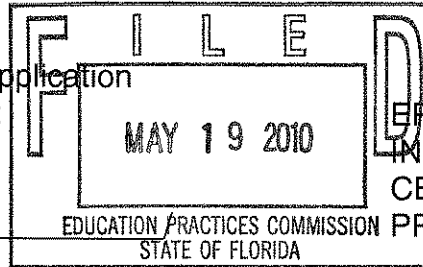




Before the Education Practices Commission of the State of Florida

IN RE The Denial of the Application
for Teacher's Certificate of:

JOHN HENRY HOLMES



EPC CASE N^o 10-0078-D
INDEX N^o 10-170-AS
CERTIFICATE:1128723
PPS N^o 090-1255-LA

Final Order

John Henry Holmes, applied for a Florida educator's certificate and that application was denied. The Commissioner of Education has filed a Notice of Reasons stating the reasons for denial of the certificate.

Applicant and the Commissioner of Education have entered into a Settlement Agreement for resolution of this cause. The Settlement Agreement and the Notice of Reasons are attached to and made a part of this Final Order.

A Teacher Panel of the Education Practices Commission met on May 14, 2010, 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 with the Clerk of the Commission.

DONE AND ORDERED, this 14th day of May, 2010.

A handwritten signature in cursive script that reads "Brian T. Donovan".
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

DOE Counsel for PPS

Daniel Biggins
Assistant Attorney General

Recovery Network Program

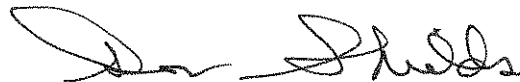
Probation Office

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 John Henry Holmes, [REDACTED] Cocoa, Florida 32922, by Certified U.S. Mail this 19TH day of May, 2010.



DON SHIELDS
Education Practices Commission

STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION

In re: The Denial of the
Application for Teacher's
Certificate of:

CASE NO. 090-1255-LA

JOHN HENRY HOLMES.

SETTLEMENT AGREEMENT

Petitioner, JOHN HENRY HOLMES, and Respondent, the Commissioner of Education, hereby stipulate and agree as follows:

1. **Application.** Petitioner applied for a Florida educator's certificate, which Respondent denied by Notice of Reasons previously filed herein.
2. **Allegations.** Petitioner neither admits nor denies, but elects not to contest the allegations set forth in Respondent's Notice of Reasons, which are incorporated herein by reference.
3. **Certificate.** Respondent agrees to issue a certificate to Petitioner for which he is otherwise qualified, subject to the restrictions and conditions set forth in this Settlement Agreement.
4. **Letter of Reprimand.** Petitioner 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.** Petitioner agrees that he shall be placed on probation for a period of two (2) employment years. If Petitioner 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 Petitioner 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 Petitioner's employment is interrupted for any reason prior to the expiration of probation, the probation shall be tolled until Petitioner resumes employment in a position requiring a Florida educator's certificate. As conditions of probation, Petitioner:

a. shall immediately contact the Office of Professional Practices Services (PPS) 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, Petitioner shall contact the PPS within ten (10) days of the issuance of the Final Order accepting this Settlement Agreement and Petitioner shall provide the PPS 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 submit to periodic substance abuse testing (costs to be borne by Petitioner). If the test results indicate a need for a substance abuse evaluation, or if Petitioner receives any new charges involving substance abuse, Petitioner agrees to submit within thirty (30) days of notification by the Recovery Network Program (RNP) to an evaluation by a substance abuse counselor or other qualified provider approved by the RNP. Petitioner also agrees that subsequent to the evaluation, he will continue to attend counseling if recommended, and follow all courses of treatment (costs to be borne by Petitioner). Petitioner also agrees to direct reporting of the RNP evaluation and other results to his employer;

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.** Petitioner agrees to pay a fine in the amount of \$500.00 to the EPC within the first year of the probationary period.

7. **Violation.** In the event Petitioner fails to comply with each condition set forth herein, he agrees that Respondent 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.** Petitioner 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 Petitioner

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.

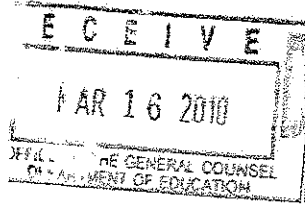
10. **Notice of "Three Strikes" Provision.** Petitioner is hereby put on notice that Section 1012.795(6)(b), Florida Statutes (2004), provides for permanent revocation of an educator's certificate under certain circumstances when the educator's certificate has been sanctioned by the Education Practices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

11. **Waiver of Rights.** Petitioner 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. Petitioner 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. Petitioner 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 Notice of Reasons if, in the exercise of its discretion, it deems such action to be appropriate.

