Petitioner)

Mark H. Heaton, 7 Canal Heights Dr., Kearney, NE 68845

VERIFICATION

State of Nebraska)

)
County of Buffalo)

I, Mark Heaton, being first duly sworn under oath, disposes and says that I am the Petitioner named in the foregoing Petition, that I have read it, know the contents therein, and that the facts therein contained are accurate and complete to the best of my knowledge and belief.

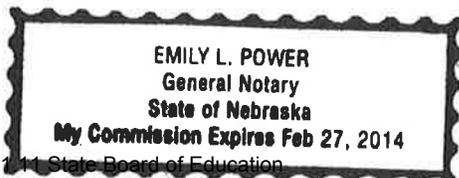
Mark Heaton

(Signature of Petitioner)

Subscribed and sworn before me this 29th day of March, 2011.

Notary Public

Emily L. Power
Notary Public



CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Petition was served upon the Commissioner of Education, by certified mail, return receipt requested at the following address;
301 Centennial Mall South, P.O. Box 94987, Lincoln, NE 68509-4987

Dated this _____ day of _____, 2011.

(Signature of Respondent)

NEBRASKA DEPARTMENT
OF EDUCATION

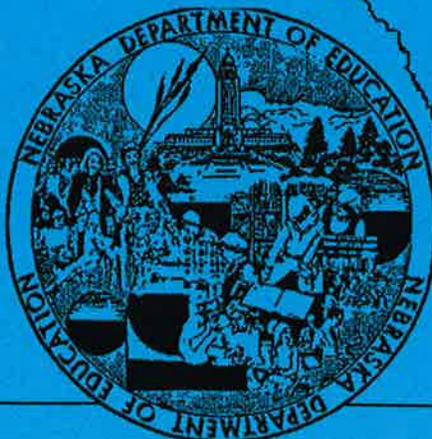
RULE 27

REGULATIONS AND STANDARDS FOR
PROFESSIONAL PRACTICES CRITERIA

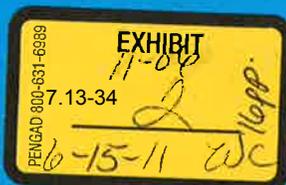
TITLE 92, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 27

EFFECTIVE DATE
November 12, 2003
(REVISED)

State of Nebraska
Department of Education
301 Centennial Mall South
Lincoln, Nebraska 68509
Douglas D. Christensen, Ph.D.
Commissioner



08.11.11 State Board of Education



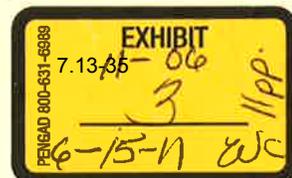
NEBRASKA PROFESSIONAL PRACTICES COMMISSION

TITLE 95, NEBRASKA ADMINISTRATIVE CODE,
CHAPTER 2

REGULATIONS CONCERNING TEACHER AND
ADMINISTRATOR CERTIFICATE REINSTATEMENT



Effective Date
October 30, 1993



7 Canal Heights Dr.
Kearney, Nebraska 68845

June 10, 2011

Nebraska Professional Practices Commission
301 Centennial Mall South
Lincoln, Nebraska 68509

Dear Members of the Nebraska Professional Practices Commission:

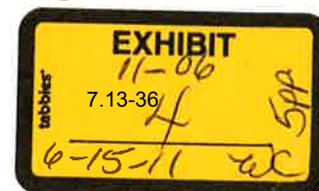
Thank you for hearing my petition today. It is my hope that after you hear my personal testimony, and review my letters of support, you will recommend to the State Board of Education that my teaching certificate be reinstated.

How did I come to be here today? Specifically, a little over two years ago I used my office computer, entrusted to me by Broken Bow Public Schools, to access pornographic material. Because of my immoral conduct, my teaching certificate was revoked for two (2) years.

But the question of how did I come to be here today goes deeper than words on a legal document; that question has shadowed me almost every day for the past two years. Indeed; it compelled me to ask myself how I got to a point in my life where I would even consider doing such a thing. For twenty years before I clicked that computer mouse, I was a highly effective educator and respected member of my community. I enjoyed a genuine and positive rapport with my students, colleagues, and patrons. With that unethical, unprofessional act, I dishonored my profession, betrayed my students, colleagues and my community; I irreparably damaged my reputation.

After I lost my teaching job and certificate, I tried to run away from what I had done; in reality, I was running away from facing myself. Of course I didn't succeed because every time I stopped to catch my breath, I found myself standing in the shadow of my guilt.

Over the past two years I have made a penetrating honest examination of my motives, convictions and attitudes; through this process I began to see that my problem began before my unethical decision two years ago, a decision which I would give



anything to go back and change. My problem started whenever it was that I began to take for granted my commitment as a professional educator; when I forgot the enormous responsibility, privilege, and honor entrusted to me as a member of a respected profession. My actions compromised fundamental principles of ethical and professional conduct.

