

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

|                            |   |                            |
|----------------------------|---|----------------------------|
| MELISSA CONVERSE,          | ) | NDE Case No. 13-01         |
|                            | ) |                            |
| Petitioner,                | ) |                            |
|                            | ) |                            |
| vs.                        | ) | HEARING OFFICER'S          |
|                            | ) | PROPOSED FINDINGS OF FACT, |
|                            | ) | RECOMMENDED CONCLUSIONS    |
| ROGER D. BREED, Ed.D.      | ) | OF LAW AND RECOMMENDED     |
| COMMISSIONER OF EDUCATION, | ) | DECISION                   |
|                            | ) |                            |
| Respondent.                | ) |                            |

INTRODUCTION

This matter comes before the Hearing Officer, Jim R. Titus, appointed by the State Board of Education on March 5, 2013. Petitioner, Melissa Converse, filed an Application to renew her Nebraska Teaching Certificate on or about November 14, 2012. On November 27, 2012, the Director of the Teacher Certification Office sent Petitioner a letter notifying her of an intent to deny her application. On December 18, 2012, Petitioner requested a review of her application by the Commissioner of Education. On January 3, 2013, the Commissioner of Education denied Petitioner's application for a renewal of a Nebraska Teaching Certificate for the following stated reasons:

- “1. You have a 2007 Driving Under the Influence fourth Offense felony conviction for which you were sentenced to a term of imprisonment for not less than one year, nor more than two years, and your driving privileges were revoked for a period of fifteen years;
2. This conviction is prohibited by 92 NAC 21, Sec. 003.11;
3. Sec. 005.01J states that applicants be of “good moral character”;
4. On November 9, 2011, the State Board of Education upheld the

Commissioner's of Education's decision to deny your 2011 application for renewal; and

5. Only one year has elapsed since the Board entered an order denying you a certificate.

Petitioner filed an appeal to the State Board of Education of this denial on January 28, 2013. An Answer was filed by the Respondent, Roger D. Breed, Commissioner of Education, on February 7, 2013. Petitioner is appealing the Respondent's decision pursuant to the provisions of Title 92, Chapters 21 and 61, Neb. Adm. Code (NAC), and requests that the Board grant her a Nebraska Teaching Certificate.

A hearing was held on April 16, 2013 at approximately 11:00 a.m. in a conference room of the Nebraska Department of Education in the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The parties were issued written notice of the hearing. The Petitioner appeared on her own behalf and offered testimony under oath. Respondent was represented by Brian L. Halstead, Assistant Commissioner/General Counsel, who cross-examined the Petitioner. The proceeding was recorded by Precision Reporting, Inc., Lincoln, Nebraska. The parties jointly offered Exhibits 1 through 5, which were received without objection. The exhibits are as follows:

1. NDOE case file;
2. Title 92, NAC Chapter 21;
3. Title 92, NAC Chapter 61;
4. Letter to Roger D. Breed from Amy Lamphere; and
5. Final Order from N.D.E Case No. 11-1-1.

Having considered the sworn testimony of the witness and the exhibits, the Hearing Officer

makes the following proposed findings of fact, recommended conclusions of law, and recommended decision. A copy of the transcript of the hearing is attached.

PROPOSED FINDINGS OF FACT

1. Petitioner is 30 years old and graduated in May of 2006 from the University of Nebraska at Lincoln with a degree in education.
2. Petitioner did obtain a Nebraska Teaching Certificate during 2006 and moved to Arizona where she taught 7<sup>th</sup> grade in Glendale for one year.
3. Petitioner was charged with fourth offense driving under the influence on April 16, 2006. She pled guilty in the District Court of Lancaster County, Nebraska, and was sentenced to a term of one to two years and had her driver's license revoked for fifteen years. Her sentence commenced on June 13, 2007. Petitioner was released after approximately ten months.
4. Petitioner's first driving under the influence offense occurred in the first part of March of 2002 while a freshman at the University of Nebraska Lincoln. She was 18 years of age at the time. She was given probation.
5. Petitioner's second driving under the influence offense occurred on March 28, 2002 and she again received probation.
6. Petitioner's next citation was in June of 2004, for maintaining a disorderly house for a party at her home in Lincoln, with too many people over and alcohol being served, for which she received a fine.
7. Petitioner's next citation was for consuming alcohol in public in August of 2004, for which she received a fine.
8. Petitioner's next offense was for driving under the influence on October 2, 2004,

with another citation for driving under the influence in December 2004, both considered third offenses for which she received probation.

9. Petitioner was cited in March of 2005 for driving under suspension of her license for which she paid a fine.

10. Petitioner also received a citation in August of 2005 for having an open alcohol container in public in Nemaha County, Nebraska, for which she paid a fine.

11. Her probation for the third offense driving under the influence was revoked and she was sentenced together with her fourth offense driving under the influence from the April 16, 2006 offense, for which she served approximately ten months beginning in June of 2007.

12. After Petitioner's release from jail in the Spring of 2008, she worked for a before and after school program and an Air Park Recreation Center summer program for children. She also worked part time for Cornhusker Place, then began working as a counseling assistant at Touchstone Treatment Center in Lincoln, Nebraska in August, 2008, and part time for a chiropractor until March, 2012. She also worked as a substitute teacher in the Lincoln Public Schools since January, 2011 until certificate not renewed. She obtained a full-time Monday through Friday full time job in March 2012 at Hausman Construction as an accounting assistant, doing invoicing, accounts payable, accounts receivable and change orders.

13. Her community activity consists of fund raising and assisting for the Relay for Life charitable event; organizing Alcoholics Anonymous functions; logistics committee member for Project Homeless Connect; registration work for M.S. Walk in April, 2012; promotion and helping with fundraising events for nonprofit organization Family Images for Lifetime Memories Project (which provides professional photos of family together with dying family members); organized fundraising carnival for 7-year old boy dying of cancer; greeting at her church, Christ's Place; and

hosting a church Bible study for women in her home on Thursday nights.

14. Petitioner has been sober since June 7, 2007, and became actively involved in the Alcoholics Anonymous Program while incarcerated and continues to attend AA meetings two or three times a week and has a sponsor. She has a fiance who also attends church and AA meetings with her. She has lawyer helping her apply for driver's license, which she may apply for beginning in June 2013.

15. Petitioner has offered a letter from a friend, Amy Lamphere, who served time with her at Lincoln Correctional Facility for stealing employer funds. Ms. Lamphere talks of their initial support of each other to move forward in their lives; and that Petitioner takes driving restriction seriously and has built a support network of drivers to help maintain her employment. Petitioner submitted other letters of support at her prior hearing, but none of them were offered at this hearing.

#### RECOMMENDED CONCLUSIONS OF LAW

1. Neb. Rev. Stat. §79-808 (1) (Cum. Supp. 2012) provides that “the Board shall establish, adopt and promulgate appropriate rules, regulations, and procedures governing the issuance, renewal, conversion, revival, cancellation, suspension, and revocation of certificates and permits to teach, provide special services, and administer, based upon . . .(f) moral, mental and physical fitness for teaching, all in accordance with sound educational practices.”

2. Title 92 NAC 21 Sec. 005.01D provides that an applicant for a teaching certificate shall not have any felony convictions; and NAC 21 Sec. 005.01J requires that the applicant “be of good moral character.”

3. Title 92 NAC 21 Sec. 009.03 provides that within twenty calendar days of receipt of the notice of Commissioner's denial of the certificate, the applicant may appeal the

Commissioner's decision to the Board of Education pursuant to Title 92 NAC 61.

4. Pursuant to Title 92 NAC 21 Sec. 009.03, if the Board finds in the case of an applicant who is rejected due to a criminal conviction, that the applicant has good moral character and possesses the moral fitness for teaching, then the Board may direct the Commissioner to issue a certificate to the applicant.

5. Pursuant to Title 92 NAC 21 Sec. 009.04, in consideration of whether to deny, not issue or not renew a certificate to an applicant based upon a criminal conviction, the Board shall take into account the following factors in determining moral character and moral fitness to teach:

009.04A The nature of the crime, the facts and circumstances surrounding the applicant's conviction, including whether the conduct of the applicant would constitute a crime in Nebraska, the sentence received, and whether the sentence was commuted, set aside, or pardoned;

009.04B The applicant's age at the time of the conduct;

009.04C The recency of the conduct;

009.04D The applicant's positive social contributions since the conduct; and

009.04E The reliability of the information concerning the conduct.

6. A teacher in a public school system is regarded by the public and pupils in light of an exemplar, whose words and actions are likely to be followed by the children coming under his or her care and protection. Teacher's actions set an example for others to follow, and as such affects the teacher's ability to teach. *Clark v. Board of Education, School Dist. of Omaha*, 215 Neb. 250, 338 N.W. 2d 272, 275 (1983).

#### RECOMMENDED DECISION

Petitioner has complied with the procedural requirements in this case and she is properly

before the State Board of Education for a determination.

