

I, Maggie Pagan certify that on May 25, 2006, I mailed a copy of this document, certified & postage prepaid, to all parties or their counsel of record. I certify under penalty of perjury, under the laws of the state of Washington, that the foregoing is true and correct.

IN THE MATTER OF THE EDUCATION)
CERTIFICATE OF)
)
)
)
CARLOS RODRIGUEZ)
CERTIFICATE NO.: 377005D)
_____)

OPP No. A04-09-0323
D04-06-051
FINAL ORDER OF
DENIAL OF CERTIFICATE

COMES NOW Arlene Hett, Review Officer of the Office of Superintendent of Public Instruction (OSPI), having reviewed the files of the above-referenced case, and having considered the arguments of each party and the recommendation of the Admissions and Professional Conduct Advisory Committee, does hereby deny the certificate application of Carlos Rodriguez, based on the Findings of Fact and Conclusions of Law set forth below:

FINDINGS OF FACT

1. Carlos Rodriguez was issued a Washington education certificate, Number 377005D, on May 3, 2000. That certificate expired on June 30, 2004.
2. Carlos Rodriguez was employed by the Toppenish School District.
3. On June 14, 2004, the Office of Professional Practices, within OSPI, received a written complaint from the Toppenish School District Superintendent alleging a lack of good moral character and fitness, or a violation of the Code of Professional Conduct, Washington Administrative Code (WAC) 180-87, by Carlos Rodriguez. On June 21, 2004, OPP notified Mr. Rodriguez of receipt of the District's complaint and advised him that OSPI would take into consideration any material and/or statements submitted by him.
4. On December 2, 1999, Mr. Rodriguez was arrested and issued a citation for Negligent Driving 1st Degree and a Notice of Infraction for Open Container in a Motor Vehicle by Sunnyside Police Department; Incident #99-9535. On January 11, 2000, the Sunnyside Municipal Court continued the proceedings for one year. On January 11, 2001, the charge was dismissed.

5. During the 2000-2001 school year, Mr. Rodriguez was employed as a substitute teacher at the Yakima Valley Technical Skills Center in the Yakima School District. Mr. Rodriguez was removed from the substitute teacher list after being investigated for making an inappropriate comment to a female student.
6. On March 13, 2000, Mr. Rodriguez received the Toppenish School District policy on Sexual Harassment. Mr. Rodriguez signed the policy, stating that he had read it.
7. On December 16, 2001, Mr. Rodriguez was arrested and charged with Driving a Motor Vehicle while Under the Influence of Intoxicants by the Sunnyside Police Department; Incident #01-10988. On February 20, 2002, Mr. Rodriguez was found not guilty after a bench trial.
8. On May 16, 2002, Mr. Rodriguez was arrested by the Toppenish Police Department for Fourth Degree Assault – Domestic Violence; Incident #02-3007. On May 16, 2002, Mr. Rodriguez was issued a No Contact Order (NCO) with the victim, by the Toppenish Municipal Court. On December 11, 2002, the Toppenish Municipal Court issued a Stipulated Dismissal and a cost of \$265. On April 30, 2003, the case was closed and the charge was dismissed.
9. On May 30, 2002, Mr. Rodriguez was arrested by the Yakima County Sheriff's Office for violation of a Protection Order; Incident # 02-08106. On January 3, 2003, the Yakima County District Court issued a Stipulated Order of Continuance for this matter. On October 10, 2003, the Stipulated Order of Continuance was revoked and on January 22, 2004, Mr. Rodriguez was found guilty of the charge. He was sentenced to 365 days in jail with 360 days suspended. Mr. Rodriguez appealed the decision to Yakima County Superior Court. The appeal was remanded to District Court for trial on October 8, 2004. On January 6, 2005, Mr. Rodriguez was found guilty and ordered to serve 365 days in jail, with 360 days suspended. Mr. Rodriguez served 5 days in jail, between January 6, 2005 and January 21, 2005.
10. On December 16, 2002, Mr. Rodriguez received a verbal warning from Assistant Principal Mary O'Brien for Improper Discipline. The Reprimand was issued for Mr. Rodriguez improperly disciplining a student by requesting that student to do pushups as discipline for fighting in the classroom.

