

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

JEANINE BLOMBERG, AS )  
COMMISSIONER OF EDUCATION, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. 09-1102PL  
 )  
SEAN ALEXANDER GENTRY, )  
 )  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on June 30, 2009, in Sanford, Florida, before Susan B. Harrell, a designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Edward T. Bauer, Esquire  
Brooks, LeBoeuf, Bennett,  
Foster & Gwartney, P.A.  
909 East Park Avenue  
Tallahassee, Florida 32301

For Respondent: (No appearance)

STATEMENT OF THE ISSUES

The issues in this case are whether Respondent violated Subsections 1012.795(1)(c), 1012.795(1)(f), and 1012.795(1)(i), Florida Statutes (2005),<sup>1</sup> and Florida Administrative Code Rules 6B-1.006(3)(a), 6B-1.006(3)(e), 6B-1.006(3)(h),

and 6B-1.006(4)(c), and, if so, what discipline should be imposed.

PRELIMINARY STATEMENT

On September 5, 2007, Petitioner issued an Administrative Complaint against Respondent, Sean Alexander Gentry (Mr. Gentry), alleging that he had engaged in an inappropriate relationship with a minor female student and used his school district-issued laptop computer to download pornographic materials in violation of Subsections 1012.795(1)(c), 1012.795(1)(f), and 1012.795(1)(i), Florida Statutes, and Florida Administrative Code Rules 6B-1.006(3)(a), 6B-1.006(3)(e), 6B-1.006(3)(h), and 6B-1.006(4)(c). Mr. Gentry requested an administrative hearing, and the case was forwarded to the Division of Administrative Hearings on March 2, 2009, for assignment to an Administrative Law Judge to conduct the final hearing.

The final hearing was originally scheduled for May 4, 2009. Petitioner requested a continuance, which was granted, and the final hearing was re-scheduled for 9:00 a.m. on June 30, 2009. Mr. Gentry was provided a copy of the Order scheduling the final hearing for June 30, 2009.

Neither Mr. Gentry nor a representative of Mr. Gentry appeared at the scheduled time for the final hearing. The

commencement of the final hearing was delayed until 9:55 a.m., but neither Mr. Gentry nor a representative appeared.

Petitioner called John L. Reichert, Donna Michelle Reynolds, and John Byerly as witnesses. Petitioner's Exhibits 1 through 18 were admitted in evidence. Petitioner was given leave to take and file the deposition of R.M. post-hearing. The deposition of R.M. was filed on July 31, 2009.

The one-volume Transcript was filed on July 29, 2009. Petitioner filed a Proposed Recommended Order on August 4, 2009, and the Proposed Recommended Order has been given due consideration in the preparation of this Recommended Order.

#### FINDINGS OF FACT

1. Petitioner is the state agency responsible for certifying and regulating public school teachers in Florida. Mr. Gentry was issued Florida Educator's Certificate No. 965629 in the area of social science. The certificate was valid through June 30, 2007.

2. At all times pertinent to this case, Mr. Gentry was employed as a teacher at Crooms Academy of Information Technology (Crooms Academy) in the Seminole County School District (School District).

3. The School District had a policy concerning the use of the School District's electronic resources which prohibited "[a]ccessing, downloading, storing, viewing, sending, or

displaying text, images, movies, or sounds that contain pornography, obscenity, or language that offends or degrades others." The School District had a policy which prohibited personal relationships between students and teachers.

Mr. Gentry signed an acknowledgment form on July 27, 2005, stating that he had received a copy of the School District policies concerning fraternization with students and the acceptable use of electronic resources and that he understood the obligations and responsibilities of the policies.

4. During the fall semester of 2005, the assistant principal at Crooms Academy, Donna Michelle Reynolds (Ms. Reynolds), noticed that L.M., a female student who was then 17 years old, began eating lunch with Mr. Gentry in his classroom with no one else present. L.M. was also a member of an after-school club started by Mr. Gentry, in which the student members were engaged in role playing games similar to Dungeons and Dragons. Mr. Gentry was also teaching L.M. calligraphy after school.

5. Based on her observations of L.M., Ms. Reynolds felt that L.M. had a school-girl crush on Mr. Gentry. Rumors were circulating around the school that there was a romantic relationship between Mr. Gentry and L.M. Ms. Reynolds advised Mr. Gentry that he should not eat lunch alone with L.M. and that he should not teach L.M. calligraphy after school unless it was

done in the media center when other adults were on duty. She emphasized to Mr. Gentry that it was inappropriate for a male teacher to be alone on a regular basis with a female student.

6. When L.M. began as a freshman at Crooms Academy, she had some behavioral problems and a learning disability. By the fall of 2005, L.M. had made progress in her education, had matured, and was on track to graduate. In the late fall of 2005, L.M., who would be turning 18 in December 2005, came to Ms. Reynolds and told Ms. Reynolds that she planned to leave Crooms Academy and enroll in an adult education program. The reason for leaving Crooms Academy given by L.M. was that she was not getting along with her parents and that she was going to move in with a friend. Ms. Reynolds tried unsuccessfully to discourage L.M. from leaving Crooms Academy, feeling that it was in L.M.'s interests to remain at Crooms Academy, because L.M. was on track to graduate. L.M. withdrew from Crooms Academy in January 2006.

7. On February 14, 2006, Mr. Gentry reported to work looking haggard and unkempt. At first, Mr. Gentry told Ms. Reynolds that L.M. had called him from a bus stop at Wal-Mart and told him that she had taken an overdose of pills. He said he went to Wal-Mart, picked up L.M., took her to the hospital, and stayed at the hospital all night. After being questioned by Ms. Reynolds, Mr. Gentry confessed that L.M. had

been at his house the previous day, they had an argument, and, when he returned from work, he found that L.M. had taken a bottle of pills. He took L.M. to the hospital and stayed with her while she was being treated. When he felt that L.M. was stable, he called her parents and advised them what had happened.

8. Mr. Gentry talked with the principal of Crooms Academy and submitted his resignation.

9. Mr. Gentry had been assigned a laptop computer by the School District. After he submitted his resignation, Ms. Reynolds and the principal confiscated Mr. Gentry's laptop computer. On February 15, 2006, the laptop computer was turned over to John Byerly, an investigator with the School District.

10. Using professionally accepted forensic techniques, Mr. Byerly examined the hard drive of Mr. Gentry's School District-issued laptop computer. His examination revealed that, in addition to L.M.'s school e-mail address, Mr. Gentry's computer contained multiple, alternate e-mail addresses for L.M. The hard drive contained several e-mails sent by Mr. Gentry to L.M. while she was enrolled at Crooms Academy.

11. One e-mail from Mr. Gentry to L.M. stated: "God is preventing us for [sic] having any contact until your birthday because there is an increased chance of us getting caught." In

several different e-mails, Mr. Gentry told L.M. that he loved her.

12. In an attempt to learn why L.M. had taken an overdose, her father read some of her journals. There were entries in her journals in which she professed her love for Mr. Gentry as far back as April 2005. Shortly after her attempted suicide, her father confronted L.M. about her relationship with Mr. Gentry, and she admitted that they had been romantically involved for several months.

13. Sometime in early 2006, Mr. Gentry and L.M. eloped.

14. Mr. Byerly's examination of Mr. Gentry's School District-issued computer revealed that Mr. Gentry had been using the computer to access websites, which contained obscene and pornographic materials. Such materials included unclad adults involved in sexual acts. The examination further revealed that the computer had been used regularly from July 2005 through the date of Mr. Gentry's resignation to access websites that contained sexually explicit photographs.

15. After the investigation was completed, the School District concluded that Mr. Gentry had violated School District policies by engaging in a romantic relationship with a student and by using his School District-issued computer to view inappropriate materials. The School District terminated his employment on April 12, 2006.

CONCLUSIONS OF LAW

16. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. §§ 120.569 and 120.57, Fla. Stat. (2008).

17. Petitioner bears the burden to establish the allegations in the Administrative Complaint by clear and convincing evidence. Department of Banking and Finance v. Osborne Stern and Co., 670 So. 2d 932 (Fla. 1996). Petitioner has alleged that Mr. Gentry violated Subsections 1012.795(1)(c), 1012.795(1)(f), and 1012.795(1)(i), Florida Statutes, and Florida Administrative Code Rules 6B-1.006(3)(a), 6B-1.006(3)(e), 6B-1.006(3)(h), and 6B-1.006(4)(c).

18. Subsection 1012.795(1), Florida Statutes, provides:

(1) The Education Practices Commission may suspend the educator certificate of any person as defined in s. 1012.01(2) or (3) for a period of time not to exceed 5 years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the holder may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for a period of time not to exceed 10 years, with reinstatement subject to the provisions of subsection (4); may revoke permanently the educator certificate of any person thereby denying that person the right to teach or



otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; may suspend the educator certificate, upon order of the court, of any person found to have a delinquent child support obligation; or may impose any other penalty provided by law, provided it can be shown that the person:

\* \* \*

(c) Has been guilty of gross immorality or an act involving moral turpitude.

\* \* \*

(f) Upon investigation, has been found guilty of personal conduct which seriously reduces that person's effectiveness as an employee of the district school board.