Petitioner pled guilty to and was sentenced for a fourth offense driving under the influence felony for an offense occurring on April 16, 2006. She was incarcerated for approximately ten months and had her driver's license revoked for fifteen years. Prior to that incident, she had many other offenses, most of them alcohol related. It is evident from her conviction history and her testimony, that during her undergraduate years at the University of Nebraska at Lincoln she saw no problem with her alcohol consumption, was not deterred by probation or fines and felt alcohol consumption was necessary for a college social life. Her many convictions regarding alcohol-related offenses, including the felony conviction for the April 16, 2006 offense, certainly showed a lack of good moral character and the failure to meet the requirements for a teaching certificate absent the guidelines for review in Title 92 NAC 21 Sec. 009.04.

It has been one and one-half years since her last hearing and seven years since her last offense, the felony offense for driving under the influence. She has been sober for almost six years, of which five years have been since her release from jail, and is actively attending Alcoholics Anonymous meetings, has been employed for three years in a program helping individuals with drug and alcohol addiction problems and has for one year been full time employed for a large general contractor in an accounting assistant's position. She has been engaged in various charitable activities and church activities. Her character reference shows a serious respect for her driving restriction and efforts to deal with it legally. She appears to have made a positive change in her life over the last seven years.

The passage of time, the positive change in Petitioner's life over the last seven years and her social contributions in the workplace and in nonprofit activities, in addition to an awareness of her problem and the need for continuing support through a support organization like Alcoholics

Anonymous, together with the other evidence demonstrate that Petitioner is a person of good moral character and possesses the moral fitness for teaching and should have renewal of her teaching certificate be granted.

Therefore, the Hearing Officer recommends that the State Board of Education enter an order overturning the Commissioner's denial of the application and authorizing the renewal of a Nebraska teaching certificate to the Petitioner as requested.

Dated this 6<sup>th</sup> day of May, 2013.



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Jim R. Titus, #16064, Hearing Officer  
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Lincoln, NE 68506  
(402) 434-5200 – phone  
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#### CERTIFICATE OF SERVICE

The undersigned, Jim R. Titus, hereby certifies that the original of the foregoing with attached transcript was hand delivered to Leslie S. Donley, Assistant Attorney General, Nebraska Department of Justice, 2115 State Capitol, Lincoln, Nebraska on May 6, 2013, and a true and correct copy of the foregoing was served by first-class United States mail, postage prepaid on May 6, 2013 to the following parties:

Brian L. Halstead  
Assistant Commissioner/General Counsel  
Nebraska Department of Education  
301 Centennial Mall South, 6<sup>th</sup> Floor  
P.O. Box 94933  
Lincoln, NE 68509-4933

Melissa Converse  
2856 Jane Lane  
Lincoln, NE 68516



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Jim R. Titus, #16064  
Hearing Officer

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

|    |                       |   |                             |
|----|-----------------------|---|-----------------------------|
| 1  |                       |   |                             |
| 2  |                       |   |                             |
| 3  | MELISSA CONVERSE,     | ) | NDE Case No. 13 - 01        |
| 4  |                       | ) |                             |
| 5  | Petitioner,           | ) | <u>REQUESTED TRANSCRIPT</u> |
| 6  |                       | ) |                             |
| 7  | vs.                   | ) | VOLUME I - TESTIMONY        |
| 8  |                       | ) | (Pages 1 - 31, incl.)       |
| 9  | ROGER D. BREED, Ed.D. | ) |                             |
| 10 | COMMISSIONER OF       | ) | VOLUME I - EXHIBITS         |
| 11 | EDUCATION,            | ) | (Exhibits 1 - 5, incl.)     |
| 12 |                       | ) |                             |
| 13 | Respondent.           | ) |                             |

**ORIGINAL**

Proceedings had before JIM R. TITUS, HEARING OFFICER, at Lincoln, Nebraska, on **April 16, 2013.**

A P P E A R A N C E S

For the Petitioner: Pro se

For the Respondent: **MR. BRIAN L. HALSTEAD**  
Assistant Commissioner/  
General Counsel  
NE Department of Education  
301 Centennial Mall South  
Sixth Floor  
P.O. Box 94933  
Lincoln, NE 68509-4933

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## I N D E X

| <u>WITNESSES:</u> | <u>Direct</u> | <u>Cross</u> | <u>Redirect</u> | <u>Recross</u> |
|-------------------|---------------|--------------|-----------------|----------------|
| MELISSA CONVERSE  | 7             | 9            |                 |                |

| <u>EXHIBITS:</u>   | <u>Marked</u> | <u>Offered</u> | <u>Ruled<br/>On</u> | <u>Found</u> |
|--|---------------|----------------|---------------------|--------------|
| 1. Pleadings   | 4             | 5              | 5                   | ATT          |
| 2. NE Department of<br>Education Rule 21                     | 4             | 5              | 5                   | ATT          |
| 3. NE Department of<br>Education Rule 61                     | 4             | 5              | 5                   | ATT          |
| 4. Letter to Roger D.<br>Breed from Amy<br>Lamphere (4/4/13) | 4             | 5              | 5                   | ATT          |
| 5. Final Order<br>NDE Case No. (11-11)                       | 4             | 5              | 5                   | ATT          |

ATT - Attached

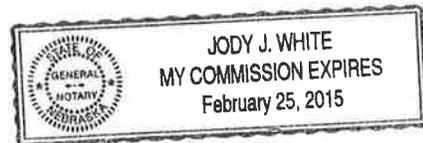
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C E R T I F I C A T E

I, Jody J. White, Registered Merit Reporter,  
do hereby certify that the within and following  
transcript contains all the evidence requested to  
be transcribed by me from the proceedings had in  
the foregoing cause; that said transcript is a  
correct and complete transcription of the  
proceedings requested to be transcribed from the  
record made at the time of said proceedings.

Dated this 23rd day of April, 2013.

*Jody J. White*  
\_\_\_\_\_  
General Notary Public



1           (At 11:02 a.m. on April 16, 2013, at  
2           301 Centennial Mall South, Sixth Floor, Lincoln,  
3           Nebraska, before JIM R. TITUS, HEARING OFFICER,  
4           with Mr. Brian L. Halstead appearing as counsel for  
5           the Nebraska Department of Education, the following  
6           proceedings were had:)

7                           (Exhibit Nos. 1 through 5 were  
8                           marked for identification.)

9                           HEARING OFFICER: Okay. We will now  
10           convene the hearing on the matter captioned  
11           Melissa Converse versus Roger D. Breed,  
12           Commissioner of Education, Case 13-01. I'm Jim  
13           Titus. We met before, a year and a half ago. And  
14           as a preliminary matter, turn off or turn to  
15           vibrate any cell phones. And let the record show  
16           that Melissa Converse is present, representing  
17           herself and that Brian Halstead is present,  
18           representing the Nebraska Commissioner of  
19           Education. Neither party has requested Rules of  
20           Evidence to apply to this hearing.

21                           And is there anything -- any preliminary  
22           matters we need to deal with?

23                           MR. HALSTEAD: I think, Mr. Titus,  
24           before the hearing got started -- we are willing  
25           to offer five separate exhibits for your

1 consideration and the State Board of Education's  
2 consideration. Exhibit No. 1 would be the  
3 pleadings that have been filed in the matter to  
4 date; Exhibit No. 2 being Title 92, Nebraska  
5 Administrative Code, Chapter 21, the rules and  
6 regulations for the issuance of certificate;  
7 Exhibit No. 3 being Title 92, Nebraska  
8 Administrative Code, Chapter 61, the rules for  
9 contested cases before the State Board of  
10 Education; Exhibit No. 4 which is a one-page  
11 letter from Amy Lamphere in support of the  
12 petitioner in this case; and Exhibit No. 5 which  
13 is the final order of the State Board of Education  
14 in NDE Case No. 11-11, Melissa Converse vs. Roger  
15 Breed from 2011.

16 We would offer, I think, jointly Exhibits 1  
17 through 5 for your consideration.

18 HEARING OFFICER: Is that correct?

19 MS. CONVERSE: Yes.

20 HEARING OFFICER: Okay. Exhibits 1  
21 through 5 are received.

22 (Exhibit Nos. 1 through 5 are  
23 made a part of this Requested  
24 Transcript and may be found  
25 attached hereto.)

1 HEARING OFFICER: Do either of you  
2 wish to make an opening statement?

3 MR. HALSTEAD: I would waive an  
4 opening statement.

5 MS. CONVERSE: (Shakes head.)

6 HEARING OFFICER: Okay. And often the  
7 petitioner goes first. I mean, I guess I have  
8 discretion of the rules who goes first. It may be  
9 more appropriate for the State to go first to  
10 explain the reason for the denial and then have  
11 you have the opportunity to present evidence  
12 against that.

13 So, Mr. Halstead --

14 MR. HALSTEAD: Well, I believe you've  
15 received the evidence that would support the  
16 Commissioner's initial denial of Melissa's  
17 application for a certificate. It's incorporated  
18 in his letter which is in Exhibit No. 1 that you  
19 received. There's also the prior State Board  
20 order from 2011 that indicated the State Board's  
21 disapproval of her application at that time; so I  
22 think the hearing today is largely for Melissa to  
23 provide new facts and evidence to support that she  
24 does meet the qualifications for issuance of a  
25 certificate.