13. **Notice.** Petitioner 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 Petitioner is given reasonable advanced notice of time, place and date of said meeting.

(SIGNATURES AND NOTARIZATION ON FOLLOWING PAGE)



JOHN HENRY HOLMES
Settlement Agreement
Page 4 of 4

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on this
10 day of mar, 2010.




JOHN HENRY HOLMES

STATE OF FLORIDA
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 10 day of
march, 2010, by John Henry Holmes,
who is personally known or produced _____
as identification [type of identification produced].





NOTARY PUBLIC
My commission expires:



BRADFORD C. HERTER

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 RESPONDENT

STATE OF FLORIDA
DEPARTMENT OF EDUCATION

IN RE: The Denial of the
Application for Teacher's
Certificate of:

CASE NO. 090-1255-LA

JOHN HENRY HOLMES.

NOTICE OF REASONS

JOHN HENRY HOLMES, [REDACTED] Cocoa, Florida 32922, Department of Education Number 1128723, having filed his application for a Florida Educator's Certificate before the Department of Education;

The Department of Education having reviewed the application in accordance with Sections 1012.315, 1012.56, 1012.795 and 1012.796, Florida Statutes, has determined that JOHN HENRY HOLMES is not entitled to the issuance of a Florida Educator's Certificate, accordingly; and

The Department of Education files and serves upon the Applicant, JOHN HENRY HOLMES, its Notice of Reasons for its denial in accordance with the provisions of Section 120.60, Florida Statutes.

The Department of Education alleges:

1. On or about February 6, 2008, in Monongalia County, West Virginia, Applicant was found to be in possession of a controlled substance, Marijuana. Applicant was arrested and charged with Possession of a Controlled Substance, Marijuana.
2. On or about June 24, 2008, in Monongalia County, West Virginia, Applicant plead guilty to the charge and received a suspended sentence and two years of probation. The terms of probation included community service, random drug testing, and payment of \$20 per month of probation to the County Clerk's office.
3. The Applicant 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.

The Department of Education charges:

STATUTE VIOLATIONS

COUNT 1: The Applicant is in violation of Section 1012.56(2)(e), Florida Statutes, which requires that the holder of a Florida Educator's Certificate be of good moral character.

COUNT 2: The Applicant is in violation of Section 1012.56(12)(a), Florida Statutes, which provides that the Department of Education may deny an Applicant a certificate if the department possesses evidence satisfactory to it that the Applicant has committed an act or acts, or that a situation exists for which the Education Practices Commission would be authorized to revoke a teaching certificate.

COUNT 3: The Applicant is in violation of Section 1012.795(1)(d), Florida Statutes, in that he has been guilty of gross immorality or an act involving moral turpitude as defined by rule of the State Board of Education.

COUNT 4: The Applicant is in violation of Section 1012.795(1)(f), Florida Statutes, in that the Applicant has been convicted or found guilty of, or entered a plea of guilty to, regardless of adjudication of guilt, a misdemeanor, felony, or any other criminal charge, other than a minor traffic violation.

(SIGNATURE ON FOLLOWING PAGE)

WHEREFORE, the undersigned concludes that the Applicant has committed an act or acts, or that a situation exists, which would authorize the Education Practices Commission to revoke or impose other sanctions against an educator's certificate. 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 Notice of Reasons, the undersigned respectfully recommends that the Education Practices Commission impose an appropriate sanction against the Applicant's application or educator's certificate pursuant to the authority provided in Sections 1012.56(11), 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: affirming the Department of Education's denial of the issuance of an educator's certificate to the Applicant for any period of time or permanently; issuing the Applicant a written reprimand; placing the Applicant on probation for any period of time; restricting the Applicant's authorized scope of practice; assessing the Applicant an administrative fine; directing the Applicant to enroll in the Recovery Network Program; suspending the Applicant's educator's certificate for a period of time not to exceed five years; revoking the Applicant's educator's certificate for a period of time up to 10 years or permanently; determining the Applicant to be ineligible for certification; or barring the Applicant from reapplying for an educator's certificate for a period of time up to 10 years or permanently.

EXECUTED on this 22nd day of January, 2010.



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



EDUCATION PRACTICES COMMISSION
STATE OF FLORIDA

KATHLEEN RICHARDS
Executive Director

BRIAN T. DONOVAN
Chairperson

DANIEL BIGGINS
Assistant Attorney General

DANE GILBERT
Co-Chairperson

May 14, 2010

John Holmes
[REDACTED]

Cocoa, Florida 32922

Re: John Holmes vs. Dr. Eric J. Smith
EPC No.: 10-0078-D; DOE No.: 1128723

Dear Mr. Holmes:

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 "Brian T. Donovan".

Brian T. Donovan
Presiding Officer