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AMY K. ELDER, Respondent

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BEFORE THE TENNESSEE STATE BOARD OF EDUCATION

IN THE MATTER OF:

AMY K. ELDER,
Respondent

DOCKET NO: 07.01-103210J

INITIAL ORDER

This contested case was heard in Nashville, Tennessee, on September 14, 2009, before Ann M. Johnson, Administrative Judge, assigned by the Secretary of State to sit for the Tennessee State Board of Education (“Board” or “State”). Rich Haglund, General Counsel for the Board, represented the State. The Grievant was present and was represented by Katherine Curlee, Staff Attorney with the Tennessee Education Association.

The subject of this hearing was the Respondent’s appeal of the proposed revocation of the Respondent’s teaching license. After consideration of the record and the arguments of the parties, it is determined that the revocation was proper and should be upheld. This decision is based upon the following.

SUMMARY OF THE EVIDENCE

The Department called two witnesses to testify on its behalf: Jamie Reynolds and D.D.¹ The Grievant testified on her own behalf and also called the following witnesses: Bumbardy Driver Jr., Mary Louise White, Brandon Harrison, and Amanda Sanders. Six documents were admitted into evidence:

EXHIBIT 1 Transcript of criminal trial;
EXHIBIT 2 Criminal Court judgment;

¹ Initials are used to maintain confidential information regarding a events occurring when the witness was a minor.

- EXHIBIT 3 Order approving settlement;
- EXHIBIT 4 Notice from Department of Children's Services;
- EXHIBIT 5 Personnel file of Amy K. Elder;
- EXHIBIT 6 Affidavit of Billy Murphy.

FINDINGS OF FACT

1. The Respondent was employed at Ripley High School for a total of approximately six years. She taught Marketing and Entrepreneurship, coached the softball team for several years, and acted as one of the teacher sponsors of the Distributive Education Clubs of America ("DECA").

2. As a result of inappropriate activities during the 2008-2009 school year, the Respondent was convicted of multiple counts of child abuse by orders entered February 25, 2009, after a trial in the Criminal Court of Lauderdale County.

3. These convictions resulted from the Respondent's actions with A.R., a minor at the time of the relevant events.

4. Because of the convictions, the Respondent was indicated as a perpetrator of child abuse by the Department of Children's Services. As a result, she may not be hired for any position by a local education agency in Tennessee.

5. A civil suit was also filed against the Respondent, based upon her activities with the minor A.R. The Respondent and other defendants paid \$250,000.00 to settle the civil suit.

6. In addition to A.R., the Respondent also initiated and maintained an inappropriate relationship with D.D., a minor at the time of these events. These events occurred during the 2006-2007 school year.

7. At the Respondent's invitation, D.D. spent multiple nights at the Respondent's house, sleeping in the bed with the Respondent. At times, D.D. and the Respondent were naked and engaged in sexual activity.

8. Jamie Reynolds, another teacher at Ripley High School who was well acquainted with the Respondent, explained that she was concerned with the Respondent's relationships with children at the school, and ultimately reported these issues to the principal.

9. Ms. Reynolds felt that the Respondent's relationship with D.D. crossed the boundaries of teacher/student interaction, as, for example, spending time together at night and on week-ends.

10. Ms. Reynolds observed the Respondent and D.D. holding hands and walking with their arms around each other. On a student trip out of town for DECA, Ms. Reynolds walked into a hotel room where the two were lying on a bed in the dark.

11. In developing relationships with A.R. and D.D., the Respondent displayed a pattern of predatory activity.

12. After choosing a student with relationship issues, the Petitioner became friendly with the student's family, thereby establishing an atmosphere of familiarity and trust.

13. The Respondent invited the student to spend the night at her home, where she eventually made inappropriate physical advances of a sexual nature.

14. The Respondent discouraged the student from maintaining or developing relationships with parents and friends.

15. The Respondent communicated frequently with the student through phone calls, notes, and numerous text messages; on one occasion the Respondent sent 122 text-messages to one of the students on a single day.

16. When the students decided to end the relationships, the Respondent attempted to manipulate the students by claiming a fatal illness or threatening suicide.

17. The State Board of Education seeks to revoke the Respondent's teaching license for cause.

18. The Respondent is currently employed as a teacher for adult learners where she has no contact with children.

RELEVANT LAW

1. The State, as the party "seeking to change the present state of affairs," has the burden of proof under Rule 1360-4-1-.02(7) of the Uniform Rules of Procedure for Hearing Contested Cases before State Administrative Agencies, TENN. COMP. R. & REGS. ch. 1360-4-1 (June 2004 (Revised)), to prove by a preponderance of the evidence that the proposed licensure revocation is warranted under state law and regulations.

2. The State Board of Education has "[c]omplete jurisdiction over the issuance and administration of licenses" for teachers. TENN. CODE ANN. § 49-5-108(a).

3. The State Board of Education has the authority to adopt policies for the revocation of licenses and certificates. TENN. CODE ANN. § 49-1-302(a)(5)(A)(ii).

4. State Board Rule 0520-2-4-.01(9)(b)6, TENN. COMP. R. & REGS., authorizes the Board to deny, suspend or revoke a license for "good cause."

ANALYSIS and CONCLUSIONS OF LAW

The State has carried its burden of proof, to show by a preponderance of the evidence that licensure revocation is warranted in this case. The Respondent was convicted in criminal court of multiple counts of child abuse. She was also indicated as a perpetrator of abuse by the Department of Children's Services, and therefore is not qualified for hire by any local school

system in this state. The State Board of Education must insure that the Respondent is not a threat to children in the future, particularly in light of the convictions and child abuse indication. These facts, standing alone, provide “good cause” for revocation of the license.

Additional facts, however, also compel this conclusion. The evidence clearly showed that the Respondent cultivated friendships with vulnerable minor students. Through frequent association with the students and their families, she gained their confidence and trust. She then violated that trust by forming inappropriate relationships.

The Respondent denied that there was anything inappropriate in her friendships with the two students involved and that no sexual activity occurred. This assertion was not credible for several reasons. First, Ms. Reynolds described her observations of activities that caused her great concern, including both physical and emotional closeness that violated acceptable boundaries between a teacher and a student. Ms. Reynolds reported her concerns, even though this decision was uncomfortable and could be detrimental to her position and teaching relationships. It is determined that the testimony of Ms. Reynolds was credible.

Second, D.D. also testified at the hearing about these events. Her statements were consistent and detailed, even though it was obviously difficult for her to relive this time in her life. It is determined that the testimony of D.D. was also credible.

Third, the testimony of the Respondent was terse and, at times, evasive. Her denials were obviously self-serving, and she presented no reasonable explanation to refute the overwhelming evidence of her misdeeds. It is concluded that the Respondent was not credible.

The Respondent argued that her teaching license should not be revoked because she does not now work with children and has no intent to do so in the future. She wishes to maintain her current position in adult learning. The State responded that there is no mechanism by which the

license could be limited to prevent contact with children, particularly if the Respondent applied for a position out of the state. However, even if such a method were available, the Respondent's conduct indicates that she should no longer be certified as a teacher.

Based upon this analysis, it is determined that there is good cause to revoke the Respondent's teaching license. Accordingly, it is **ordered** that the revocation of the Respondent's teaching license by the State Board of Education is hereby **upheld**.

This Initial Order entered and effective this 18th day of February, 2010.

Ann M. Johnson
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 18th day of February, 2010.



Thomas G. Stovall, Director
Administrative Procedures Division