

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION

IN THE MATTER OF THE TEACHING
CERTIFICATE OF

Bruce Huntoon
(Certificate No. 199863B)

TEACHER CERTIFICATION
CAUSE NO. 93-01

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND FINAL ORDER

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OFFICE OF ATTORNEY GENERAL
EDUCATION DIV.-OLY.

Pursuant to due and proper notice, a hearing in the above-entitled matter was conducted before Senior Administrative Law Judge David G. Hansen in Wenatchee, Washington, on February 14 through February 16, 2001. Bruce Huntoon (Appellant) did not appear. The Office of the Superintendent of Public Instruction (OSPI) appeared and was represented by Anne O. Shaw, Assistant Attorney General. Having sworn the witnesses, heard the testimony, and considered the admitted exhibits, briefs and arguments of the parties, the Administrative Law Judge hereby enters the following:

STATEMENT OF THE CASE

1. Appellant holds a valid Washington State teaching certificate.
2. The Office of Professional Practices (OPP) of OSPI received two written complaints from the Manson School District on June 6, 1991 and July 3, 1991, alleging a lack of good moral character and unprofessional conduct by Appellant.
3. After proper notice and informal hearing, a Proposed Final Order of Revocation was issued on April 20, 1993, by OSPI's Informal Review Officer, Dr. Theodore E. Andrews, citing sexual, physical and emotional abuse of students as a basis for the Order.
4. Appellant appealed the Proposed Final Order of Revocation on April 23, 1993, through his then attorney, Steven C. Lacy.

FINDINGS OF FACT,
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5. Appellant requested and was granted a stay of OSPI's disciplinary proceedings on July 1, 1993, pending the resolution of his appeal of the school district's probable cause for termination hearing.

6. OSPI reactivated Appellant's case in July of 2000 after learning that Appellant's appeal had been completed.

7. A prehearing conference was held by telephone on August 2, 2000, whereby OSPI, represented by Anne O. Shaw, Assistant Attorney General and Appellant, pro se, participated in the scheduling of a hearing which was set to begin on November 13, 2000.

8. A second prehearing conference was conducted on November 1, 2000, at which OSPI, represented by Anne O. Shaw, Assistant Attorney General and Appellant, represented by his attorney, Michael D. Hunsinger, appeared. Appellant's attorney requested and was granted a continuance to adequately prepare for the hearing, and a new date was set for the hearing to begin on February 14, 2001.

9. A third prehearing conference was held on January 22, 2001, whereby OSPI, represented by Anne O. Shaw, Assistant Attorney General, and Michael D. Hunsinger, representing Appellant, appeared. Mr. Hunsinger indicated that Appellant had chosen not to use Mr. Hunsinger's services.

10. A fourth prehearing conference was held on January 31, 2001, at which OSPI, represented by Anne O. Shaw, Assistant Attorney General, and Appellant appeared and participated in discussion and argument regarding witnesses for the hearing set for February 14, 2001.

FINDINGS OF FACT

I.

Appellant was employed by the Manson School District from fall of 1973 through March of 1992, when he was placed on administrative leave.

II.

Appellant was issued a Notice of Probable Cause for Discharge on June 30, 1992, and an Amended Notice of Probable Cause for Discharge on February 16, 1993.

III.

A probable cause hearing took place from November 28, 1994, through December 6, 1994, at which time the hearings officer found sufficient cause to terminate Appellant from his employment with the school district.

IV.

For much of his teaching career at Manson School District, Appellant taught sixth grade and Driver's Education.

V.

Appellant was issued four letters of reprimand by the school district between 1990 and 1991.

VI.

██████████ attended Manson High School until graduating in 1975. During her sophomore year, Appellant frequently asked Ms. ██████████ to accompany him to the gym to practice basketball. On one occasion she did so. While they were alone, he touched her neck, ran his fingers through her hair, touched her face and her breasts. She tried to leave the gym, but he held her hands so she could not do so. Someone eventually came into the gym, whereupon she was able to leave. During the late fall of Ms. ██████████ junior year, she was spending the night with a girlfriend. No parents were present. Appellant and a friend came to the house and brought alcohol, which Appellant and his friend proceeded to consume. Ms. ██████████ insisted that Appellant and his friend leave, or she would go home. Appellant and his friend left. Later that evening, while Ms. ██████████ was asleep, she awoke to find Appellant lying on top of her. He placed his hand over her mouth and told her that if she made any noises he would kill her parents and her sister. He then attempted to rape her. On several occasions after this incident, Appellant asked Ms. ██████████ something to the effect of, "How is your family's health and safety?"

VII.

██████████ attended Manson High School, graduating in 1977. Ms. ██████████ kept statistics for the boys' basketball team, which was coached by Appellant. She frequently sat next to Appellant on the rooter bus. On occasion Appellant blew in her ear and made comments to her of a sexual nature. He frequently gave her rides home after ball games. On one occasion he kissed her and put his hand under her shirt. Appellant attempted to talk Ms. ██████████ into sneaking out of her parent's

home that evening and meeting him later. Ms. [REDACTED] had Appellant for Driver's Education. On one occasion he put his arm around her and kissed her.

VIII.

Over an extended period of time, Appellant frequently acted in a sexually inappropriate manner in class by (a) having at least one female student sit on his lap several times while in his office using his computer; (b) rubbing his hands on the backs of the knees of female students while they stood by his desk; (c) rubbing or massaging the shoulders of female students in class; (d) standing behind the female students and rubbing his lower body and crotch against their backs and the backs of their chairs; (e) touching and playing with female students' hair in class and during recess; and (f) putting his hand inside the shirts of female students to "fix" their bra straps.

IX.

Appellant touched a female student, [REDACTED], inappropriately during preparation for a school play, when he pinned balloons on her chest and crotch area after she told him that she did not want him to pin the balloons on her and raised her arms to stop him.

X.

Appellant, after jogging with a female friend and her daughter, [REDACTED] who was riding her bike beside them, grabbed Ms. [REDACTED] off her bike and rubbed his sweaty body over her. He was shirtless and in shorts. Ms. [REDACTED] was a fifth grade student at the time. At or about the same period of time, Appellant disciplined Ms. [REDACTED] in her home, without her mother's permission, by spanking Ms. [REDACTED] on her bottom with a belt after pulling her pants and underwear down.

XI.

[REDACTED] was in Appellant's eighth-grade math class during the 1973-74 school year. On one occasion she asked Appellant permission to leave the class in order to go to the bathroom. Appellant responded to her request, in the presence of all the other students in the class, by stating, "If it wasn't your time of the month you wouldn't be having to go to the bathroom."

XII.

██████████ became acquainted with Appellant while she was in the fifth grade, at eleven years of age. Appellant was dating Ms. ██████ mother at the time. On one occasion the three of them were in a hot tub. When Ms. ██████ mother left, Appellant put his hand inside the bottom of Ms. ██████ bathing suit, on her backside. When her mother returned to the hot tub, Appellant removed his hand.

XIII.

██████████ was a student in Appellant's sixth-grade class during the 1982-83 school year. At the time she was eleven and twelve years of age. Appellant placed Ms. ██████ in "isolation" on two separate occasions during the year, for a total of approximately three-quarters of the school year. The first occurred when she was placed in a small cubicle with a desk and a chair with partitions approximately six feet high. This was in the grade school business office. She spent the entire school day in the cubicle. She was not allowed to participate in recess, or have lunch in the cafeteria. She had lunch in the cubicle. It was required that she be escorted to and from the restroom. On visits to the restroom, a staff person from the office would first determine if there were any other students in the restroom before allowing Ms. ██████ in, and would prevent any students from entering the restroom while Ms. ██████ was in the restroom. How or why this was permitted to continue with the obvious knowledge of the grade school administrative staff is unclear from the record. A second period of isolation occurred when Ms. ██████ was placed in a similar type cubicle in the back of a third-grade classroom. The same restrictions applied as earlier. Appellant instructed students in the classroom not to speak or have any contact with Ms. ██████ during the school day. Again, it is unclear why this practice was tolerated by other staff at the school.

