



Before the Education Practices Commission of the State of Florida

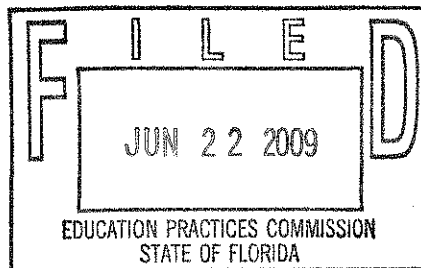
DR. ERIC J. SMITH as the
Commissioner of Education,

Petitioner,

vs.

JOHN MCDONALD,

Respondent.



CASE N^o: 09-0214-RT
EPC Index N^o 09-373-AS
PPS N^o 078-3243-S

Final Order

Respondent, John McDonald, holds Florida educator's certificate no. 921629. Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the certificate.

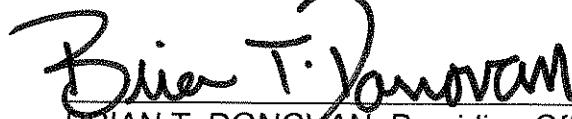
Petitioner and Respondent have entered into a Settlement Agreement for resolution of this cause. The Settlement Agreement and the Administrative Complaint are attached to and made a part of this Final Order.

A Teacher Panel of the Education Practices Commission met on June 12, 2009 in Tallahassee, Florida. The Commission accepts the Settlement Agreement as the appropriate resolution of this cause.

It is therefore ORDERED that the Settlement Agreement is hereby ACCEPTED and Respondent shall comply with its terms and conditions.

This Order becomes effective upon filing.

DONE AND ORDERED, this 12th day of June, 2009.


BRIAN T. DONOVAN, 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
Viera, FL 32940-6699

Probation Office

Ronald G. Stowers
DOE counsel for PPS

Daniel Biggins
Assistant Attorney General

NOTICE OF RIGHT TO JUDICIAL REVIEW

UNLESS WAIVED, 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 John McDonald, 4865 Bren Court, Rockledge, FL 32955 this 22 day of June, 2009 by Certified U.S. Mail.



DON D. SHIELDS
Education Practices Commission

STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION

DR. ERIC J. SMITH, as
Commissioner of Education

Petitioner,

vs.

CASE NO. 078-3243

JOHN EDWARD MCDONALD,

Respondent.

SETTLEMENT AGREEMENT

RECEIVED
APR 01 2009

Petitioner and Respondent hereby stipulate and agree as follows:

1. **Certification.** Respondent holds Florida Educator's Certificate Number 921629 issued by the Department of Education covering the area of Art, which is valid through June 30, 2013.
2. **Employment.** At all times pertinent hereto, Respondent was employed as a Art Teacher at Christa McAuliffe Elementary School in the Brevard County School District.
3. **Allegations.** Respondent neither admits nor denies, but elects not to contest the allegations set forth in Petitioner's Administrative Complaint, which are incorporated herein by reference.
4. **Letter of Reprimand.** Respondent agrees to accept a letter of reprimand, a copy of which shall be placed in his certification file with the Department of Education and a copy of which shall be placed in his personnel file with the employing school district.
5. **Fine.** Respondent agrees to pay a fine in the amount of \$500.00 to the EPC within one (1) year of the date of the Final Order accepting this Settlement Agreement.
6. **Violation.** In the event Respondent fails to comply with each condition set forth herein, he agrees that the Petitioner shall be authorized to file an Administrative Complaint or a Notice of Violation with the EPC seeking sanctions against his Florida educator's certificate up to and including permanent revocation of his Florida educator's certificate and a permanent bar from re-application for a Florida educator's certificate, based upon the violation of the terms of this Settlement Agreement.

7. **Costs and Fees.** Respondent agrees that any costs associated with the fulfillment of the terms of this Settlement Agreement shall be his sole responsibility. These costs include, but are not limited to, those associated with the Recovery Network Program (RNP) and Probation, if applicable. The probation monitoring fee shall be held in abeyance if Respondent is not employed as an educator pursuant to the terms of the Probation.

8. **Force and Effect.** This Settlement Agreement constitutes an offer of settlement of disputed issues of material fact until accepted and executed by all parties. The Settlement Agreement is void and has no force or effect unless executed by all parties and accepted by the EPC. If the Settlement Agreement is not accepted and executed by all parties, the terms herein shall be inadmissible in any subsequent formal or informal administrative hearing or in any other legal action between the parties.

9. **Notice of "Three Strikes" Provision.** Respondent is hereby put on notice that Section 1012.795(6)(b), Florida Statutes (2004), provides for permanent revocation of an educator's certificate under certain circumstances when the educator's certificate has been sanctioned by the Education Practices Commission on two (2) previous occasions.

10. **Waiver of Rights.** Respondent understands provisions of this Settlement Agreement, their legal effect, and his rights under Florida law to a formal hearing before a duly designated administrative law judge of the Division of Administrative Hearings (DOAH) or an informal hearing before the EPC. Respondent specifically waives his right to both a formal and an informal hearing, except he may appear before the EPC in order to urge the adoption of this Settlement Agreement. Respondent further acknowledges that he is under no duress, coercion or undue influence to execute this Settlement Agreement and that he has had the opportunity to receive the advice of legal counsel prior to signing this Settlement Agreement.

11. **Approval.** When fully executed, this Settlement Agreement shall be submitted to the EPC with the joint request by the parties that the EPC accept and adopt the terms of this Settlement Agreement as the basis for its Final Order in this proceeding. The parties understand that the EPC has the discretion to reject this Settlement Agreement and order a full evidentiary hearing on the allegations of the Administrative Complaint if, in the exercise of its discretion, it deems such action to be appropriate.

12. **Notice.** Respondent waives all statutory and regulatory provisions concerning notice of hearing and agrees that this Settlement Agreement may be presented to the EPC for consideration at its next available scheduled meeting, provided that Respondent is given reasonable advanced notice of time, place and date of said meeting.

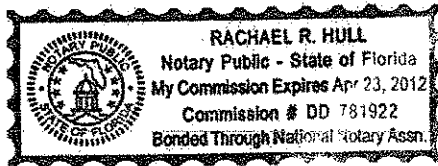
(SIGNATURES AND NOTARIZATION ON FOLLOWING PAGE)


IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on this
31st day of March, 2009.

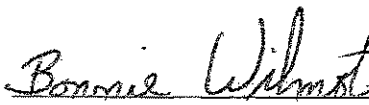

JOHN EDWARD MCDONALD

STATE OF FLORIDA
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 31st day of
March, 2009, by John Edward McDonald
who is _____ personally known or produced FI/DI
as identification [type of identification produced].




NOTARY PUBLIC
My commission expires: 4/23/12


BONNIE WILMOT
Assistant General Counsel
Suite 1244, Turlington Building
325 West Gaines Street
Tallahassee, Florida 32399-0400
Telephone (850) 245-0443
Facsimile (850) 245-9425

ATTORNEY FOR PETITIONER

**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

**DR. ERIC J. SMITH, as
Commissioner of Education,**

Petitioner,

vs.

CASE NO. 078-3243

JOHN EDWARD MCDONALD,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Dr. Eric J. Smith, as Commissioner of Education, files this Administrative Complaint against JOHN EDWARD MCDONALD. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to Sections 1012.315, 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 921629, covering the area of Art, which is valid through June 30, 2013.
2. At all times pertinent hereto, the Respondent was employed as an Art Teacher at Christa McAuliffe Elementary School in the Brevard County School District.

MATERIAL ALLEGATIONS

3. On or about December 24, 2005, Respondent was illegally in possession of the drug Marijuana and drug paraphernalia. Respondent was arrested and charged with; Count 1, Possession of Cannabis and Count 2, Use or Possession of Drug Paraphernalia. On or about May 8, 2006, Count 1 was nolle prossed by the state attorney's office and Respondent pled nolo contendere to Count 2. The court withheld adjudication of guilt as to Count 2.
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The Petitioner charges:

STATUTE VIOLATIONS

COUNT 1: The Respondent is in violation of Section 1012.795(1)(d), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude as defined by rule of the State Board of Education.

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; determining the Respondent to be ineligible for certification; 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 11th day of February, 2009.



DR. ERIC J. SMITH, as
Commissioner of Education
State of Florida



EDUCATION PRACTICES COMMISSION
STATE OF FLORIDA

KATHLEEN RICHARDS
Executive Director

DANIEL BIGGINS
Assistant Attorney General

DENNIS J. GRIFFIN
Chairperson

BRIAN T. DONOVAN
Co-Chairperson

June 12, 2009

John McDonald
4865 Bren Court
Rockledge, Florida 32955

Re: Dr. Eric J. Smith vs. John McDonald
EPC No.: 09-0214-RT; DOE No.: 921629

Dear Mr. McDonald:

As you know, the teacher panel of the Education Practices Commission reviewed the matter pending against you. Based upon the panel's consideration of this matter and upon the panel's acceptance of your Settlement Agreement, you are hereby reprimanded.

This panel, composed of your peers, believes that, as a teacher, you are required to exercise a measure of leadership beyond reproach. By your actions, you have lessened the reputation of all who practice our profession. The profession cannot condone your actions, nor can the public who employ us.

The Education Practices Commission sincerely hopes it is your intention to never allow this situation to occur again or indeed, to violate any professional obligation in fulfilling your responsibilities as an educator. To violate the standards of the profession will surely result in further action being taken against you.

This letter of reprimand is being placed in your state certification file, and a copy is being sent to the Brevard County School Board for placement in your personnel file.

Sincerely,

A handwritten signature in black ink that reads "Brian T. Donovan".

Brian T. Donovan
Presiding Officer