

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CHARLIE CRIST, AS COMMISSIONER)
OF EDUCATION,)
)
Petitioner,)
)
vs.) Case No. 02-1914PL
)
WILLIAM HENDRICKS,)
)
Respondent.)
_____)

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on July 16, 2002, in Milton, Florida, before Administrative Law Judge Don W. Davis of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: J. David Holder, Esquire
24357 U.S. Highway 331, South
Santa Rosa Beach, Florida 32459

For Respondent: R. John Westberry, Esquire
Holt & Westberry
1108-A North 12th Street
Pensacola, Florida 32501

STATEMENT OF THE ISSUE

Whether Respondent committed offenses, as set forth in the Administrative Complaint, sufficient to justify the imposition of discipline with regard to Respondent's Florida educator's certificate, and if so, what penalties should be imposed?

PRELIMINARY STATEMENT

On February 13, 2002, Petitioner, Charlie Crist, as the Commissioner of Education, filed an Administrative Complaint alleging that William Hendricks, Respondent, had violated Sections 231.28(1)(c), 231.28(1)(f) and 231.28(1)(i), Florida Statutes, along with certain provisions of Rule 6B-1.006, Florida Administrative Code.

Respondent subsequently requested a formal administrative hearing. The matter was then transferred to the Division of Administrative Hearings to conduct a formal hearing pursuant to Section 120.57(1), Florida Statutes.

At the hearing, Petitioner presented the testimony of six witnesses and offered eight exhibits in evidence. Respondent testified in his own behalf and presented three exhibits. A Transcript of the final hearing was filed on July 26, 2002.

The parties requested and were granted leave to file proposed recommended orders later than ten days following receipt of the Transcript. Both parties submitted Proposed Recommended Orders and those submittals have been duly considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. Respondent holds Florida Education Certificate No. 720360, covering the area of business education, and was employed in the Santa Rosa County School system during the

2000-2001 school term as a business education teacher at Milton High School.

2. Student S.B. was born April 19, 1983, and attended Milton High School for four years. During that time, she knew Respondent as a teacher and coach at the school. As a senior during the Fall of 2001-2002 school year, S.B. and her friend, J.N., another female student, called Respondent on the telephone as a joke. They told him they were coming to see him at his house. He said okay.

3. That night, as the two female students left Respondent's home after staying about an hour, Respondent kissed S.B. on the mouth. Later, Respondent called S.B. at her home or placed calls to her cellular telephone on several occasions. S.B. also called Respondent. Sometimes, these telephone calls lasted for an hour or more.

4. During the 2000-2001 school year, S.B. visited Respondent at his home on at least four and possible as much as six different occasions. Each visit occurred in the evening at Respondent's home when S.B. and Respondent were the only persons present. Respondent was a 33-year-old teacher and S.B., a 17-year-old student.

5. Respondent and S.B. kissed and embraced each other on each of the visits by S.B. to Respondent's home. On the last visit, Respondent removed S.B.'s shirt, fondled her breasts

through her bra and touched her vaginal area through her clothing. Respondent laid on top of S.B. and pressed his penis against her vagina through their clothing.

6. Respondent professed his love for S.B. and talked to her about a future together following her graduation from high school.

7. Respondent and S.B.'s relationship became the subject of rumors at Milton High School in March of 2001. Approximately three teachers had conversations with the Milton High School assistant principal that something was going on between S.B. and Respondent. The assistant principal confronted Respondent on March 16, 2001. Respondent denied any involvement with the two female students, S.B. and J.N., beyond two visits with them at his home where, he claimed, nothing happened between him and S.B.

8. The assistant principal spoke with S.B. on March 16, 2001, and again confronted Respondent. This time, Respondent confessed to the relationship. He admitted to three or four occasions when he had kissed S.B. in the course of her visits to his house and that he had rubbed her breasts over her shirt.

9. Respondent's improper conduct with S.B. became common knowledge among faculty, parents, and students at Milton High School. As a result of his admitted misconduct with S.B., the Santa Rosa County School District suspended Respondent on

April 12, 2001, and that suspension continues in effect pending the outcome of this proceeding.

10. Respondent's actions with regard to S.B. is immoral. A 33-year-old male teacher kissing, fondling, and hugging a 17-year-old student is an act of moral turpitude.

11. Respondent's involvement with S.B. and the resulting publicity have seriously reduced Respondent's effectiveness as a teacher.

12. Respondent's conduct and actions with S.B. exposed the student to conditions which were, or could have been, harmful to her mental and physical health.

13. Respondent's actions knowingly and intentionally exposed S.B. to unnecessary embarrassment and disparagement.

14. Respondent exploited his relationship with S.B. for personal gain. Respondent carried on a romantic relationship with a 17-year-old girl in order to satisfy his own romantic and sexual desires.

CONCLUSIONS OF LAW

15. The Division of Administrative Hearings has jurisdiction over this subject matter and the parties to this action pursuant to Section 120.57(1), Florida Statutes.

16. Petitioner bears the burden of proof in this proceeding. The evidence must be clear and convincing. Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

17. Based on the evidence presented in this proceeding, Respondent has committed "gross immorality or an act involving moral turpitude" in regard to his behavior with S.B. and, consequently, is guilty of violation of Section 231.28(1)(c), Florida Statutes.

18. Respondent's personal conduct also reduced his effectiveness as a teacher and is found to have violated Section 231.28(1)(f), Florida Statutes.

19. Respondent's conduct also is found to be violative of the Principles of Professional Conduct for the Education Profession prescribed by Rules of the State Board of Education. Specifically, Rule 6B-1.006(3)(a), Florida Administrative Code, requires an educator to make a reasonable effort to protect a student from conditions harmful to a student's mental or physical health. Rule 6B-1.006(3)(e), Florida Administrative Code, specifies that an educator will not intentionally expose a student to unnecessary embarrassment or disparagement. Rule 6B-1.006(3)(h), Florida Administrative Code, requires that an educator not exploit a relationship with a student for personal gain or advantage, such as satisfaction of the romantic or sexual desires of Respondent in this case.

20. The violation of the Principles of Professional Conduct for the Education Profession also constitutes a violation of Section 231.28(1)(i), Florida Statutes.

RECOMMENDATION

Based upon the findings of fact and conclusions of law,
it is

RECOMMENDED that a final order be entered finding
Respondent guilty of the offenses set forth in the
Administrative Complaint and revoking Respondent's Florida
Educator Certificate No. 720360.

DONE AND ENTERED this 5th day of September, 2002, in
Tallahassee, Leon County, Florida.

DON W. DAVIS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 5th day of September, 2002.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.