*MELISSA CONVERSE - Direct*

1           That would kind of be both an opening and our  
2 evidence; so, with that, I think we have no  
3 further evidence, and we'd wait to hear -- to see  
4 what Melissa has as evidence of what she's been  
5 doing since the last State Board order.

6           HEARING OFFICER: Okay. Melissa, I  
7 know you're going to be testifying here as to  
8 facts; so would you raise your right hand?

9           MS. CONVERSE: (Complies.)

10                           **MELISSA CONVERSE,**

11           called as a witness on her own behalf,  
12           having been first duly sworn,  
13           testified as follows:

14                           **DIRECT EXAMINATION**

15           THE WITNESS: In the past year and a  
16 half since we last met, I've continued my path in  
17 sobriety. I'm getting married in September to  
18 someone who's also in AA. He's been sober for  
19 four years in September. I've been a part of  
20 various volunteer projects, The F.I.L.M Project  
21 which stands for Forever Images -- Family Images  
22 for Lifetime Memories. It's something we became a  
23 part of after my niece died of cancer a year and a  
24 half ago. It's just a nonprofit organization that  
25 provides photographs to people that are dying of  
cancer or other life-threatening illnesses. I

*MELISSA CONVERSE - Direct*

1 work with -- it's actually a nationwide project,  
2 but I work with someone here in Lincoln named  
3 Linda Tubbs. She's part of the Lincoln chapter.

4 Just this last Saturday I volunteered with  
5 the MS Walk at Antelope Park. My mom has MS; so  
6 my sister and I helped with registration,  
7 fund-raising. We've done that for the last two  
8 years. I've served on a logistics committee for  
9 the Project Homeless Connect. I host a Connect  
10 Group which is, basically, Bible study at my house  
11 Thursday evenings. That's through Christ's Place  
12 church.

13 Like I said, my sobriety date was June 7th of  
14 2007. I'm in the process of applying for my  
15 driver's license back. In a few years I can have  
16 my felony expunged. The felony DUI that is the  
17 incident bringing all this together actually was  
18 seven years ago today, seven years ago today. I  
19 was twenty-three at the time. I'm now thirty  
20 years old. I haven't had any trouble whatsoever,  
21 zero incidents in seven years.

22 I was offered a job at Culler Middle School  
23 by Dr. Mary Beth Lehmanowsky. I was unable to  
24 take this job at the time because my certificate  
25 was about to expire. I've been requested by

*MELISSA CONVERSE - Cross (Halstead)*

1 multiple teachers to be their classroom sub. This  
2 was when my certificate was still current. I was  
3 approved by Lincoln Public Schools' Jeff Gade,  
4 background specialist.

5 I guess, in my opinion, I am not real sure  
6 what more I could do to show that I am a person of  
7 good moral character. I'm ready to move on with  
8 my life, and, like I said, this was seven years  
9 ago. I was twenty-three, and I'm just trying to  
10 move past that.

11 HEARING OFFICER: Mr. Halstead.

12 CROSS-EXAMINATION

13 BY MR. HALSTEAD:

14 Q. Melissa, today you're employed with who?

15 A. Hausmann Construction.

16 Q. And what do you do for Hausmann  
17 Construction?

18 A. Accounting assistant.

19 Q. Okay. And how large of a business is  
20 Hausmann Construction?

21 A. Extremely large. I mean, we're -- we're  
22 taking on projects like the parking deck at the  
23 arena, Bob Devaney.

24 Q. Okay.

25 A. General contractor.

*MELISSA CONVERSE - Cross (Halstead)*

1 Q. How many people work in the same office  
2 area as you?

3 A. In the same office, twenty.

4 Q. Okay.

5 A. There's about fifty full-time employees.

6 Q. And your duties are what on a day-to-day  
7 basis for Hausmann Construction?

8 A. It varies a lot, but I do a lot of  
9 invoicing, accounts receivable, accounts payable,  
10 change orders for subcontracts.

11 Q. Okay.

12 A. It's not a career. It's just paying the  
13 bills.

14 Q. And how long have you worked for Hausmann  
15 Construction?

16 A. Since last March; so about thirteen  
17 months.

18 Q. Okay. March of 2012?

19 A. Yeah.

20 Q. Okay. And prior to working for Hausmann  
21 Construction, who did you work for?

22 A. I worked for Touchstone --

23 Q. Okay.

24 A. -- treatment center, and a chiropractor,  
25 Southwest Chiropractic.

*MELISSA CONVERSE - Cross (Halstead)*

1 Q. I think when we had the hearing the last  
2 time, Touchstone and the chiropractor --

3 A. Yeah.

4 Q. -- were your two current employers at that  
5 time.

6 A. Yeah.

7 Q. Okay. You mentioned you're getting  
8 married in September --

9 A. Uh-huh.

10 Q. -- correct? Is that here in Lincoln?

11 A. Beatrice.

12 Q. Beatrice. Okay. I think you're from  
13 Beatrice originally; right?

14 A. Right.

15 Q. Okay. Is your --

16 A. My fiancé is also.

17 Q. What does your fiancé do?

18 A. Works for K2 Construction.

19 Q. All right. What's K2 Construction do  
20 primarily?

21 A. He does site utilities. He's a foreman  
22 there. He's been there for twelve years.

23 Q. How long have you known your fiancé?

24 A. Since I was in seventh grade.

25 Q. You've been dating that long?

*MELISSA CONVERSE - Cross (Halstead)*

1 A. No. We've only been dating for four  
2 years.

3 Q. Okay. So when we had the hearing last  
4 time, you were --

5 A. Yeah.

6 Q. -- dating him at that time?

7 A. Yeah.

8 Q. Okay. Is that how you found your job with  
9 Hausmann Construction, through --

10 A. No.

11 Q. Oh, okay. I -- they're both --

12 A. Not at all.

13 Q. -- construction -- okay.

14 A. Yeah. I know. They're -- we're a general  
15 contractor. He's a subcontractor. He's never  
16 worked on one of our jobs since I've been there,  
17 but --

18 Q. Okay.

19 A. -- in the past --

20 Q. The reason you left Touchstone was to go  
21 to work for Hausmann Construction?

22 A. They were both part-time jobs.

23 Q. Okay.

24 A. This is just more one stable full-time  
25 job --

*MELISSA CONVERSE - Cross (Halstead)*

1 Q. Okay.

2 A. -- eight to five; not weekends, evenings.

3 Q. So the Hausmann Construction job is a  
4 full-time --

5 A. Yeah.

6 Q. -- forty-hour-a-week --

7 A. Yeah.

8 Q. -- job?

9 A. Yep.

10 Q. Okay. Are you doing any part-time work  
11 for the chiropractor or Touchstone --

12 A. I'm not.

13 Q. -- anymore? Okay. Any other part-time  
14 work you're doing?

15 A. No.

16 Q. Okay. You mentioned you're applying for  
17 your driver's license. Can you describe for us  
18 what that all involves for you?

19 A. Well, I was given a fifteen-year  
20 suspension --

21 Q. Right.

22 A. -- from my driver's license, and after you  
23 wait for seven years, you can apply for it back as  
24 long as you have been active in AA, you haven't  
25 been in any trouble, and you've been through some

*MELISSA CONVERSE - Cross (Halstead)*

1 type of treatment.

2 Q. Is that an application that's pending with  
3 the Director of the Department of Motor Vehicles  
4 at this time?

5 A. Not quite because you -- it's -- even  
6 though it's been seven years today, it -- they  
7 take away jail -- they -- they take -- jail time  
8 doesn't count towards that --

9 Q. Okay.

10 A. -- so the lawyers have it, but it hasn't  
11 been filed yet.

12 Q. Okay. When is it that it can be filed  
13 with the Director?

14 A. In the next two months.

15 Q. Okay.

16 A. The application's filled out, but they  
17 don't physically have it yet.

18 Q. You still have to wait for the seven-year  
19 period to run from the dates the law requires --

20 A. Right.

21 Q. -- is that right? Okay. And you're  
22 expecting that will come up in June of this year  
23 or --

24 A. Yeah.

25 Q. -- July?

*MELISSA CONVERSE - Cross (Halstead)*

1 A. June.

2 Q. Okay.

3 A. I think it's June 6th.

4 Q. Okay. And you mentioned the lawyers have  
5 it; so I take it you've hired legal counsel to  
6 represent you or is handling that for you.