XIV.

██████████ attended Manson High School until graduating in 1991. She had Appellant for Driver's Education. During one driving lesson, while Ms. ██████ was driving, Appellant placed his hand on the inside of her thigh, just above her knee.

XV.

Throughout his teaching career, Appellant regularly yelled or raised his voice in an angry manner and embarrassed, intimidated and belittled students in front of their classmates, causing students to cry in class and creating an atmosphere in class where students were afraid to ask questions. On occasions he told students that they were "worthless" or that they were "stupid".

XVI.

██████████ attended school in the Manson School District until graduating in 1979. He was a student of Appellant in the seventh and eighth grades. He observed Appellant single out and humiliate individual students by stating such things as, "What's wrong with you? Everyone else understands." He frequently brought students to tears. On occasion Appellant would poke his finger in Mr. ██████████ chest while screaming at him. As a flag football coach in the eighth grade, Appellant directed five linemen to line up and bend over while Appellant kicked each one of them in the behind.

XVII.

Prior to the 1991-92 school year, the elementary school principal, Steve McKenna, received 14 letters from and participated in numerous phone calls and personal interviews with parents whose children were scheduled to be in Appellant's class, demanding that their child be removed from Appellant's class because of his past abuse of students. Of the total 25 students scheduled to be in Appellant's class, all but 4 student's parents requested that their child not be in Appellant's class.

XVIII.

In 1990, Appellant physically grabbed and squeezed the neck of ██████████ during a keyboarding class. Appellant shook the student by the neck for not following instructions after Mr. ██████████ explained that he had injured his finger earlier in the day and could not type.

XIX.

In 1990, Appellant physically grabbed and squeezed ██████████ on his arm when Mr. ██████████ came up to his desk to ask a question. Appellant's hold left a large and visible bruise on Mr. ██████████ arm for several days.

XX.

Appellant was repeatedly warned about improper use of discipline and intimidation and humiliation of students, beginning at least in 1984 by Manson School District Superintendent Thomas McFarland and continuing on to 1991 by Steve McKenna, the elementary school principal, and Debra Picton House, the Manson School District superintendent in 1991.

XXI.

Appellant was provided due and proper notice of the time, date and place of the hearing. He did not appear for the hearing and failed to request a postponement of the hearing. The hearing began on Wednesday, February 14, 2001, at 9:00 a.m. At 11:45 a.m., an unidentified individual delivered to the hearing location a document entitled "Motion for Transfer." The document, citing RCW 3.42.030, purported to direct the undersigned to transfer this matter to Chelan County Superior Court "forthwith." Emphasis theirs. The document purported to be presented by "Bruce Huntoon, Appearing Specially, and not Generally, in Propria Persona, Sui Juris."

CONCLUSIONS OF LAW

I.

The Office of Administrative Hearings has jurisdiction over the parties and the subject matter of this proceeding. The hearing was conducted pursuant to the authority and jurisdiction vested in the Superintendent of Public Instruction pursuant to RCW Title 28A.410, RCW Title 34.05, WAC Title 180-86, and WAC Title 10-08.

II.

Without addressing the obvious issue of the timeliness of Appellant's motion, the undersigned notes that RCW 3.42.030 applies to parties transferring a case from a district court commissioner to a judge of the same district. The cited statute is not applicable to the proceeding herein, and Appellant's "Motion for Transfer" is therefore denied.

III.

Recognizing the gravity of a disciplinary proceeding, the burden of proof in this matter is defined at WAC 180-86-170(2) as follows:

In a suspension or revocation proceeding, the superintendent of public instruction must prove by clear and convincing evidence that the certificate holder is not of good moral character or personal fitness or has committed an act of unprofessional conduct.

