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6-25-2012

BOARD OF EDUCATION, Petitioner vs. ANITA CONNER, Respondent

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BEFORE THE TENNESSEE STATE BOARD OF EDUCATION

IN THE MATTER OF:)	
)	
BOARD OF EDUCATION)	
Petitioner)	
)	
v.)	Docket No. 07.01-113833J
)	
ANITA CONNER)	
Respondent)	

INITIAL ORDER

This contested case hearing came to be heard on June 25, 2012, in Nashville, Tennessee before Thomas G. Stovall, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, sitting on behalf of the Tennessee State Board of Education (Board). Ms. Dannelle Walker, General Counsel, represented the Board. The Respondent Anita Conner was present and represented by counsel, Ms. Virginia McCoy, staff attorney for the Tennessee Education Association.

The subject of the hearing is whether the Respondent’s teaching license should be sanctioned for inappropriately coaching students while administering the Tennessee Comprehensive Assessment Program (TCAP) examinations. After consideration of the entire record it is determined that while the Respondent did engage in inappropriate coaching in violation of the test security guidelines there should be no sanction imposed against her teaching license. This decision is based upon the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Respondent is licensed by the Board as a teacher and has almost 20 years of experience as a classroom teacher. The Respondent has a doctorate degree in education. She is employed by the Greeneville City Schools as a resource teacher working with special education

students at Hal Henard Elementary School (Hal Henard). The Respondent has never been the subject of any previous disciplinary action.

2. On April 14, 2011, the Respondent was administering a TCAP math test to three fourth grade special education students. The Respondent was permitted to provide certain accommodations to these students since they were special education students. In addition to other accommodations made, the Respondent read the test questions aloud and repeated the questions if asked. The students were also permitted to use calculators.

3. One of the three students was especially challenging. He would shout out answers to the questions and had difficulty remaining focused on the test form to ensure that he marked the answer that corresponded to the question. He also had fine motor problems and would leave large marks on his answer sheet when making erasures.

4. Elizabeth Ricker, a student teacher at the school, was serving as a proctor in the Respondent's room as well as in two other testing rooms. Ms. Ricker overheard the Respondent make the following statements to the students during the examination process: "You need to look at that answer again;" "Good answer;" "You need to simplify;" "It's not that one;" and "You don't need you calculator for this problem." Ms. Ricker also observed the Respondent making erasures on a student's answer sheet.

5. The Respondent admitted to having made the statements overheard by Ms. Ricker and making the erasure on the student's test form. She indicated that all of this activity involved the one student described in Finding of Fact No. 3. She was attempting to keep the student focused on the examination. She stated her comment "It's not that one," was not suggesting an answer to the student but rather telling him that the number he was answering on the answer sheet did not correspond to the number of the question. She also conceded making erasures on

the student's answer sheet. She stated this was to remove stray marks and erasures from the sheet so as to make it more readable by the computer when scored.

6. The Respondent testified she did not assist the student with any of his answers nor did she change any of the answers. She was merely trying to enable him to complete the test to the best of his ability and produce an answer sheet that was legible and possible to be properly scored. At the time of the events the Respondent did not consider her actions to constitute "coaching" of the students. The Respondent stated the teachers at Hal Henard did not receive any specialized training for how to administer TCAP tests to special education students and were not provided with a definition or examples of "coaching."

7. Ms. Ricker reported her observations to the principal and testing coordinator at Hal Henard. Ultimately the matter was referred to the Dr. Lyle Ailshie, the Director of the Greeneville City Schools. It was determined that the Respondent had breached the test security protocols by "inappropriate coaching." She was suspended for a period of 20 days without pay, from April 15, 2011, through May 13, 2011. This resulted in a reduction in the Respondent's salary of approximately \$5,000.

8. While investigating the incident and determining what employment sanctions were appropriate, Dr. Ailshie consulted with the State Department of Education. Upon completion of the investigation the local school district is required to file a report with the Department and the Board. This report is to contain a description of the events, what if any sanction was assessed against the teacher by the local district and a recommendation to the Board as to potential discipline against the teacher's license. In his report, Dr. Ailshie did not recommend to the Board any discipline against the Respondent's license.

9. The Respondent worked at Hal Henard throughout the 2011-12 school year without incident. She did not participate in the administration of the annual TCAP examinations that school year.

APPLICABLE LAW AND GUIDELINES

1. Tenn. Code Ann. § 49-1-607 provides in part:

Any person found to have not followed security guidelines for administration of the Tennessee comprehensive assessment program (TCAP) test or successor test, including...altering a grade or answer sheet...or otherwise compromising the integrity of the testing process shall be placed on immediate suspension, and such actions will be grounds for dismissal, including dismissal of tenured employees. Such actions shall be grounds for revocation of state license.

2. Tennessee State Board of Education Rule 0520-02-04-.01(9)(b) provides for the revocation or suspension of a teaching license for:

(6) Other good cause. Other good cause shall be construed to include noncompliance with security guidelines for TCAP or successor tests pursuant to Tenn. Code Ann. § 49-1-607...

3. Tennessee State Department of Education State Test Security Guidelines

(14) Prohibit coaching students in any way during State assessments. Ensure students respond to test items without assistance from anyone.

CONCLUSIONS OF LAW

1. The Board has carried its burden of proof by a preponderance of the evidence that the Respondent inappropriately coached students while administering a TCAP examination in violation of security guidelines thus making her subject to discipline pursuant to Tenn. Code Ann. § 49-1-607 and Rule 0520-02-04-.01(9)(b)(6).

2. The Respondent's actions in this case clearly constituted inappropriate coaching and assistance to the students taking the TCAP examination under her supervision. The most egregious violations, even if well intentioned, were directing the student to the correct question number on the answer sheet and making erasures on the student's test form. A teacher with the Respondent's years of experience should have known that such actions were inappropriate.

3. The difficult issue in this case is what if any sanction should be imposed by the Board against the Respondent's teaching license. The Board is seeking a one year suspension of the Respondent's license retroactive to the date of the underlying offense, April 14, 2011. The term of suspension would expire May 14, 2012. Thus, there would be no additional monetary or employment sanction imposed against the Respondent from the imposition of the suspension.

4. After consideration of all factors in this case it is determined that a sanction against the Respondent's license by the Board is not warranted. Significant consideration is given to the decision of Dr. Ailshie and the Greenville City School system, the people who worked with the Respondent and knew her best. The Respondent could easily have been terminated by Dr. Ailshie, but instead received a 20 day suspension. Dr. Ailshie had an opportunity to recommend to the Board that her license be sanctioned, but he did not. The Respondent has received significant punishment for her transgression, a suspension that cost her \$5,000 in salary. This suspension will remain on her professional record for the balance of her career. An additional sanction against her license, especially one that will have no practical effect as the suspension proposed by the Board would be retroactive and already "served," serves no purpose other than to place an additional stain on her record. Such an action is not appropriate in this case.

5. Based upon the foregoing, it is hereby **ORDERED** that Respondent's teacher's license **SHALL NOT BE SANCTIONED**.

This Initial Order entered and effective this 29 day of June, 2012

Thomas G. Stovall
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 29 day of
June, 2012

Thomas G. Stovall, Director
Administrative Procedures Division