7 A. Yeah.

8 Q. Do you know who the lawyer is?

9 A. Mark Rappl.

10 Q. You mentioned Christ's Place church. Is  
11 that -- you're a member of that church?

12 A. Yes.

13 Q. Okay. And how long have you been a member  
14 of Christ's Place church?

15 A. That church just about a year.

16 Q. Okay.

17 A. Before that we were at St. Mark's.

18 Q. Okay.

19 A. We just kind of made a switch.

20 Q. And when you say, "We," you and your  
21 fiancé?

22 A. Yeah.

23 Q. Okay. So you both have switched to  
24 Christ's Place church?

25 A. Yeah.

*MELISSA CONVERSE - Cross (Halstead)*

1 Q. Okay. And you mentioned you were on a  
2 logistics committee?

3 A. Uh-huh.

4 Q. At Christ's Place church?

5 A. No. That was for Project Homeless  
6 Connect.

7 Q. Okay.

8 A. I do a Connect Group that's part of  
9 Christ's Place.

10 Q. Okay. And what does the Connect Group do?

11 A. It's, basically, just another name for a  
12 Bible study.

13 Q. Okay.

14 A. It's a follow-up of Sunday's sermon. Just  
15 questions that we get from the pastor, and there's  
16 about twenty groups, I'd say. They go on a  
17 semester, even though there's four semesters.  
18 It's just a women's-only group --

19 Q. Okay.

20 A. -- just to connect with other people from  
21 our church. It's really great.

22 Q. Are there any other activities with  
23 Christ's Place church that you're involved with  
24 right now?

25 A. No.

*MELISSA CONVERSE - Cross (Halstead)*

1 Q. Okay. You mentioned you did the MS Walk  
2 here recently; correct?

3 A. Yeah.

4 Q. And that was a volunteer activity on your  
5 part?

6 A. Yeah. My mom has MS; so we did it to  
7 support her.

8 Q. And when you say, "we" --

9 A. My sister and I --

10 Q. Okay.

11 A. -- and Jesse and -- my fiancé.

12 Q. Okay. And that was to raise money and  
13 awareness for multiple sclerosis?

14 A. Yeah. For a cure.

15 Q. All right.

16 A. But, I mean, when I say, "I volunteer,"  
17 like we actually like helped, not just like showed  
18 up.

19 Q. All right. But you weren't required to do  
20 anything for MS. You decided --

21 A. Right.

22 Q. -- to do that on your own?

23 A. Right.

24 Q. Okay. And your motivation is attributed  
25 to your mom having MS?

*MELISSA CONVERSE - Cross (Halstead)*

1           A.     Right.

2           Q.     Okay.  You mentioned F.I.L.M.  Could you  
3 explain to us a little bit more what F.I.L.M. is  
4 all about and what your involvement is with that?

5           A.     Family Images for Lasting Memories.

6           It's -- like I said, it's a nonprofit organization  
7 that -- when my niece was in the hospital in --  
8 let's see -- almost a year and a half ago, she was  
9 up at Children's.  She was seven years old, and  
10 she was dying of cancer.  They came up -- they --  
11 we got in touch with this Linda Tubbs because my  
12 dad actually went to high school with her and had  
13 seen on his Facebook, you know, "I see this little  
14 person in your pictures.  Is she sick?"  And he  
15 said, "Yeah.  She's -- she's real sick."

16                     And they donated their time and resources  
17 to come up to Children's, and they take these  
18 professional pictures of the family together.  And  
19 then my niece actually passed away like a week and  
20 a half later; so that is really important to our  
21 family.

22                     And what I do is help organize people that  
23 may not know about F.I.L.M. or to reach out to  
24 them and to get them in touch with Linda Tubbs.  
25 She's the professional photographer here in

*MELISSA CONVERSE - Cross (Halstead)*

1 Lincoln. She's -- I think her title is secretary  
2 or treasurer. It's actually based out of  
3 Sweetser, Indiana, but, like I said, I get people  
4 in touch with her and -- 'cause I'm not a  
5 photographer. I don't really know what my title  
6 was called.

7 Q. How is it you get people in touch with  
8 her? How is it you reach out to find people or  
9 work with people who may want services?

10 A. Oh, people that I know. We put up fliers.  
11 I've helped with -- we had a -- a poker run, both  
12 bicycle and motorcycle, last -- I guess it would  
13 have been summer and fall.

14 Q. So these all would be volunteers who are  
15 working with F.I.L.M.?

16 A. Right.

17 Q. Okay. So you get together with other  
18 people who are interested in this topic?

19 A. Just to spread the awareness really --

20 Q. Okay.

21 A. -- and to --

22 Q. Who might be some of the other people who  
23 are interested or involved with F.I.L.M. here in  
24 Lincoln that you know?

25 A. Linda Tubbs.

*MELISSA CONVERSE - Cross (Halstead)*

1 Q. Right.

2 A. She's the professional photographer. My  
3 parents both help out. I'm trying to . . .

4 Q. Are there other families who have had --

5 A. Yeah. I don't know last names.

6 Q. That's all right. I'm just trying to,  
7 into the record, describe how this organization  
8 works or what you do for the organization.

9 A. There's a -- well, there's a little girl  
10 from Beatrice that passed away last summer,  
11 Gracie, that -- we got her in touch with F.I.L.M.  
12 to get pictures taken with her family. It's --  
13 basically, what I do is just spreading  
14 awareness --

15 Q. Okay.

16 A. -- mostly through their social media --

17 Q. Okay.

18 A. -- and fliers, and then we did two poker  
19 runs.

20 Q. When you say, "we did two poker runs," who  
21 is the "we"?

22 A. I guess I mean the group.

23 Q. And so who would have been in that group  
24 that did the poker run?

25 A. Teresa.

*MELISSA CONVERSE - Cross (Halstead)*

1 Q. Okay.

2 A. Danny Tubbs.

3 Q. Okay.

4 A. Both my parents helped. There really  
5 isn't a lot of other help from Lincoln.

6 Q. Okay.

7 A. The people we go through mostly are in  
8 Indiana.

9 Q. Okay.

10 A. And we went down there also in January  
11 for -- it's called Film Angles. They did a  
12 documentary that was brand-new that they released,  
13 and we were just kind of honored at that meeting.

14 Q. Have you had any contacts with law  
15 enforcement since the last hearing?

16 A. No.

17 Q. Okay. No arrests or --

18 A. No.

19 Q. -- speeding tickets? Anything like that?

20 A. I don't drive; so no.

21 Q. That's the correct answer, I think --

22 A. No.

23 Q. -- but, unfortunately, you'd be amazed at  
24 people who have traffic offenses without a  
25 driver's license. And you list 2856 Jane Lane

*MELISSA CONVERSE - Cross (Halstead)*

1 here in Lincoln as where you're living.

2 A. Yeah.

3 Q. Do you live there by yourself or with --

4 A. Fiancé.

5 Q. Fiancé.

6 A. Two dogs.

7 Q. Okay. The letter from Amy Lamphere that  
8 was received into evidence -- can you explain to  
9 us who Amy Lamphere is?

10 A. She's a good friend of mine that I met  
11 while I was at LCF.

12 Q. Okay. When you say, "LCF," what is that?

13 A. Lancaster Correctional Facility.

14 Q. Thank you.

15 A. Basically, just someone that I feel -- how  
16 do I put this? She was just one of the only  
17 people there that's more -- has things in common  
18 with me.

19 Q. Okay. What -- what things in common would  
20 Amy have with you?

21 A. Well, not age 'cause she's probably  
22 fifty-four, but we've worked on a lot of the same  
23 volunteer-type projects together. She's been  
24 sober for seventeen years. She's just kind of my  
25 person to go to that can kind of always help me

*MELISSA CONVERSE - Cross (Halstead)*

1 out --

2 Q. Okay. Has she --

3 A. -- with sobriety issues.

4 Q. Has she worked on volunteer efforts along  
5 with you?

6 A. Yeah.

7 Q. What would --

8 A. She's done a lot of --

9 Q. -- be some volunteer efforts she worked  
10 with you on?

11 A. Well, she helped with The F.I.L.M Project  
12 a little bit. With the poker runs, I should say.  
13 Not The F.I.L.M Project itself but organizing the  
14 poker runs.

15 Q. So she's just a contact in your life that  
16 you've had for a while now?

17 A. Yeah. She's a very close friend. She's  
18 actually going to be the coordinator for my  
19 wedding.

20 Q. Okay. How -- how is it -- well, we know  
21 you were at LCF because of your felony drunk  
22 driving conviction.

23 A. Uh-huh.

24 Q. What was Amy at LCF for?

25 A. I'm not sure what -- the charge they call

*MELISSA CONVERSE - Cross (Halstead)*

1 it, but like stealing money from employer.

2 Q. Okay. And I take it she, obviously,  
3 successfully got released from her jail sentence  
4 at LCF.

5 A. Yeah. And she --

6 Q. Okay.

7 A. -- did five years probation.

8 Q. Okay.

9 A. She's been someone in my life that's been  
10 very positive about, you know, "Your record isn't  
11 all there is to you." She's a very positive,  
12 upbeat person.

13 Q. Okay.

14 A. Her husband is Jim Lamphere. He's a  
15 lawyer here in town.

16 Q. Okay. You mentioned about the Lincoln  
17 Public Schools, and that all was information, I  
18 think, at the last hearing we had; correct?

19 A. Yeah. I haven't had -- I haven't been a  
20 part of Lincoln Public Schools since 'cause I  
21 don't have a --

22 Q. Right.

23 A. -- certificate.

24 Q. So you haven't done any volunteer work in  
25 any of the public schools since the last hearing?

*MELISSA CONVERSE - Cross (Halstead)*

1 A. No.

2 Q. Okay.

3 A. I'm still considered an employee, but not  
4 active.

5 Q. How -- how are you considered an employee?

6 A. I mean, I haven't been fired --

7 Q. Well, were you ever --

8 A. -- from Lincoln Public Schools.

9 Q. -- hired, though, under a contract?

10 A. As a substitute.

11 Q. You were a substitute --

12 A. Right.

13 Q. -- teacher, but there's not a  
14 contract for --

15 A. No.

16 Q. -- a substitute. You were just on a list  
17 that they may have called to help out if they  
18 needed a substitute?

19 A. Yeah.

20 Q. Okay. So you're not really an employee of  
21 the District at the moment.

22 A. No, but to become a current employee  
23 again, all they would need is a teaching  
24 certificate, and they'd put me right back in.

25 Q. Okay. Or at least that's -- but you

*MELISSA CONVERSE - Cross (Halstead)*

1 haven't had any contact with anybody at LPS since  
2 the last hearing?

3 A. I've spoken with somebody -- no. Just  
4 right before --

5 Q. Okay.

6 A. -- it was about to expire, and they said  
7 that once they have an active teacher's  
8 certificate my name will go back in.

9 Q. Okay. Any other volunteer service or  
10 activities you've done since the last hearing that  
11 you want us to know about?

12 A. I mean, not off the top of my head. Not  
13 something that is a regular -- I mean, I helped  
14 organize a carnival when that child Tyson, a  
15 seven-year-old, died of brain cancer --

16 Q. Okay.

17 A. -- but that's -- I mean, that's something  
18 that just comes up. It's not something that's  
19 scheduled or that I'm a regular volunteer for.

20 Q. All right. But what did that activity all  
21 involve? How did you find out about that?

22 A. Through -- well, The F.I.L.M Project had  
23 worked with them --

24 Q. Okay.

25 A. -- and then through just friends of the

*MELISSA CONVERSE - Cross (Halstead)*

1 family that needed help getting things set up,  
2 donated. They needed a DJ. They needed a place  
3 for the carnival which was at a church.

4 Q. Okay.

5 A. Just stuff like that.

6 Q. Okay. Any other activities you can think  
7 of?

8 A. I mean, greeting at church, help greeting  
9 at AA meetings, helping set up coffee or --

10 Q. Do you still attend AA?

11 A. Right.

12 Q. How often?

13 A. Twice a week usually. Sometimes three.

14 Q. Okay. Still have your sponsor?

15 A. Right.

16 Q. Okay.

17 A. Diane Bower.

18 Q. Is your sponsor?

19 A. Right.

20 Q. Okay. Anything else you're involved in in  
21 your life?

22 A. Planning a wedding.

23 Q. Yeah.

24 A. I really don't -- not really right now.

25 Q. Okay.

1 MR. HALSTEAD: I don't have any more  
2 questions. Thank you very much.

3 HEARING OFFICER: What is a poker run?

4 THE WITNESS: I've just recently  
5 learned too. Everybody has different rules, but  
6 when we did it, you just show up -- we did it --  
7 'cause ours was not associated with alcohol. We  
8 did ours at Casey's General Stores. We did it in  
9 Wilber, Seward, one in Lincoln, and one other stop  
10 in some small town. You just show up. You pick a  
11 card. Out of a deck of cards, you pick a card,  
12 and then afterwards the person with the highest  
13 hand wins money.

14 HEARING OFFICER: Okay.

15 THE WITNESS: Everyone has different  
16 rules. I -- I don't really know . . .

17 HEARING OFFICER: And this is a  
18 fund-raiser for --

19 THE WITNESS: Yeah.

20 HEARING OFFICER: -- the F.I.L.M  
21 Project?

22 THE WITNESS: It's just more of a  
23 thing to get people involved, and there's usually  
24 an entry fee, and however many cards you want to  
25 have, you pay an extra \$5 or . . .

1 HEARING OFFICER: Thank you. I just  
2 had never heard of that.

3 THE WITNESS: I -- yeah. I know. I  
4 had heard of it, but I didn't know what they were.

5 HEARING OFFICER: Do you have any  
6 other facts that you want to add to the record?

7 MS. CONVERSE: I do not.

8 HEARING OFFICER: Do you have anything  
9 further?

10 MR. HALSTEAD: I don't have anything  
11 further.

12 HEARING OFFICER: Do you wish to make  
13 a closing argument?

14 MS. CONVERSE: Like I stated before, I  
15 just -- I feel like I am a person of good moral  
16 character. I know that the Board said they felt  
17 that I was not. I'm not sure what qualities I was  
18 lacking with all the things I've mentioned that I  
19 have been doing. I've stayed out of trouble.  
20 It's been seven years. I just -- like I said, I  
21 just want to move on and move past this.

22 I'm not trying to jump in full throttle and  
23 get a teaching job. I'm just trying to get back  
24 to subbing possibly and see where that takes me.  
25 I enjoy my job now, but -- at -- at some point I

1 think I want to go back into teaching 'cause this  
2 just isn't a permanent thing for me, but I think  
3 I've -- I think I've showed that I've learned from  
4 my mistakes, and I'm just trying to continue on  
5 with this path and move on.

6 HEARING OFFICER: Mr. Halstead.

7 MR. HALSTEAD: I think we'd submit the  
8 case on the -- the facts that have been submitted.  
9 Obviously, the last time around, the Board didn't  
10 feel that she had demonstrated enough instances to  
11 justify her good moral character in spite of her  
12 felony conviction which -- obviously, her drinking  
13 problems when she was much younger and her  
14 ultimate felony conviction is what brings the  
15 whole question of good moral character into play,  
16 and merely time passing doesn't make a person of  
17 good moral character; so -- she's, obviously,  
18 identified some things she's done in her life  
19 since that time; so we'd submit it to you based on  
20 the facts.

21 HEARING OFFICER: Okay. Well, I will  
22 look at the -- the letter and the exhibits and be  
23 making a recommendation to the Board of Education  
24 like I did before, and -- and it's up to them to  
25 make their decision; so that will conclude the

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hearing.

(The proceedings concluded at 11:31 a.m.)





CERTIFICATE OF SERVICE

I certify that on March 26, 2013, I served a true and correct copy of the foregoing notice of hearing by first-class United States mail, postage prepaid, on the following parties:

Brian L. Halstead  
Assistant Commissioner/General Counsel  
Nebraska Department of Education  
301 Centennial Mall South, 6<sup>th</sup> Floor  
P.O. Box 94933  
Lincoln, NE 68509-4933

Melissa Converse  
2856 Jane Lane  
Lincoln, NE 68516



---

Jim R. Titus, #16064  
Hearing Officer



## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Assignment of Case to Hearing Officer was served upon Melissa Converse, 2856 Jane Lane, Lincoln, Nebraska, 68516, via United States Mail, first class postage prepaid; and upon Brian L. Halstead, Assistant Commissioner/General Counsel, Nebraska Department of Education, 301 Centennial Mall South, Sixth Floor, Lincoln, Nebraska, via interoffice mail, all on this 5<sup>th</sup> day of March, 2013.

Brenda L. Wid

49-938-30

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

Melissa Converse  
2856 Jane Lane  
Lincoln, NE 68516

Petitioner,

v.

Roger Breed, Ed.D.  
Commissioner of Education  
P.O. Box 94933  
Lincoln, NE 68509

Respondent.

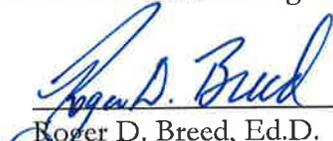
Case No. 13-01

ANSWER

COMES NOW the Respondent, Roger Breed, and for his answer to the Petition of the  
Petitioner, admits, denies, and alleges as follows:

1. Admits paragraphs 1, 2, and 3 in the Petition.
2. Denies paragraphs 4, 5, and 6 in the Petition.
3. Alleges that the Respondent denied the Petitioner's application for a certificate on January 3, 2013.

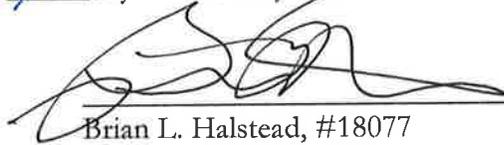
WHEREFORE, the Respondent requests that the State Board of Education appoint a hearing officer to hold a hearing on this matter, make a recommendation to the Board, and the Board take such action as may be warranted by the evidence at such hearing.

  
 Roger D. Breed, Ed.D.  
 Commissioner of Education

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Answer was mailed to the parties of record through regular United States mail, postage prepaid, this 7th day of February 2013.

FILED  
 FEB 7 2013  
 NEBRASKA DEPARTMENT  
 OF EDUCATION

  
 Brian L. Halstead, #18077  
 Attorney for Respondent

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

Melissa Converse  
2856 Jane Lane  
Lincoln, NE 68516

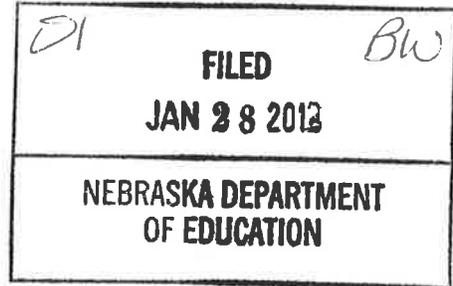
Petitioner,

Roger D. Breed, Ed.D.  
Commissioner of Education  
P. O. Box 94933  
Lincoln, NE 68509-4933,

Respondent.

