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## Gary Hansard vs. State Board of Education

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**BEFORE THE TENNESSEE STATE BOARD OF EDUCATION**

**IN THE MATTER OF:**

**GARY D. HANSARD,**  
*Respondent*

**DOCKET NO: 07.01-122624J**

**INITIAL ORDER**

This matter came to be heard on October 22, 2013, before Lynn M. England, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, sitting for the State Board of Education. The State Board of Education was represented by Ms. Dannelle Walker. The Respondent, Mr. Hansard, was not represented by counsel and appeared *pro se*.

The issue presented by this hearing is whether or not Respondent Hansard's teaching license should be suspended by the State of Tennessee due to Respondent's allegedly breaching the TCAP-ALT security by failing to keep the TCAP-ALT tests in his possession and failing to report the results of the tests in compliance with the State's submission timeline.

The State asserts that Respondent Sykes' teaching license should be suspended pursuant to T.C.A. §49-1-607 and RULE 0520-02-04-.01, RULES OF THE STATE BOARD OF EDUCATION, TENN. COMP. R & REG. CH. 0520-02-04.

T.C.A. §49-1-607 mandates revocation of a teaching license based upon certain violations. It states:

Noncompliance with security guidelines for TCAP or successor test.---Any person found to have not followed security guidelines for administration of the Tennessee comprehensive assessment program (TCAP) test, or a successor test, including making or distributing unauthorized copies of the test, altering a grade or answer sheet, providing copies of answers or test questions 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.

RULE 0520-02-04-.01(9)(b)(6), RULES OF THE STATE BOARD OF EDUCATION, states: The State Board of Education may revoke, suspend, reprimand formally, or refuse to issue or renew a license for the following reasons:

(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, default on a student loan pursuant to Tenn. Code Ann. §49-4-108 (d)(2) or failure to report under part (e).<sup>1</sup>

After consideration of the testimony and evidence presented, the arguments of counsel, and the entire record in this matter, the following is determined: (1) the evidence preponderates that Respondent changed a student's grades and official transcript or allowed someone else to change a student's grades and official transcript; and (2) the appropriate discipline in this matter, considering all the facts and circumstances, is a formal reprimand on Respondent's teaching license. This decision is based upon the following findings of fact and conclusions of law.

#### **FINDINGS OF FACT**

1. At all relevant times, respondent was duly licensed by the State Board of Education as a teacher in the State of Tennessee.
2. Respondent has a Bachelors degree in Special Education, modified resource.
3. At all relevant times, Respondent was employed as a special education teacher at Claxton Elementary School in Clinton, Tennessee. Prior to the 2012-2013 academic year he taught a modified resource class. The modified resource class consists of students who are able to attend some inclusion classes.

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<sup>1</sup> RULE 0520-02-04-.01(9)(e) states:

Notification of Office of Teacher Licensing. It is the responsibility of the superintendent of the employing public or non-public school or school system to inform the Office of Teacher Licensing of licensed teachers or administrators who have been suspended or dismissed, or who have resigned, following allegations of conduct which, if substantiated, would warrant consideration for license suspension or revocation under parts (a) or (b). The report shall be submitted within thirty (30) days of the suspension, dismissal or resignation. The superintendent shall also report felony convictions of licensed teachers or administrators within 30 days of receiving knowledge of the conviction.

4. At the beginning of the 2012-2013 academic year, Respondent was told he would be responsible for administering the TCAP-ALT test to his students. He had never administered this test prior to this year.
5. The TCAP-ALT test is an alternative to the traditional TCAP testing. It involves a process spanning from August to February whereby certain special education students with severe cognitive disabilities are evaluated through other means such as data collection, graphs and evidence sheets. The TCAP-ALT consists of a portfolio collection of each student's academic work through ongoing activities to determine their progress. The portfolio reports are to be turned in the month of February,
6. Approximately September 1, 2012, Respondent was sent an email containing the manual of instructions for administering the testing.
7. Respondent was required to attend training for administration of the test, but could not secure a substitute for his class on the day of the training and therefore did not attend.
8. A progress meeting was held December 6, 2012 between Respondent and Lynette Currie, Special Education Curriculum Facilitator, to review his portfolios as of that date. As of that date of the meeting Respondent had draft data only for three (3) of his seven (7) students. Realizing Respondents' difficulties, and the February 6, 2013, deadline approaching, another teacher was sent to his classroom to provide him with assistance with the portfolios.
9. While another teacher did come to his classroom, she was not able to provide him with much assistance, because he was teaching during the time she was there.
10. Respondent resigned his position on February 7, 2013, prior to turning in his TCAP-ALT portfolios. As a result his students received non proficient scores of 0.
11. Respondent took the incomplete portfolios with him when he resigned. He received a phone call from "central office" that he must turn in the portfolio binders, even if they were incomplete.

12. Respondent removed the portfolio binders from school property to his car where they remained until his wife met with J. Conatser, the assistant principal and turned them over to her.
13. Security protocol for the TCAP-ALT requires that the binders are never to be removed from school property.

#### **APPLICABLE LAW**

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...

#### **CONCLUSIONS OF LAW**

1. The Board has carried its burden of proof by a preponderance of the evidence that the Respondent removed the TCAP-ALT portfolio binders from school property in violation of test security guidelines thus making him 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 a violation of the test security guidelines. While there is no suggestion that the Respondent intentionally violated the security protocol, by his own admission he removed the portfolio binders placing them in his car.

3. The difficult issue in this case is the imposition of an appropriate sanction as a result of the Respondent's error. The Board is seeking a suspension of his teaching license.

This is too harsh of a sanction. The Respondent was in way over his head when he was given the responsibility of administering the TCAP-ALT testing. It is apparent from his demeanor during the hearing that he was extremely overwhelmed. There is no evidence that he has been subject to any prior disciplinary action. This incident is the result of a careless but honest mistake. There is absolutely no reason to believe the Respondent will engage in similar conduct in the future.

4. After consideration of all factors in this case it is hereby **ORDERED** that the Respondent's license be issued a formal REPRIMAND.

It is so ORDERED.

This order entered and effective this \_\_\_\_\_ day of January, 2014.

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Lynn M. England  
Administrative Judge

This Order filed in the Administrative Procedures Division this \_\_\_\_ day of January, 2014.

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J. Richard Collier, Director  
Administrative Procedures Division