\* \* \*

(i) Has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

19. Florida Administrative Code Rule 6B-1.006 provides:

(1) The following disciplinary rule shall constitute the Principles of Professional Conduct for the Education Profession in Florida.

(2) Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator's certificate, or the other penalties as provided by law.

(3) Obligation to the student requires that the individual:

(a) Shall make reasonable effort to protect the student from conditions harmful to

learning and/or to the student's mental and/or physical health and/or safety.

\* \* \*

(e) Shall not intentionally expose a student to unnecessary embarrassment or disparagement.

\* \* \*

(h) Shall not exploit a relationship with a student for personal gain or advantage.

\* \* \*

(4) Obligation to the public requires that the individual:

\* \* \*

(c) Shall not use institutional privileges for personal gain or advantage.

20. The terms "gross immorality" and "moral turpitude" are not defined in the context of Section 1012.795, Florida Statutes, but guidance may be found in Florida Administrative Code Rule 6B-4.009, which provides the basis for charges upon which dismissal action by the school districts against instructional personnel may be taken. Florida Administrative Code Rule 6B-4.009 provides:

(2) Immorality is defined as conduct that is inconsistent with the standards of public conscience and good morals. It is conduct sufficiently notorious to bring the individual concerned or the education profession into public disgrace or disrespect and impair the individual's service in the community.

\* \* \*

(6) Moral turpitude is a crime that is evidenced by an act of baseness, vileness or depravity in the private and social duties, which, according to the accepted standards of the time a man owes to his or her fellow man or to society in general, and the doing of the act itself and not its prohibition by statute fixes the moral turpitude.

21. "Moral turpitude" has also been defined by the Florida Supreme Court as follows:

Moral turpitude involves the idea of inherent baseness or depravity in the private social relations or duties owed by man to man or by man to society. It has also been defined as anything done contrary to justice, honesty, principle, or good morals, though, it often involves the question of intent as when unintentionally committed through error of judgment when wrong was not contemplated.

State ex rel. Tullidge v. Hollingsworth, 146 So. 660, 661 (Fla. 1933).

22. Petitioner has established by clear and convincing evidence that Mr. Gentry violated Subsections 1012.795(1)(c) and 1012.795(1)(f), Florida Statutes. A teacher becoming involved in a romantic relationship with a minor student is conduct which is inconsistent with the standards of public conscience and good morals.

23. Petitioner has established by clear and convincing evidence that Mr. Gentry violated Florida Administrative Code Rules 6B-1.006(3)(a), 6B-1.006(3)(e), 6B-1.006(3)(h), and

6B-1.006(4)(c) by engaging in a romantic relationship with a student while the student was a minor enrolled in school.

Obviously, engaging in a romantic relationship with a student is not conducive to a productive learning environment.

Mr. Gentry's conduct with L.M. was the subject of rumors at Crooms Academy and, thus, subjected L.M. to embarrassment and disparagement. Mr. Gentry used his position as a teacher to further his romantic interests in L.M. through the use of his computer, his teaching of calligraphy, and eating lunch alone with L.M. in his classroom.

24. Petitioner has established by clear and convincing evidence that Mr. Gentry violated Florida Administrative Code Rule 6B-1.006(4)(c) by using his School District-issued laptop computer to access pornographic websites and to communicate with L.M. on nonschool-related issues.

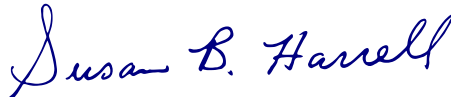
25. Having established that Mr. Gentry violated provisions of Florida Administrative Code Rule 6B-1.006, Petitioner has established that Mr. Gentry violated Subsection 1012.795(1)(i), Florida Statutes.

26. Petitioner seeks permanent revocation of Mr. Gentry's educator's certificate. Pursuant to Subsection 1012.795(1), Florida Statutes, and the facts of this case, such discipline is warranted.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be entered finding that Sean Alexander Gentry violated Subsections 1012.795(1)(c), 1012.795(1)(f), and 1012.795(1)(i), Florida Statutes; violated Florida Administrative Code Rules 6B-1.006(3)(a), 6B-1.006(3)(e), 6B-1.006(3)(h), and 6b-1.006(4)(c); and permanently revoking his educator's certificate.

DONE AND ENTERED this 18th day of August, 2009, in Tallahassee, Leon County, Florida.



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SUSAN B. HARRELL  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 18th day of August, 2009.

ENDNOTE

<sup>1/</sup> Unless otherwise indicated, all references to the Florida Statutes are to the 2005 version.

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.