Case No. 13-01

PETITION



Pursuant to Title 92, Chapter 61, of the *Nebraska Administrative Code*, Petitioner alleges and states the following for a petition and appeal against Respondent, Roger D. Breed, Commissioner of Education ("Commissioner").

1. This Petition constitutes an appeal of the decision of the Commissioner to deny the issuance of a Nebraska certificate to Petitioner.

2. The State Board of Education has authority and jurisdiction to grant the relief requested by Petitioner by reason of Section 009.03 of Title 92, Chapter 21, of the *Nebraska Administrative Code* and by reason of the Nebraska Administrative Procedures Act, Neb. Rev. Stat. §§ 84-901, et seq.

3. Petitioner applied for a Nebraska certificate on or about November 14, 2012. Kevin Peters, Ed.D., Director of the Nebraska Teacher Certification Office, sent a letter to Petitioner stating that the application would be denied unless Petitioner made a written request for review within twenty (20) days. Petitioner made a timely written request for review.

4. The Commissioner issued a letter to Petitioner dated November 27, 2012 denying Petitioner's application for a Nebraska certificate, a copy of which is attached to this Petition as Exhibit "A" and is incorporated by this reference.

5. Petitioner requested a review of this decision by writing the Office of the Commissioner of Education within twenty (20) days. On January 3<sup>rd</sup>, 2013, Roger Breed, Ed.D., Commissioner of Education, sent a letter to Petitioner stating that the review of decision would be denied unless Petitioner appealed denial of application within twenty (20) days. A copy of which is attached to this Petition as Exhibit "B" and is incorporated by this reference Petitioner made a timely written request for review.

6. Petitioner alleges that the facts and circumstances surrounding application will support the issuance of a Nebraska certificate to Petitioner because: According to Title 92 NAC 21, Sec. 009 04B, applicant's age at time of the conduct will be considered. At time of the arrest, applicant had just turned 23 years old, and is now almost 30. According to Title 92 NAC 21, Sec. 009 04C, recency of the conduct will be considered. Date of the incident occurred April 16, 2006, nearly 7 years ago. Applicant's criminal record remains completely blemish-free since the last incident in April of 2006. According to Title 92 NAC 21, Sec. 009 04D, applicant's positive social contributions since the conduct will be considered. Applicant has worked at Cornhusker Place Detox, Touchstone, and has been elected to numerous committees serving the community. Applicant has contributed to society by working extensively helping individuals struggling with drug and alcohol addictions. Applicant is a part of non-profit volunteer organizations like the Make-A-Wish Foundation, Family Images, Lasting Memories, (F.I.L.M.) Project, Relay for Life, Lincoln Chapter, and a part of Alcoholics Anonymous. Hearing Officer Jim Titus reviewed applicant's case September 27, 2011,

and recommended re-instatement of teaching certificate. Board appealed that decision in which Brian Halstead told applicant to wait another year and apply again if applicant felt she was worthy of certificate. Applicant waited more than a year to apply again.

WHEREFORE, Petitioner respectfully requests a hearing and that the State Board of Education enter an Order directing the Commissioner to issue a Nebraska certificate to Petitioner.

Dated this 28th day of January, 2013.

Melissa Converse  
Petitioner

VERIFICATION

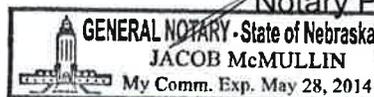
STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF Lancaster)

I, Melissa Converse, Petitioner, being first duly sworn under oath, state that I have read the contents of the Petition and that to the best of my knowledge, information, and belief such contents are true.

Melissa Converse  
Petitioner

Subscribed and sworn to before me this 28<sup>th</sup> day of January, 2013 by Melissa Converse, Petitioner.

[Signature]  
Notary Public





Roger D. Breed, Ed.D., Commissioner  
Scott Swisher, Ed.D., Deputy Commissioner

301 Centennial Mall South    Tel: (402) 471-2295  
PO Box 94987    Fax: (402) 471-0117  
Lincoln, NE 68509-4987    Web: www.education.ne.gov

**CERTIFIED MAIL**

January 3, 2013

Ms. Melissa Converse  
2856 Jane Lane  
Lincoln, NE 68516

Re: Denial of an Application for a Nebraska Certificate

Dear Ms. Converse:

On November 14, 2012, you filed an application to renew your Nebraska teaching certificate. On November 27 Kevin Peters, Director of the Teacher Certification Office, sent you a letter notifying you of an Intent to Deny your application. On December 18 this office received your letter and enclosures requesting my review of your application.

It is my responsibility to consider your fitness for issuance of a teaching certificate pursuant to Neb. Rev. Stat. Section 79-808 and Title 92, *Nebraska Administrative Code*, Chapter 21 (effective date: December 11, 2011). In reviewing the information, I have decided to deny your application based on the following determinations: 1) You have a 2007 Driving Under the Influence 4<sup>th</sup> Offense felony conviction for which you were sentenced to a term of imprisonment not less than one year nor more than two years, and your driving privileges were revoked for a period of 15 years; 2) This conviction is prohibited by 92 NAC 21, Section 003.11; 3) Section 005.01J requires applicants be of good moral character; 4) On November 9, 2011, the State Board of Education upheld the Commissioner of Education's decision to deny your 2011 application for renewal; and 5) Only one year has elapsed since the Board entered an order denying you a certificate.

Therefore, I am denying your application for a Nebraska teaching certificate based upon the aforementioned information. Section 009.03 of 92 NAC 21 provides that you may appeal my denial of your application to the State Board of Education within twenty (20) calendar days of receipt of this letter. A copy of Title 92, *Nebraska Administrative Code*, Chapter 61, is included.

Sincerely,

A handwritten signature in blue ink that reads "Roger D. Breed".

Roger D. Breed, Ed.D.  
Commissioner of Education

xc: Kevin Peters, Ed.D.

Enclosure

06.07.13 State Board of Education

7.5-49



Roger D. Breed, Ed.D., Commissioner  
Scott Swisher, Ed.D., Deputy Commissioner

301 Centennial Mall South    Tel: (402) 471-2295  
PO Box 94987    Fax: (402) 471-0117  
Lincoln, NE 68509-4987    Web: [www.education.ne.gov](http://www.education.ne.gov)

**CERTIFIED MAIL**

November 27, 2012

Ms. Melissa Converse  
2856 Jane Lane  
Lincoln NE 68516

RE: NOTICE OF INTENT TO DENY

Dear Ms. Converse:

This is notice of intent to deny your application filed on November 14, 2012, to renew your Nebraska teaching certificate. Your application included information about a 2007 Driving Under the Influence 4<sup>th</sup> Offense felony conviction. This conviction is prohibited under Title 92, *Nebraska Administrative Code*, Chapter 21, Section 003.11, for issuance of a certificate. Enclosed is a copy of Section 009 of Rule 21. A copy of Rule 21 can be obtained by written request at the address below or at the following Internet address (case sensitive):  
[http://www.education.ne.gov/Legal/webrulespdf/CLEAN\\_RULE%2021\\_%202011.pdf](http://www.education.ne.gov/Legal/webrulespdf/CLEAN_RULE%2021_%202011.pdf).

Title 92, *Nebraska Administrative Code*, Chapter 21, Section 009.02, provides that you may request within twenty (20) days a review of this decision by writing the Office of the Commissioner of Education. Contact must be made to the Commissioner's Office, not the Teacher Certification Office. To request an administrative review, you must write to:

Commissioner of Education  
P.O. Box 94933  
Lincoln, NE 68509-4987

Sincerely,

A handwritten signature in cursive script that reads "Kevin Peters".

Kevin Peters, Ed.D.  
Teacher Certification Office

Enclosure

NEBRASKA DEPARTMENT  
OF EDUCATION

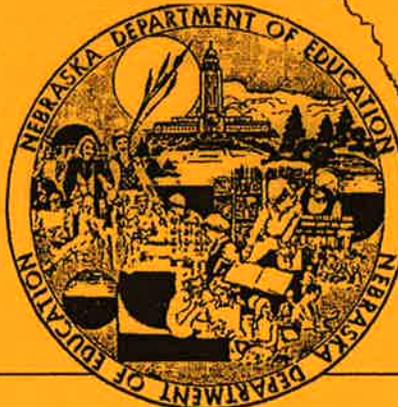
# RULE 21

REGULATIONS FOR THE ISSUANCE OF CERTIFICATES AND PERMITS  
TO TEACH, PROVIDE SPECIAL SERVICES, AND ADMINISTER IN  
NEBRASKA SCHOOLS

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,  
CHAPTER 21

EFFECTIVE DATE  
DECEMBER 11, 2011  
(REVISED)

State of Nebraska  
Department of Education  
301 Centennial Mall South  
Lincoln, Nebraska 68509