For the past year I have worked at the Hastings Juvenile Chemical Dependency Program where I interact with youths one-to-one and in group settings to instruct and assist in working towards individual and program goals. For most of these youths, this program is their last chance to turn their lives around; many of them understand this and are grateful for the opportunity because it gives them hope, the hope that they will not continue to be managed by the correctional system, the hope that they can lead successful, productive lives and be treated with dignity and respect.

Ironically, when I was a teacher, these same youths created significant challenges in the classroom. Often they only attended school a short time before disappearing. Now I consider it a privilege to work with them, because in striving to help them believe in themselves, I began to believe in myself again.

I accept full responsibility for what I did. If granted the privilege and honor of having my teaching certificate reinstated, I will never again do anything to have it revoked. I am dedicated and committed to the teaching profession, and if given a second chance, I will conduct myself professionally, ethically and with good moral character.

Sincerely,



Mark Heaton



Donna Stamp
79803 Callaway Road
Broken Bow, NE 68822
Cell phone: (308) 870-0413

June 8, 2011

To Whom It May Concern:

I write this letter of reflection on Mark Heaton's teaching practices.

I have known Mark for 8 years as a teaching colleague and as a friend. We visited often about our students and our lives in general.

Mark's classrooms could be characterized as relevant and thought-provoking. His units of study were well planned and took into account the needs, levels and backgrounds of his students to elevate their understanding of themselves and the world. His students genuinely enjoyed Mark's classes and interactions with him.

One attribute of Mark that I have always appreciated is his passion for teaching. He always showed enthusiasm for trying new methods and strategies to keep his classes interesting. I would have loved to have Mark as a literature teacher. Coupled with his delivery, methods and content, Mark's absence from the classroom has surely been a gift missed.

Sincerely,



Donna Stamp

04/16/11

To whom it may concern,

My name is Michael E Valenzuela, and I am a Youth Counselor at the Hastings Regional Center. I have co-supervised Youth Security Specialist II Mark Heaton since June of 2010. During that time, Mark has demonstrated excellent work ethic, great communication skills, and an ability to connect and effectively work with some very difficult young men in our program. Mark always gives 100% to HRC, his co-workers and his clients. You can count on Mark to be there as a team member given any circumstance.

Sincerely,

Michael E Valenzuela



Cell: (701) 330-9094

10534 710 Rd

Orleans, NE 68966

Broken Bow Schools

Each Child Matters. Every Day Counts.

323 North 7th Avenue
Broken Bow, NE 68822

June 5, 2009

To Whom It May Concern:

Superintendent
308-872-6821

High School
308-872-2475

Middle School
308-872-6441

Custer
Elementary School
308-872-2503

North Park
Elementary School
308-872-2982

Round Hill
Elementary School
308-872-6969

SESC Preschool
At Tappan Valley
308-872-6542

Sandhills Coop
308-872-5606

Bus Barn
308-872-5606

School Closing Info.
308-872-3048

I am writing this letter of employment for Mr. Mark Heaton. Mr. Heaton was employed with the Broken Bow Public Schools for seven years as a classroom teacher. I supervised Mr. Heaton during his last three years, as his principal. Mr. Heaton taught English and Spanish to 8th grade students along with Vocational English classes to 9th, 11th and 12th grade students.

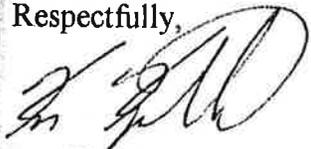
Mr. Heaton's 8th grade students consistently improved in their performance on the Nebraska State Writing Assessment culminating in 100 percent proficiency of his 8th grade students during the 2008-09 school year. Mr. Heaton taught an exploration course in Spanish to 8th grade students for a 9 week period of time preparing them for high school Spanish courses.

In the high school, Mr. Heaton developed a Technical Writing class for senior students needing to improve their writing skills for usage throughout life, taught students Vocational Grammar and taught a year-long Vocational English class. Mr. Heaton had excellent rapport with his students, used effective classroom management techniques and put in a lot of extra time preparing for class instruction.

As a staff member, Mr. Heaton was always willing to help out as needed and served on school committees. Mr. Heaton was an integral member of the Broken Bow Schools' "Standards Based Grading Committee" for five years. Mr. Heaton was involved from the initial development stage to the successful implementation of this grading program which involved a lot of time, professional insight and commitment.

Mr. Heaton was a dedicated, positive and productive teacher for Broken Bow Public Schools.

Respectfully,



Ken Kujath, Principal
Broken Bow MS/HS