



# Before the Education Practices Commission of the State of Florida

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

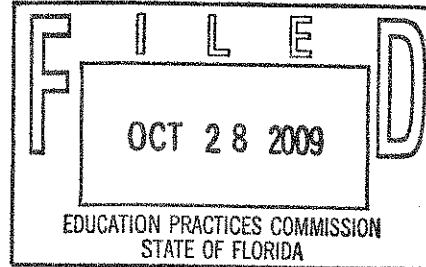
Petitioner,

vs.

JOHN HACKNEY,

Respondent.

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CASE N<sup>o</sup>: 09-0406-RT

EPC Index N<sup>o</sup> 09-622-AS

PPS N<sup>o</sup> 089-0415

## Final Order

Respondent, John Hackney, holds Florida educator's certificate no. 653403. Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the certificate.

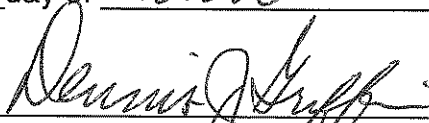
Petitioner and Respondent have entered into a Settlement Agreement for resolution of this cause. The Settlement Agreement and the Administrative Complaint are attached to and made a part of this Final Order.

A Teacher Panel of the Education Practices Commission met on October 22, 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 22 day of October, 2009.

  
\_\_\_\_\_  
DENNIS J. GRIFFIN, 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

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 Hackney, 4740 Springfield Avenue, Mims, FL 32754 and Thomas J. Thompson, 1007 South Washington Avenue, Titusville, FL 32780 this 28 day of October, 2009 by Certified U.S. Mail.



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DON SHIELDS  
Education Practices Commission

STATE OF FLORIDA  
EDUCATION PRACTICES COMMISSION

DR. ERIC J. SMITH, as  
Commissioner of Education

Petitioner,

vs.

CASE NO. 089-0415

JOHN MICHAEL HACKNEY,

Respondent.

\_\_\_\_\_ /

**SETTLEMENT AGREEMENT**

Petitioner and Respondent hereby stipulate and agree as follows:

1. **Certification.** Respondent holds Florida Educator's Certificate Number 653403 issued by the Department of Education covering the areas of Elementary Education and Specific Learning Disabilities which is valid through June 30, 2011.
2. **Employment.** At all times pertinent hereto, Respondent was employed as the Head Wrestling Coach at Astronaut High 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. **Probation.** Respondent agrees that he shall be placed on probation for a period of two (2) employment years. If Respondent is currently employed in a position requiring a Florida educator's certificate, probation shall begin upon the issuance of the Final Order by the Education Practices Commission (EPC) provided the EPC has accepted this Settlement Agreement. If Respondent is not currently employed in a position requiring a Florida educator's certificate, probation shall begin upon his re-employment in such a position. In the event Respondent's employment is interrupted for any reason prior to the expiration of probation, the probation shall be tolled until Respondent resumes employment in a position requiring a Florida educator's certificate. As conditions of probation, Respondent:

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a. shall immediately contact the Department of Education upon employment in Florida in a position requiring a Florida educator's certificate or upon termination from such a position. If currently employed in such a position, Respondent shall contact the Department of Education within ten (10) days of the issuance of the Final Order accepting this Settlement Agreement and Respondent shall provide the Department of Education with the name and address of his work site as well as the name, address and telephone number of his immediate supervisor.

b. shall make arrangements for his immediate supervisor to provide the EPC with a true and accurate copy of each written annual performance evaluation or assessment prepared by his supervisor within ten (10) days of its preparation;

c. shall pay to the EPC \$150.00 within the first six (6) months of each probation year to defray the costs of monitoring probation;

d. shall, within the first year of probation, take a 3-credit hour college level course in the area of Ethics. The class may be taken in person, or from accredited on-line source, and submit an official college transcript verifying successful completion of same with a grade of "B" or higher to the Department of Education;

e. shall violate no law and fully comply with all district school board regulations, school rules, and State Board of Education Rule 6B-1.006; and

f. shall satisfactorily perform his duties in a competent, professional manner.

6. **Fine.** Respondent agrees to pay a fine in the amount of \$1,500.00 to the EPC within the first year of the probationary period.

7. **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.

8. **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.

9. **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.

10. **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.

11. **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.

12. **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.

13. **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  
20<sup>th</sup> day of July, 20 09.

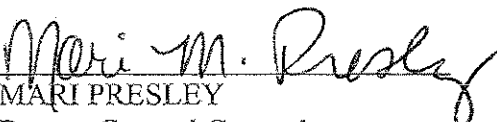
  
\_\_\_\_\_  
JOHN MICHAEL HACKNEY

STATE OF FLORIDA  
COUNTY OF Brevard

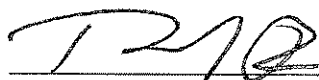
The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of  
July, 20 09, by John Hackney  
who is \_\_\_\_\_ personally known or produced DL  
as identification [type of identification produced].



  
\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: 8/6/2010

  
\_\_\_\_\_  
MARI PRESLEY  
Deputy 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

  
\_\_\_\_\_  
THOMAS J. THOMPSON, ESQUIRE  
1007 South Washington Avenue  
Titusville, Florida 32780  
Telephone (321) 269-5040  
Facsimile (321) 269-5014

ATTORNEY FOR RESPONDENT

**STATE OF FLORIDA  
EDUCATION PRACTICES COMMISSION**

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

**Petitioner,**

vs.

**CASE NO. 089-0415**

**JOHN MICHAEL HACKNEY,**

**Respondent.**

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**ADMINISTRATIVE COMPLAINT**

Petitioner, Dr. Eric J. Smith, as Commissioner of Education, files this Administrative Complaint against JOHN MICHAEL HACKNEY. 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 653403, covering the areas of Elementary Education and Specific Learning Disabilities, which is valid through June 30, 2011.
2. At all times pertinent hereto, the Respondent was employed as the Head Wrestling Coach at Astronaut High School in the Brevard County School District.

**MATERIAL ALLEGATIONS**

3. During the 2007/2008 school year, the Respondent was the head wrestling coach at Astronaut High School.
4. On or about December 1, 2007, the Astronaut High School wrestling team participated in a tournament at Poinciana High School. Tenth grade varsity student [REDACTED] was scheduled to participate in four wrestling matches, but was unable to do so due to an injury.



5. The Respondent authorized a seventh grade middle school student, [REDACTED], to pretend to be [REDACTED] and to wrestle in his place at the Poinciana tournament, rather than forfeiting [REDACTED]'s scheduled matches. [REDACTED] was not a high school student, was not enrolled at Astronaut High School, and was not eligible to participate.

6. On or about December 7, 2007, the Astronaut High School wrestling team participated in a tournament at Eau Gallie High School. The Respondent again authorized [REDACTED] to pretend to be [REDACTED] and to wrestle in his place.

7. The Respondent knew that allowing [REDACTED] to participate under the circumstances described above was a violation of Florida High School Athletic Association (FHSAA) rules, and was an ethical violation.

8. The Respondent told [REDACTED] not to tell anyone about being allowed to wrestle in place of [REDACTED] because it was a violation, and the violation could cost the Respondent his job.

9. As a result of the Respondent's violation, the FHSAA fined the high school, and the school district terminated the Respondent's employment.

The Petitioner charges:

#### STATUTE VIOLATIONS

**COUNT 1:** The Respondent is in violation of Section 1012.795(1)(g), 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 2:** The Respondent is in violation of Section 1012.795(1)(j), Florida Statutes, in that Respondent has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

#### RULE VIOLATIONS

**COUNT 3:** The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(3)(a), Florida Administrative Code, in that Respondent has failed to make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental health and/or physical health and/or safety.

**COUNT 4:** The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(3)(d), Florida Administrative Code, in that Respondent has intentionally suppressed or distorted subject matter relevant to a student's academic program.

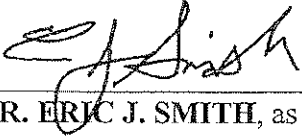
**COUNT 5:** The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(3)(e), Florida Administrative Code, in that Respondent has intentionally exposed a student to unnecessary embarrassment or disparagement.

**COUNT 6:** The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(4)(b), Florida Administrative Code, in that Respondent has intentionally distorted or misrepresented facts concerning an educational matter in direct or indirect public expression.

**COUNT 7:** The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(5)(a), Florida Administrative Code, in that Respondent has failed to maintain honesty in all professional dealings.

**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 28<sup>th</sup> day of May, 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

October 22, 2009

John Hackney  
4740 Springfield Avenue  
Mims, Florida 32754

Re: Dr. Eric J. Smith vs. John Hackney  
EPC No.: 09-0406-RT; DOE No.: 653403

Dear Mr. Hackney:

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 cursive script that reads "Dennis J. Griffin".

Dennis J. Griffin  
Presiding Officer