4/16/13  
EXHIBIT NO. 2  
7.5-51  
JODY WHITE, RMR

NEBRASKA DEPARTMENT  
OF EDUCATION

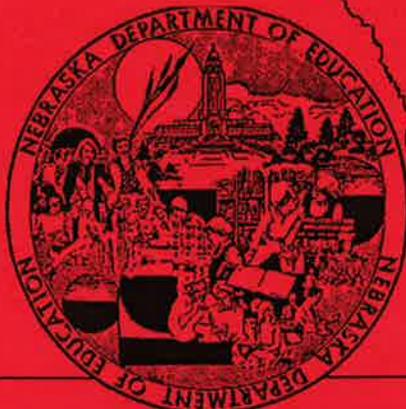
# RULE 61

RULES OF PRACTICE AND PROCEDURE FOR HEARINGS IN  
CONTESTED CASES BEFORE THE DEPARTMENT

TITLE 92, NEBRASKA ADMINISTRATIVE CODE,  
CHAPTER 61

EFFECTIVE DATE  
OCTOBER 1, 1997  
(REVISED)

State of Nebraska  
Department of Education  
301 Centennial Mall South  
Lincoln, Nebraska 68509



4/16/13  
EXHIBIT NO. 3  
7.5-52  
JODY WHITE, RMR

Amy C. Lamphere

Lamphere & Associates

April 4, 2013

Roger D. Breed  
Commissioner  
Nebraska State Board of Education

2611 Lyons  
Lincoln, NE 68502

ph: 402.435.6155  
fax 402.435.6898

alamp@earthlink.net

Dear Dr. Breed -

I am writing to support Melissa Converse's appeal to re-instate her teaching license. Melissa has been a friend for over 5 years, and I feel strongly that she has built a positive and moral life since her criminal sentencing nearly 10 years ago.

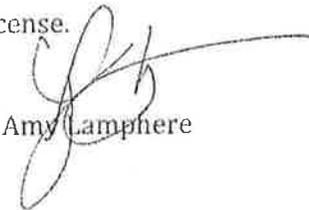
I met Melissa through my own incarceration experience, over 5 years ago. She was a powerful ally during our time at the Lincoln Correctional Facility. She took her sentencing seriously, as I did, and we supported each other in that difficult environment. We have watched each other move forward with our lives and remained in regular contact as we have adjusted to life "after" LCF.

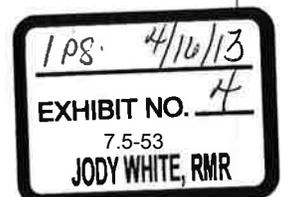
Melissa has maintained employment in a difficult job environment, being promoted in each of her positions. She has served the recovery community professionally and as a volunteer. She has taken her driving restriction extremely seriously, and has built a support network of drivers around her as she has maintained her employment. This is no small feat. She has done it with a positive nature and no sense of self-pity. She has paid her debt to society with seriousness and -f this is important - good humor.

Melissa served as a popular substitute teacher until her initial license expired. She had been offered a fulltime position in a Lincoln Public School middle school that she had to decline due to her licensing denial. Frankly, I can't think of a more powerful role model/message to send to middle school students than to employ a teacher who has experienced "the other side of the law", and rebuilt a solid life in response. If anyone is prepared to tell these students to make serious, positive choices, it is she.

To have her license denied on "moral grounds" is a disturbing and inappropriate response to the consistent, hard work she has done. She has admitted to making poor choices in her early 20's, nearly 10 years ago. I am sure I don't have to remind our respected Commissioners about the tender nature of that emotionally loaded period of life. She has served her sentence in model fashion and should be held up as a success story, not a continuing cautionary tale.

I strongly support the re-instatement of her Teaching License.

  
Amy Lamphere



BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

Melissa Converse )  
5840 Abigail Drive )  
Lincoln, NE 68516, )

NDE Case No. 11-11

Petitioner, )

**FINAL ORDER**

v. )

Roger D. Breed, Ed.D. )  
Commissioner of Education )  
P.O. Box 94933 )  
Lincoln, NE 68509-4933, )

Respondent. )

Petitioner, Melissa Converse, filed this appeal pursuant to Title 92, *Nebraska Administrative Code*, Chapters 21 and 61, requesting that the State Board of Education ("State Board") direct the Commissioner of Education to grant a Nebraska teaching certificate to Petitioner. This matter was assigned for hearing to Jim R. Titus, Hearing Officer for the State Board. Mr. Titus heard the matter on September 27, 2011, and his recommendation is attached hereto and made a part of this Final Order by reference.

Upon review, the State Board amends the findings of fact to reflect that the Petitioner also received a citation in March of 2005 for driving under suspension, for which she paid a fine. Otherwise, they are adopted in their entirety. The State Board also adopts the standard of review set out by the Hearing Officer. However, the State Board does not adopt the recommended decision of the Hearing Officer. Based on the record before us, the State Board believes that while the Petitioner has taken positive and reasonable steps to address her problems with alcohol, the Petitioner has not fully

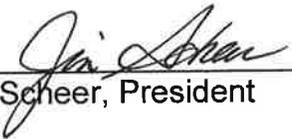
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|-----------------|
| 11 pgs. 4/16/13 |
| EXHIBIT NO. 5   |
| JODY WHITE, RMR |

demonstrated to this Board that she is a person of good moral character and possesses the moral fitness to teach at this time.

It is therefore the decision of the State Board that the Commissioner's actions in denying Petitioner's application to renew her teaching certificate at this time be upheld.

Dated this 9<sup>th</sup> day of November, 2011.

STATE BOARD OF EDUCATION

BY:   
Jim Scheer, President

The vote by the State Board of Education to approve the Final Order in Case No. 11-11, on November 9, 2011, was 6 in favor,      against,      abstaining, and 2 absent. Individual State Board Members voted as follows:

IN FAVOR: R. EVNEN, M. QUANDAHL, J. SCHEER, L. CRONK, M. O'HOLLERAN, J. SIELER

\_\_\_\_\_

AGAINST: \_\_\_\_\_

\_\_\_\_\_

ABSTAINING: \_\_\_\_\_

ABSENT: P. TIMM, R. VALDEZ

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Final Order was served upon Melissa Converse, 5840 Abigail Drive, Lincoln, NE 68516, via United States mail, first class postage prepaid; and upon Brian L. Halstead, Assistant Commissioner/General Counsel, Nebraska Department of Education, 301 Centennial Mall South, Sixth Floor, Lincoln, NE 68509, via interoffice mail, all on this 9<sup>th</sup> day of November, 2011.

  
Brenda L. Wid

49-687-30

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

|   |   |                            |
|---|---|----------------------------|
| MELISSA CONVERSE,                                   | ) | NDE Case No. 11 - 11       |
|   | ) |                            |
| Petitioner,   | ) |                            |
|   | ) |                            |
| vs.   | ) | HEARING OFFICER'S          |
|   | ) | PROPOSED FINDINGS OF FACT, |
|   | ) | RECOMMENDED CONCLUSIONS    |
| ROGER D. BREED, Ed.D.<br>COMMISSIONER OF EDUCATION, | ) | OF LAW AND RECOMMENDED     |
|   | ) | DECISION                   |
| Respondent.   | ) |                            |

INTRODUCTION

This matter comes before the Hearing Officer, Jim R. Titus, appointed by the State Board of Education on September 8, 2011. Petitioner, Melissa Converse, filed an Application for a Nebraska Teaching Certificate on or about April 25, 2011. On May 31, 2011, the Director of the Teacher Certification Office sent Petitioner a letter notifying her of an intent to deny her application. On June 31, 2011, Petitioner requested a review of her application by the Commissioner of Education. On July 11, 2011, the Commissioner of Education denied Petitioner's application for a renewal of a Nebraska Teaching Certificate for the following stated reasons:

- “1. You have a 2007 Driving Under the Influence fourth Offense felony conviction for which you were sentenced to a term of imprisonment for not less than one year, nor more than two years, and your driving privileges were revoked for a period of fifteen years;
2. This conviction is prohibited by 92NAC21, Sec. 003.11; and
3. Sec. 005.01J states that applicants be of good moral character.”

Petitioner filed an appeal to the State Board of Education of this denial on August 2, 2011. An

Answer was filed by the Respondent, Roger D. Breed, Commissioner of Education, on August 12, 2011. Petitioner is appealing the Respondent's decision pursuant to the provisions of Title 92, Chapters 21 and 61, Neb. Adm. Code (NAC), and requests that the Board grant her a Nebraska Teaching Certificate.

A hearing was held on September 27, 2011 at approximately 8:00 a.m. in a conference room of the Nebraska Department of Education in the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The parties were issued written notice of the hearing. The Petitioner appeared on her own behalf and offered testimony under oath. Respondent was represented by Brian L. Halstead, Assistant Commissioner/General Counsel, who cross-examined the Petitioner. The proceeding was recorded by Precision Reporting, Inc., Lincoln, Nebraska. The parties jointly offered Exhibits 1 through 5, which were received without objection. The exhibits are as follows:

1. NDOE case file;
2. Title 92, NAC Chapter 21;
3. Title 92, NAC Chapter 61;
4. Petitioner's Application to renew her Nebraska Teaching Certificate; and
5. A compilation of information regarding her felony drunk driving conviction from 2006.

Having considered the sworn testimony of the witness and the exhibits, the Hearing Officer makes the following proposed findings of fact, recommended conclusions of law, and recommended decision. A copy of the transcript of the hearing is attached.

