



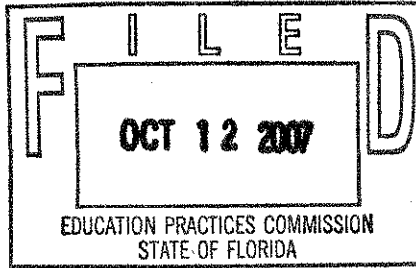
Before the Education Practices Commission of the State of Florida

JOHN L. WINN as the
Commissioner of Education,

Petitioner,

vs.

MARK AUSTIN,
Respondent.



CASE N^o: 07-0263-RT
EPC Index N^o 07-419-FOI

Final Order

Respondent, Mark Austin, holds Florida educator's certificate no. 520837. Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the certificate. A copy of the Administrative Complaint is attached to and made a part of this Order.

This cause came before a teacher panel of the Education Practices Commission on September 21, 2007, in Tampa, Florida.

Respondent has chosen not to dispute the allegations of the Administrative Complaint and has requested an informal hearing to present evidence and testimony in mitigation. Respondent was not present.

Paragraphs 1 through 6 of the Administrative Complaint were adopted by the Education Practices Commission as its findings of fact. Counts 1 through 4 of the Administrative Complaint were adopted by the Education Practices Commission as its conclusions of law.

Upon consideration, it is ORDERED that:

Respondent's certificate is hereby permanently revoked and Respondent is permanently barred from applying for another Florida educator's certificate.

This order shall become effective upon filing with the Clerk of the Commission.

DONE AND ORDERED, this 11th day of October, 2007.


DEBORAH SHEPARD, Presiding Officer

COPIES FURNISHED TO:

Bureau of Professional Practices

Bureau of Teacher Certification

Florida Administrative Law Reports

Superintendent
Brevard County Schools
2700 Judge Fran Jamieson Way
Viera, FL 32940-6699

Assistant Superintendent
Human Resources
Brevard County Schools
2700 Judge Fran Jamieson Way
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Ronald G. Stowers
DOE Counsel for PPS

Daniel Biggins
Assistant Attorney General

Probation

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE EDUCATION PRACTICES COMMISSION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order was mailed to Mark Austin, [REDACTED]
[REDACTED] West Melbourne, Florida 32904 by Certified U.S. Mail this 12TH day of
October, 2007.



DON D. SHIELDS,
Education Practices Commission

**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

**JOHN L. WINN, as
Commissioner of Education,**

Petitioner,

vs.

CASE NO. 023-0979-M

MARK A. AUSTIN,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, John L. Winn, as Commissioner of Education, files this Administrative Complaint against MARK A. AUSTIN. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to Sections 1012.795 and 1012.796, Florida Statutes, and pursuant to Rule 6B-1.006, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida, said sanctions specifically set forth in Sections 1012.795(1) and 1012.796(7), Florida Statutes.

The Petitioner alleges:

JURISDICTION

1. The Respondent holds Florida Educator's Certificate 520837, covering the areas of Health Education and Physical Education, which was valid through June 30, 2004.
2. At all times pertinent hereto, the Respondent was not employed in a position requiring a Florida Educator's Certificate.

MATERIAL ALLEGATIONS

3. On or about May 8, 2002, the Education Practices Commission (EPC) filed a final order accepting a Settlement Agreement between the Respondent and Commissioner of Education in Professional Practices Services (PPS) Case Number 990-0987-M (EPC Case Number 00-0916-RT). The underlying allegations in the Administrative Complaint included illegally obtaining controlled substances by altering prescriptions.

4. On or about May 5, 2002, May 28, 2002, and May 31, 2002, Respondent presented to a retail pharmacy, prescriptions which he had fraudulently altered to obtain the controlled drugs Percocet and Lortab. Respondent was charged separately in each instance. On or about June 19, 2002, the three cases were consolidated by the state attorney's office and Respondent was charged with: Count 1, Acquiring a Controlled Substance by Forgery; Count 2, Acquiring a Controlled Substance by Forgery; and Count 3, Acquiring a Controlled Substance by Forgery. On or about October 25, 2004, the state attorney's office filed no information in the case.

5. On or about January 17, 2002, Respondent presented a check to a retail establishment for payment without having sufficient funds in his account to cover the amount of the check. On or about February 2, 2002, Respondent was charged with Obtaining Property Services or Cash in Return for Insufficient Funds Check. On or about March 28, 2002, Respondent pled nolo contendere to the charge and the court withheld adjudication of guilt.

6. During the years of 1977 through 1979, Respondent engaged in a sexual relationship with a minor under the age of twelve. On multiple occasions and locations, including but not limited to a wooded area near the victim's home, Respondent molested the victim by fondling her, digitally penetrating her vagina and performing oral sex on her and forcing her to perform oral sex on him. On or about June 3, 2002, Respondent was arrested and charged with: Count 1, Sexual Battery; Count 2, Sexual Battery; and Count 3, Sexual Battery. On or about June 2, 2005, Respondent pled and the court adjudicated him guilty of the lesser included offenses of Count 1, Aggravated Assault and Count 2, Aggravated Assault. Respondent was sentenced to a term of 3 years in jail followed by 24 months of probation. Conditions of Respondent's probation include but are not limited to: No unsupervised contact with children under the age of 16, no volunteer, teaching or employment activities with children and no residence within 1000 feet of any school, playground or daycare center.

The Petitioner charges:

STATUTE VIOLATIONS

COUNT 1: The Respondent is in violation of Section 1012.795(1)(c), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude.

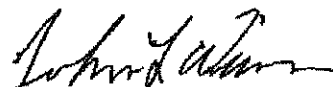
COUNT 2: The Respondent is in violation of Section 1012.795(1)(e), Florida Statutes, in that Respondent has been convicted of a misdemeanor, felony, or other criminal charge, other than a minor traffic violation.

COUNT 3: The Respondent is in violation of Section 1012.795(1)(f), Florida Statutes, in that Respondent has been found guilty of personal conduct which seriously reduces his effectiveness as an employee of the school board.

COUNT 4: The Respondent is in violation of Section 1012.795(2), Florida Statutes, which provides that the plea of guilty in any court or the decision of guilty by any court is prima facie proof of grounds for the revocation of the certificate.

WHEREFORE, based on the reasons set forth herein and in accordance with the Explanation of Rights and Election of Rights forms attached to and made a part of this Administrative Complaint, Petitioner respectfully recommends that the Education Practices Commission impose an appropriate sanction against the Respondent's educator's certificate pursuant to the authority provided in Sections 1012.795(1) and 1012.796(7), Florida Statutes. The sanctions imposed by the Education Practices Commission may include, but are not limited to, any one or a combination of the following: issuing the Respondent a written reprimand; placing the Respondent on probation for any period of time; restricting the Respondent's authorized scope of practice; assessing the Respondent an administrative fine; directing the Respondent to enroll in the Recovery Network Program; suspending the Respondent's educator's certificate for a period of time not to exceed five years; revoking the Respondent's educator's certificate for a period of time up to 10 years or permanently; or barring the Respondent from reapplying for an educator's certificate for a period of time up to 10 years or permanently.

EXECUTED on this 7th day of February, 2007.



JOHN L. WINN, as
Commissioner of Education
State of Florida