

BEFORE THE STATE BOARD OF EDUCATION  
STATE OF NEBRASKA

Matthew L. Blomstedt, Ph.D.	)	NDE Case No. 23-26
Commissioner of Education	)	
500 S. 84 <sup>th</sup> Street, 2 <sup>nd</sup> Floor	)	
P.O. Box 94933	)	
Lincoln, NE 68509-4933,	)	
	)	
Petitioner,	)	
	)	
v.	)	<b>FINAL ORDER</b>
	)	
Robert "Capp" Bengston	)	
87967 551 <sup>st</sup> Avenue	)	
Wausa, NE 68786,	)	
	)	
Respondent.	)	

This matter came before the State Board of Education ("State Board"), Lincoln, Nebraska, on September 27, 2023, upon the recommendation of the Nebraska Professional Practices Commission ("NPPC") that the public Nebraska Initial teaching certificate of Respondent, Robert "Capp" Bengston, be revoked for a period of two years. The parties were notified of the State Board's consideration in this matter. Appearing before the State Board was Tamra L. Walz, General Counsel, on behalf of the Commissioner of Education. NPPC Clerk Kelly Muthersbaugh appeared and provided a summary of the NPPC's recommendation in this matter. Attorney Allison Rockey Mason appeared on behalf of Respondent.

The record of the NPPC proceeding, containing the "Findings of Fact, Conclusions of Law, and Recommendation of the Commission," and all of the pleadings, exhibits (including the "Settlement Agreement for Revocation of Certificate," dated June 8, 2023,

("Settlement Agreement")), and written transcript of the NPPC hearing, was received by the State Board into evidence as "Exhibit 1." The Notice of Disposition and the certified mail return receipt 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. § 79-866(2) (2014);

2. The Petitioner is Matthew L. Blomstedt, Ph.D., Commissioner of Education, P.O. Box 94933, Lincoln, NE 68509-4933;

3. The Respondent is Robert "Capp" Bengston, 87967 551st Avenue, Wausa, NE 68786;

4. The Respondent holds a public Nebraska Initial teaching certificate number 20220005796, endorsed in Elementary Education K-8, with an expiration date of August 31, 2027;

5. The Respondent was employed as a substitute teacher and coach by Wausa Public Schools beginning with the 2020-2021 school year, and most recently as a paraprofessional and coach for the 2022-2023 school year;

6. During the 2020-2021 school year and continuing to December 30, 2021, the Respondent, in a position of authority as a coach, communicated with a current student-athlete via text messages. The majority of the communication revolved around noneducational-related topics outside of school hours. The Respondent repeatedly asked for the student to compliment him regarding his attire, often complimenting the student on the student's attire. The Respondent also spoke about giving the student gifts/treats and also requested a gift on one occasion, which did not occur;

7. The Respondent has violated Neb. Rev. Stat. § 79- 866(2) (2014), which states, in 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 004.02E (effective date: November 12, 2003) (“the educator: Shall not exploit professional relationships with students, colleagues, parents, school patrons, or school board members for personal gain or private advantage”); Section 004.03C (same effective date) (“the educator: Shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety”); Section 004.03D (same effective date) (“the educator: Shall conduct professional educational activities in accordance with sound educational practices that are in the best interest of the student”); Section 005.02B2 (same effective date) (“Each teacher . . . shall: Adhere to and enforce written and dated administrative policy of the school which has been communicated to the teacher or special services provider”); Section 005.04A1 (same effective date) (“Each educator shall: Create an atmosphere which fosters interest and enthusiasm for learning and teaching”); and Section 005.06D (same effective date) (“The educator shall: Develop and maintain positive standards of conduct”);

8. Based on the stipulated facts in the Settlement Agreement, just cause exists pursuant to Neb. Rev. Stat. § 79-866(2) (2014) to revoke the Respondent's certificate for a period of two years; and

9. The public Nebraska Initial teaching certificate of Robert "Capp" Bengston, number 20220005796, endorsed in Elementary Education K-8, with an expiration date of August 31, 2027, shall be revoked for a period of two years from and after the date of this order. In accordance with the terms of the Settlement Agreement, Respondent shall complete professional boundaries with students training and consult with a professional about how to maintain and respect boundaries with students/minors prior to any reinstatement of his teaching certificate.

Dated this 29<sup>th</sup> day of September, 2023.

STATE BOARD OF EDUCATION

BY:   
Patti Gubbels, President

The vote by the State Board of Education to approve the Final Order in Case No. 23-26, on September 27, 2023, was 6 in favor, \_\_\_\_\_ against, \_\_\_\_\_ abstaining, and 2 absent. Individual State Board members voted as follows:

IN FAVOR: D. Neary, P. Koch Johns, K. Penner, P. Gubbels, S. Jones, L. Fricke

\_\_\_\_\_

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

\_\_\_\_\_

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

ABSENT: E. Tegtmeier, J. Morrison

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Final Order was served upon counsel for the Respondent, Allison Rockey Mason, Copple Rockey, 2425 Taylor Avenue, P.O. Box 78, Norfolk, NE 68701, by regular U.S. Mail; Kelly Muthersbaugh, NPPC Clerk, 301 Centennial Mall South, Lower Level, Lincoln, NE 68509, via interoffice mail; and Tamra L. Walz, General Counsel, Nebraska Department of Education, 500 S. 84th Street, 2nd Floor, Lincoln, NE 68510-2611, via interoffice mail, all on this 29<sup>th</sup> day of September, 2023.

A handwritten signature in blue ink, appearing to read "Scott B. Ayers", is written over a horizontal line.

49-3341-30