11. On May 1, 2003, Mr. Rodriguez received a written reprimand from Assistant Principal Mary O'Brien for insubordination for improperly processing a student referral form and for not correcting his grammar on the form.
12. On May 13, 2003, Mr. Rodriguez received a written letter of reprimand for not following proper procedures for leaving campus.
13. On May 21, 2003, Mr. Rodriguez received a written letter of reprimand as a means of progressive discipline for neglect of duty and willful violation of district policies and procedures.
14. On August 23, 2003, Mr. Rodriguez was arrested for Assault 4th Degree, Domestic Violence, and Malicious Mischief 3rd Degree by the Toppenish Police Department; Incident #03-03941. On November 11, 2003, the Yakima County District Court dismissed the charges without prejudice.
15. On October 10, 2003, Mr. Rodriguez attended a Sexual Harassment-Bullying Workshop, presented by the Toppenish School District.
16. On October 11, 2003, Mr. Rodriguez was arrested for Violation of a No Contact Order by the Yakima Police Department; Incident #03-17801. On January 19, 2005, Mr. Rodriguez was found guilty of the charge and was sentenced to 364 days in jail, with 354 days suspended, and a fine of \$730.
17. On October 23, 2003, Mr. Rodriguez was arrested for Violation of a No Contact Order by the Yakima Police Department; Incident #03-18622. On January 19, 2005, Mr. Rodriguez was found guilty of the charge and sentenced to 364 days in jail, with 344 days suspended, and a fine of \$1,110.
18. During the 2003-2004 school year, Mr. Rodriguez was investigated, by the Toppenish School District, for complaints from female students that: he placed himself too close to and stared at female students; looked down the front of their shirts; had them stand on chairs while wearing skirts; asked them to tell their mothers or sisters that he was cute; told student that they would receive an 'A' grade for setting him up on dates with their female relatives; treated them differently from the male students; and discussed their families in front of other students.

19. On October 14, 2003, Mr. Rodriguez touched the breast of an eighth-grade female student in class. Toppenish Police Department investigated the complaint; Incident # 03-7145. On June 30, 2004, Mr. Rodriguez was charged by information with Child Molestation 3rd Degree. On October 26, 2004, a Deputy Prosecuting Attorney for the Yakima County Superior Court dismissed the case without prejudice for the Interest of Justice.

20. On October 22, 2003, Mr. Rodriguez was placed on administrative leave by the Toppenish School District during a school district investigation of Mr. Rodriguez for inappropriate comments to female students.

21. Mr. Rodriguez's teaching certificate expired on June 30, 2004. The Toppenish School District issued a letter to Mr. Rodriguez nullifying his 2004-2005 school year contract because he did not hold a valid teaching certificate.

22. On August 24, 2004, Mr. Rodriguez applied for renewal of this Washington Education Certificate. He answered "no" to question 3, Section IV, of the Character and Fitness Supplement which asks: "In the past 10 years, have you ever engaged in conduct which resulted in the damage or destruction of property?" On August 23, 2003, Mr. Rodriguez was arrested for Assault 4th Degree, Domestic Violence, and Malicious Mischief 3rd Degree by the Toppenish Police Department; Incident #03-03941.

23. On August 24, 2004, Mr. Rodriguez applied for renewal of this Washington Education Certificate. He answered "no" to question 4, Section IV, of the Character and Fitness Supplement which asks: "Have you ever engaged in any conduct which resulted in the physical injury or harm of any person?" On May 16, 2002, Mr. Rodriguez was arrested by the Toppenish Police Department for Fourth Degree Assault – Domestic Violence; Incident #02-3007. On August 23, 2003, Mr. Rodriguez was arrested for Assault 4th Degree, Domestic Violence, and Malicious Mischief 3rd Degree by the Toppenish Police Department; Incident #03-03941.

24. On August 24, 2004, Mr. Rodriguez applied for renewal of this Washington Education Certificate. He answered "yes" to question 12 of the Character and Fitness Supplement, Section IV, which asks: "Are you currently in default status on any educational loan or scholarship?" Mr. Rodriguez has not furnished documentation to show payment towards this loan. He stated

that he had been in default when he was on administrative leave and could not go to the school to check on the status of his school loans to put them on deferment.

25. Good moral character and personal fitness is a requirement to attain a Washington education certificate.

CONCLUSIONS OF LAW

1. OSPI has jurisdiction over Carlos Rodriguez and over the subject matter of this action.
2. Carlos Rodriguez has failed to provide clear and convincing evidence of good moral character or personal fitness to receive a Washington Education Certificate, (WAC) 180-86-170.
3. Carlos Rodriguez has violated RCW 28A.410.090, RCW 28A.410.105, WAC 180-86-013, WAC 180-86-014, WAC 180-87-050, WAC 180-87-080, and WAC 180-87-060.

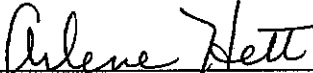
ORDER

THEREFORE, it is hereby ordered that the application for certification of Carlos Rodriguez be denied.

This Order will become final thirty (30) calendar days from the date of receipt of this order unless respondent files an appeal for a formal hearing before the Office of Administrative Hearings. Please direct the appeal and request for formal hearing to Office of Superintendent of Public Instruction, Administrative Law Office, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200.

DATED this 25th day of May, 2006.

DR. TERRY BERGESON
Superintendent of Public Instruction
State of Washington



DR. ARLENE HETT
Review Officer