## PROPOSED FINDINGS OF FACT

1. Petitioner is 28 years old and graduated in May of 2006 from the University of Nebraska at Lincoln with a degree in education.
2. Petitioner did obtain a Nebraska Teaching Certificate during 2006 and moved to Arizona where she taught 7<sup>th</sup> grade in Glendale for one year.
3. Petitioner was charged with fourth offense driving under the influence on April 16, 2006. She pled guilty in the District Court of Lancaster County, Nebraska, and was sentenced to a term of one to two years and had her driver's license revoked for fifteen years. Her sentence commenced on June 13, 2007. Petitioner was released after approximately ten months.
4. Petitioner's first driving under the influence offense occurred in the first part of March of 2002 while a freshman at the University of Nebraska Lincoln. She was 18 years of age at the time. She was given probation.
5. Petitioner's second driving under the influence offense occurred on March 28, 2002 and she again received probation.
6. Petitioner's next citation was in June of 2004, for maintaining a disorderly house for a party at her home in Lincoln, with too many people over and alcohol being served, for which she received a fine.
7. Petitioner's next citation was for consuming alcohol in public in August of 2004, for which she received a fine.
8. Petitioner's next offense for driving under the influence was on October 2, 2004, with another citation for driving under the influence in December 2004, both considered third offenses for which she received probation.

9. Petitioner also received a citation in August of 2005 for having an open alcohol container in public in Nemaha County, Nebraska, for which she paid a fine.

10. Her probation for the third offense driving under the influence was revoked and she was sentenced together with her fourth offense driving under the influence from the April 16, 2006 offense, for which she served approximately ten months beginning in June of 2007.

11. After Petitioner's release from jail in the Spring of 2008, she worked for a before and after school program and an Air Park Recreation Center summer program for children. She also worked part time for Cornhusker Place and began working full time as a counseling assistant at Touchstone Treatment Center in Lincoln, Nebraska in August, 2008, continuing to the present date. She also has worked as a substitute teacher in the Lincoln Public Schools since January, 2011.

12. Petitioner also works occasionally for a chiropractor. Her community activity consists of fund raising and assisting for the Relay for Life charitable event and organizing Alcoholics Anonymous functions, as well as unspecified volunteer work for Project Homeless Connect and Clinic with a Heart.

13. Petitioner has offered ten letters, contained in Exhibit 1 as character references. All but the one written from Professor Michael Dempsey in April 4, 2006 were aware of her criminal history. The first letter is from a technician supervisor at Touchstone Treatment Center, dated June 16, 2011, confirming that Petitioner is employed as a counseling assistant dealing with men and women struggling with addictions in drugs and alcohol.

14. Petitioner has been sober since June 7, 2007, and became actively involved in the Alcoholics Anonymous Program while incarcerated and continues to attend AA meetings two or three times a week and talks to her sponsor almost daily. She has a boyfriend who also attends

AA meetings with her. She is currently taking Master's courses through Peru State College in curriculum instruction and has a 4.0 GPA.

### RECOMMENDED CONCLUSIONS OF LAW

1. Neb. Rev. Stat. §79-808 (1) (Reissue 2008) provides that “the Board shall establish, adopt and promulgate appropriate rules, regulations, and procedures governing the issuance, renewal, conversion, revival, cancellation, suspension, and revocation of certificates and permits to teach, provide special services, and administer, based upon . . .(f) moral, mental and physical fitness for teaching, all in accordance with sound educational practices.”

2. Title 92 NAC 21 Sec. 005.01D provides that an applicant for a teaching certificate shall not have any felony convictions; and NAC 21 Sec. 005.01J requires that the applicant “be of good moral character.”

3. Title 92 NAC 21 Sec. 009.03 provides that within twenty calendar days of receipt of the notice of Commissioner's denial of the certificate, the applicant may appeal the Commissioner's decision to the Board of Education pursuant to Title 92 NAC 61.

4. Pursuant to Title 92 NAC 21 Sec. 009.03, if the Board finds in the case of an applicant who is rejected due to a criminal conviction, that the applicant has good moral character and possesses the moral fitness for teaching, then the Board may direct the Commissioner to issue a certificate to the applicant.

5. Pursuant to Title 92 NAC 21 Sec. 009.04, in consideration of whether to deny, not issue or not renew a certificate to an applicant based upon a criminal conviction, the Board shall take into account the following factors in determining moral character and moral fitness to teach:

009.04A The nature of the crime, the facts and circumstances surrounding the applicant's conviction, including whether the conduct of the applicant would constitute a crime in

Nebraska, the sentence received, and whether the sentence was commuted, set aside, or pardoned;

009.04B The applicant's age at the time of the conduct;

009.04C The recency of the conduct;

009.04D The applicant's positive social contributions since the conduct; and

009.04E The reliability of the information concerning the conduct.

6. A teacher in a public school system is regarded by the public and pupils in light of an exemplar, whose words and actions are likely to be followed by the children coming under his or her care and protection. Teacher's actions set an example for others to follow, and as such affects the teacher's ability to teach. *Clark v. Board of Education, School Dist. of Omaha*, 215 Neb. 250, 338 N.W. 2d 272, 275 (1983).

#### RECOMMENDED DECISION

Petitioner has complied with the procedural requirements in this case and she is properly before the State Board of Education for a determination. While it is not clear the date of receipt of the certified mail from the Commissioner of Education to commence the twenty day appeal period, the receipt by the Department on August 2, 2011 appeared to reasonably be within the twenty day appeal period and the Department has not challenged the timing that the petition is beyond the required appeal.

Petitioner pled guilty to and was sentenced for a fourth offense driving under the influence felony for an offense occurring on April 16, 2006. She was incarcerated for approximately ten months and had her driver's license revoked for fifteen years. It is evident from her conviction history and her testimony that during her undergraduate years at the University of Nebraska at Lincoln she saw no problems with her alcohol consumption, was not deterred by probation or fines

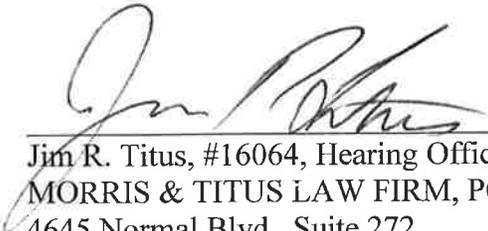
and felt alcohol consumption was necessary for a college social life. Her many convictions regarding alcohol-related offenses, including the felony conviction for the April 16, 2006 offense certainly showed a lack of good moral character and the failure to meet the requirements for a teaching certificate absent the guidelines for review in Title 92 NAC 21 Sec. 009.04.

It has been five and one-half years since her last offense, the felony offense for driving under the influence. She has been sober for over four years and is not only actively attending Alcoholics Anonymous meetings but also has been employed for three years in a program helping individuals with drug and alcohol addiction problems. Her character references show recommendations for the teaching profession, and a positive change in her life over the last five years.

The passage of time, the positive change in Petitioner's life over the last five years and her social contributions in the workplace, in addition to an awareness of her problem and the need for continuing support through a support organization like Alcoholics Anonymous, together with the other evidence demonstrate that Petitioner is a person of good moral character and possesses the moral fitness for teaching and should have renewal of her teaching certificate be granted.

Therefore, the Hearing Officer recommends that the State Board of Education enter an order overturning the Commissioner's denial of the application and authorizing the renewal of a Nebraska teaching certificate to the Petitioner as requested.

Dated this 11<sup>th</sup> day of October, 2011.



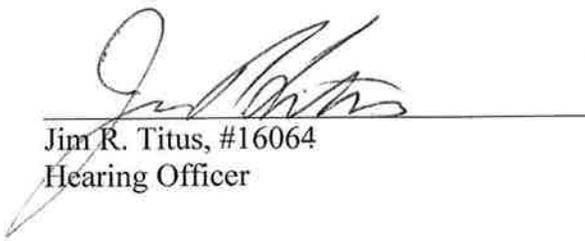
Jim R. Titus, #16064, Hearing Officer  
MORRIS & TITUS LAW FIRM, PC, LLO  
4645 Normal Blvd., Suite 272  
Lincoln, NE 68506  
(402) 434-5200 – phone  
(402) 434-5209 – fax  
[jtitus@morristituslaw.com](mailto:jtitus@morristituslaw.com)

CERTIFICATE OF SERVICE

The undersigned, Jim R. Titus, hereby certifies that the original of the foregoing with attached transcript was hand delivered to Leslie S. Donley, Assistant Attorney General, Nebraska Department of Justice, 2115 State Capitol, Lincoln, Nebraska on October 12, 2011, and a true and correct copy of the foregoing was served by first-class United States mail, postage prepaid on October 12, 2011 to the following parties:

Brian L. Halstead  
Assistant Commissioner/General Counsel  
Nebraska Department of Education  
301 Centennial Mall South, 6<sup>th</sup> Floor  
P.O. Box 94933  
Lincoln, NE 68509-4933

Melissa Converse  
5840 Abigail Drive  
Lincoln, NE 68516

  
\_\_\_\_\_  
Jim R. Titus, #16064  
Hearing Officer