This requires that the undersigned, as the trier of fact, be convinced that the ultimate facts in issue are shown by evidence to be "highly probable." See In re Pawling, 101 Wn.2d

392, 399, 679 P.2d 916 (1984). "Clear, cogent and convincing evidence is evidence which is weightier and more convincing than a preponderance of the evidence, but which need not reach the level of 'beyond a reasonable doubt'." In re Deming, 108 Wn.2d 82, 109, 736 P.2d 639 (1997).

IV.

The certificate of a teacher in the state of Washington may be revoked by the Superintendent of Public Instruction for, among other things, "immorality, violations of written contract, unprofessional conduct, intemperance, or a crime against the law of the state." RCW 28A.410.090(1). Grounds for the issuance of a revocation order by OSPI exists when it is determined that "the certificate holder has committed an act of unprofessional conduct or lacks good moral character or personal fitness" WAC 180-86-075(2). Good moral character and personal fitness means "character and personal fitness necessary to serve as a certificated employee in schools in the state of Washington, including character and personal fitness to have contact with, to teach, and to perform supervision of children. WAC 180-86-013. The commission of any sexually exploitive act with or to a student is defined as unprofessional conduct. WAC 180-87-080. This includes any sexual advance, either verbal or physical, and intentionally touching the sexual or intimate parts of the student, except to the extent necessary to attend health needs of the student. *Id.*

V.

Applying the above to the case at hand, the undersigned concludes that OSPI has established, by the requisite burden of proof, that the Appellant engaged in acts of unprofessional conduct and that the Appellant lacks the good moral character and personal fitness to serve as a certificated employee in the schools of the State of Washington. Over an extended period of time, the Appellant engaged in acts of unprofessional conduct with young students under his control and direction. His conduct amounted to sexual, physical and emotional abuse of students. A special confidence is placed in those individuals who are entrusted with the education, care and supervision of children. Appellant repeatedly and systematically violated that trust. Given the reprehensible nature of Appellant's conduct toward these young children, it is the undersigned's conclusion that the loss of trust in this case is irretrievable. It is therefore the undersigned's conclusion that revocation of Appellant's teaching certificate is warranted.

ORDER

IT IS HEREBY ORDERED that the teaching certificate of Appellant, Certificate No. 199863B, be and is revoked pursuant to RCW 28A.410.090, WAC 180-86, and WAC 100-87. In accordance with WAC 180-86-150(3), this Order shall take effect the below specified date and no stay of revocation shall exist until Appellant files an appeal in a timely manner pursuant to WAC 180-86-155.

DATED at Spokane, Washington this 10th day of April, 2001.

D.G. Hansen


David G. Hansen
Senior Administrative Law Judge
Office of Administrative Hearings
134 South Arthur Street
Spokane WA 99202-2246

NOTICE OF FURTHER APPEAL RIGHTS

PURSUANT TO WAC 180-86-155, ANY PERSON WHOSE CERTIFICATE HAS BEEN REVOKED BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION MAY APPEAL THAT DECISION TO THE STATE BOARD OF EDUCATION BY FILING A NOTICE OF APPEAL WITH THE SUPERINTENDENT OF PUBLIC INSTRUCTION OR THE SECRETARY OF THE STATE BOARD OF EDUCATION WITHIN THIRTY (30) CALENDAR DAYS OF THE DATE OF MAILING OF THIS FINAL ORDER.

CERTIFICATE OF SERVICE

This certifies that a copy of this Order was mailed to the interested parties or his/her representative at the address listed below on the 10th day of April, 2001, by depositing same in the United States mail, postage prepaid:

Bruce Huntoon


FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND FINAL ORDER

Anne Shaw
Assistant Attorney General
Office of the Attorney General
PO Box 40100
Olympia WA 98504-0100

cc: Mary Radcliffe, OAH
Melissa Coordes, SPI
Barbara Cleveland, OAH