

**COMMONWEALTH OF PENNSYLVANIA
PROFESSIONAL STANDARDS AND PRACTICES COMMISSION**

**DEPARTMENT OF EDUCATION,
Petitioner,**

v.

**TIMOTHY P. LACEY,
Respondent.**

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PSPC DOCKET NO. RE-09-05

MEMORANDUM AND ORDER

This matter is before the Professional Standards and Practices Commission (“Commission”) upon the Petitioner’s November 12, 2009, Petition for Reinstatement of his professional educator certification. The Petitioner surrendered his professional educator certification¹ on December 13, 2007, after his criminal indictment for Simple Assault, Endangering the Welfare of a Child and Harassment. In his application for reinstatement, the Petitioner specifically waived his right to a hearing.

Pursuant to 22 Pa. Code §233.14(b), the Department of Education (“Department”) reviewed the application and conducted an investigation thereof. The Department advised in its March 4, 2010, response to Petitioner’s application that it does not support the reinstatement of his certification.

Upon receipt of the Department’s response, the Commission published in the *Pennsylvania Bulletin* a notice of opportunity for hearing, which provided thirty days for the filing of protests or petitions for intervention by interested

¹ The Petitioner held an Instructional II teaching certificate in the area of Elementary K-6.

parties. Having received neither such filings nor a request for hearing, the Commission directly considered Petitioner's application at a public meeting on May 10, 2010. The Petitioner failed to appear at the Commission's meeting.

In all reinstatement cases, the applicant bears the burden of establishing that the relief sought is just and proper. 22 Pa. Code §233.14(e)(2). In cases where no hearing is requested, the Commission will accept as true only facts to which there is no dispute and the factual averments of parties opposed to the application. 22 Pa. Code §233.14(d)(2). While the determination of what constitutes "just and proper" can only be defined within the context of the factual pattern of any one specific case, the Commission has, in the past, focused its inquiry in six broad areas: the applicant's conduct which resulted in the loss of his teaching certification; other past relevant conduct of the applicant; consideration of criminal conduct; the applicant's current attitude about the past conduct; rehabilitative efforts; and references.

Within this framework, the Commission reviewed the Petitioner's reinstatement application and the Department's response thereto. After careful review of these materials, the Commission has determined that the Petitioner has failed to demonstrate that reinstatement of his professional educator certification is just and proper. Accordingly, the Commission denies the Petition for Reinstatement.

CONDUCT THAT RESULTED IN REVOCATION/CRIMINAL CONDUCT

During the 2006-07 school year, the Petitioner served as a third grade teacher in the Bangor Area School District. On September 28, 2006, a student

was approaching the Petitioner's desk to hand in an assignment when the Petitioner, without provocation, kicked the student in the stomach, knocking the child to the floor. Subsequently, the Petitioner was charged with Simple Assault, Endangering the Welfare of a Child and Harassment. The Petitioner was accepted into the Accelerated Rehabilitation Disposition Program ("ARD") on June 6, 2007, with one proviso being that he would surrender his professional educator certification.

OTHER PAST RELEVANT CONDUCT

Neither the Commission nor the Department is aware of any other educator misconduct or inappropriate conduct involving the Petitioner.

CURRENT ATTITUDE ABOUT PAST CONDUCT

In his Petition for Reinstatement, the Petitioner describes his conduct as follows: "I was suffering from extreme vertigo. I was holding on to a counter behind me because of fear of fainting or seizure (epilepsy history). I pushed a student away w/my feat (*sic*) in fear of collapse upon him." The Petitioner's claim that he acted only out of concern for the student is contradicted later in his application where he declares that he "made a terrible mistake" and asks for "understanding and forgiveness".

The Commission finds Petitioner's explanation to be disingenuous and self-serving. We agree with the Department's assessment that he minimizes his conduct, shows little to no concern for the student and fails to accept responsibility for his impetuous and aggressive conduct towards a student.

REHABILITATION EFFORTS AND ACTIVITIES

The Petitioner has provided some evidence that he has sought treatment from various health care professionals prior to and after the 2006 incident. He has been treated variously for anxiety attacks, bipolar disorder, depression and anger management as well as for epilepsy. He currently is involved in psychotherapy and is on a medication regime.

REFERENCES

The Petitioner submitted several letters in support of his reinstatement. In particular, several of his treating health care professionals advised that with continued drug and neurological treatment, the Petitioner had a good prognosis to manage stress and control his anger. In addition, a colleague submitted a letter recommending reinstatement, describing his professionalism and passion and minimizing the incident that led to his surrender.

Finally, the Department reports that the Assistant District Attorney responsible for handling the Petitioner's underlying criminal matter advised that the surrender of his certification was the pivotal persuasive factor leading to his acceptance into the ARD program. She also indicated that it was her understanding that the surrender was permanent and further opined that she felt that the Petitioner posed a threat to students.

CONCLUSION

In considering the Petitioner's application for reinstatement within the framework set forth above, the Commission has determined that the Petitioner has failed to satisfy his burden of establishing that reinstatement is just and

proper. His references and other supporting documentation, while establishing that he has in the past and continues to seek treatment for certain health and mental disorders, raise questions about his present ability to deal with stress and anger management. Moreover, the Commission finds the Petitioner's current attitude towards the underlying misconduct troubling. It also appears that "permanent" surrender of his certification may have been a pre-condition of his acceptance into the ARD program. In that case, reinstatement would serve to undermine the efficacy of the criminal process. In light of the Commission's concerns about the Petitioner's fitness to perform the duties and responsibilities of an educator, its duty to promote high standards within the teaching profession and the public's interest in maintaining the safety of students within the Commonwealth's schools, we enter the following:

ORDER

AND NOW, this 10th day of June, 2010, upon consideration of the Petition for Reinstatement filed by Petitioner TIMOTHY P. LACEY, it is hereby ORDERED that the Petition be DENIED.

PROFESSIONAL STANDARDS AND
PRACTICES COMMISSION

BY: _____
Gilbert R. Griffiths
Chairperson

ATTEST: _____
Carolyn Angelo
Executive Director

DATE MAILED: