



*Before the Education Practices Commission of
the State of Florida*

Final Order

TOM GALLAGHER, as
Commissioner of Education,

Petitioner,

vs.

DONALD PHARIS,

Respondent.

FILE

SEP 15 1999

EPC CASE NO. 99-086-D

EPC INDEX NO. 99- 212 AS

Respondent, DONALD PHARIS, holds Florida educator's certificate no. 247319.

Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the license.

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 August 20, 1999, in Tampa, 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 takes effect upon filing.

Final Order
Donald Pharis
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This Order may be appealed by filing notices of appeal and a filing fee, as set out in Section 120-68(2), F.S., and Florida Rule of Appellate Procedure 9.110(b) and (c), within thirty days of the date of filing.

DONE AND ORDERED, this 10th day of September, 1999.

COPIES FURNISHED TO:

Jerry Whitmore, Program Director
Professional Practices Services

Peggy Wolfe
Peggy Wolfe, Presiding Officer

Florida Admin. Law Reports

Bureau of Teacher Certification

Dr. David Sawyer, Supt.
Brevard County Schools
2700 St. Johns St.
Melbourne, FL 32940-6800

I HEREBY CERTIFY that a copy of the foregoing Order in the matter of Gallagher vs. Donald Pharis, was mailed to Donald Pharis, 222 Preston Lane, Melbourne, FL 32935, this 15th day of September 1999, by U.S. Mail.

Leroy Berry, Asst. Supt.
Human Resources
Brevard County Schools

Kathleen M. Richards
KATHLEEN M. RICHARDS, Clerk

Carl Zahner
Attorney at Law
1701 The Capitol
Tallahassee, FL 32399

Recovery Network Program
for Educators
325 W. Gaines St., Suite 224-D
Tallahassee, FL 32399
(850) 922-9733

Donald Pharis, Reg. and Cert.



KATHLEEN M. RICHARDS
Executive Director

RIVERS BUFORD, JR.
Counsel

**EDUCATION PRACTICES COMMISSION
STATE OF FLORIDA**

COMMISSION MEMBERS

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GRACE WILLIAMS
ROY BROOKS
RENIER DIAZ DE LA PORTILLA

August 20, 1999

Donald Pharis
222 Preston Lane
Melbourne, Florida 32935

RE: Tom Gallagher vs. Donald Pharis
EPC File No.: 99-086-RT, Social Security #: [REDACTED]

Dear Mr. Pharis:

The teacher panel of the Education Practices Commission, as you know, reviewed the matter pending against you on August 20, 1999. 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. Your actions cannot be condoned by the profession nor by 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 responsibility 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 sent to the Brevard County School Board for placement in your personnel file.

Sincerely,

A handwritten signature in cursive script that reads "Peggy Wolfe".

Margaret (Peggy) Wolfe,
Presiding Officer

MW/le

STATE OF FLORIDA
EDUCATION PRACTICES
COMMISSION
93 JUN -2 AM 8:08

**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

**TOM GALLAGHER, as Commissioner
of Education,**

Petitioner,

vs.

CASE NO. 978-2820-M

DONALD PHARIS,

Respondent.

_____ /

SETTLEMENT AGREEMENT

COME NOW the Petitioner and the Respondent, who hereby stipulate and agree as follows:

1. The Respondent holds Florida teaching certificate 247319 issued by the Florida Department of Education covering the areas of administration, supervision and physical education which is valid through June 30, 2002.
2. At all times pertinent hereto, the Respondent was employed as a physical education teacher at Suntree Elementary School, in the Brevard County School District.
3. The Respondent neither admits nor denies, but elects not to contest the allegations set forth in the Petitioner's Administrative Complaint, which are incorporated herein by reference.
4. The 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.

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Donald Pharis
Settlement Agreement
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5. The Respondent agrees, prior to employment or certification as an educator, or within thirty days of the issuance of the Final Order accepting this settlement agreement, whichever occurs later, to submit to an evaluation by a substance abuse counselor approved by the Recovery Network Program and undergo all recommended courses of treatment. Respondent shall submit written verification of successful completion of treatment. Or in the alternative, Respondent may submit to the EPC, proof of an evaluation, since the October 1997 incident, if the evaluation is deemed acceptable by the Recovery Network Program. All costs are to be borne by Respondent.

6. The Respondent agrees that he shall be placed on probation for a period of 2 years, commencing upon the issuance of the Final Order by the Education Practices Commission [EPC] accepting this settlement agreement if the Respondent is currently employed as an educator in Florida. If the Respondent is not currently employed as an educator in Florida, the probationary period shall commence upon his reemployment as an educator in Florida. In the event that the Respondent's employment in the teaching profession is interrupted for any reason prior to the expiration of the probationary period, the probationary period shall be tolled until such time as the Respondent resumes employment as an educator in Florida. As conditions of probation, the Respondent shall:

(a) immediately contact the EPC upon any reemployment in the teaching profession within Florida [or if employed as an educator in Florida, shall contact the EPC within 10 days of the issuance of the Final Order accepting this Settlement Agreement], indicating the name and address of the school, as well as the name, address and telephone number of his immediate supervisor;

(b) 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 10 days of its preparation;

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

(d) submit to random blood and/or urine testing at the direction of the Education Practices Commission, the director of the Recovery Network Program, or the employing school district;

(e) agrees to have the scope of his employment restricted to not transporting students;

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

(g) satisfactorily perform his assigned duties in a competent, professional manner.

7. In the event the Respondent fails to comply with each condition of probation set forth herein, the Respondent agrees that the Petitioner shall be authorized to file an Administrative Complaint for sanctions up to and including the revocation of his teaching certificate based upon the violation of the terms of this agreement.

8. The parties acknowledge and the Respondent agrees that any costs associated with the fulfillment of the terms of this agreement and the terms of the Respondent's probation, including the statutory \$150.00 per year EPC monitoring fee, shall be the sole responsibility of the Respondent. It is provided that the probation monitoring fee shall be held in abeyance if the Respondent is not employed as an educator pursuant to the terms of probation above.

9. This agreement shall be void and shall have no force or effect unless signed by all parties and accepted by the EPC.

10. This agreement constitutes an offer of settlement of disputed issues of material fact until accepted and executed by all parties. If this agreement is not accepted and executed by all parties, the terms hereof shall be inadmissible in any subsequent formal or informal administrative hearing or in any other legal action between the parties.

11. The Respondent understands the provisions of this agreement, their legal effect and his rights under Florida law to a formal hearing before a hearing officer at the Division of Administrative Hearings or an informal hearing before the EPC. The Respondent specifically waives his right to both a formal and informal hearing, except he may appear before the EPC in order to urge the adoption of this agreement. The Respondent further acknowledges that he is under no duress, coercion or undue influence in signing this agreement, and that he has had the opportunity to receive the advice of legal counsel prior to signing this agreement.

12. The agreement shall be submitted to the EPC with the joint request by the parties that the EPC accept and adopt the terms of this agreement as the basis for its Final Order in this proceeding. The parties understand that the EPC has the discretion to reject this 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.

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13. The Respondent waives all statutory and regulatory provisions concerning notice of hearing and agrees that this agreement may be presented to the EPC for consideration at its next regularly scheduled meeting, provided that the Respondent is given reasonable advance notice of the time, place and date of said meeting.

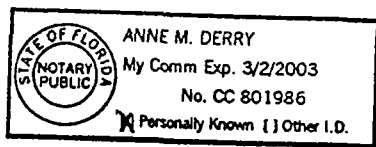
IN WITNESS WHEREOF, the parties have executed this agreement on this

25 day of May, 1999.

Donald Pharis
DONALD PHARIS
RESPONDENT

STATE OF FLORIDA
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 25th day of May, 1999, by Donald Pharis, who is personally known or produced N/A as identification [type of identification produced].



Anne M. Derry
NOTARY PUBLIC
My commission expires:

Barbara J. Stavos, for
CARL J. ZAHNER, II
Department of Education
Suite 1701, The Capitol
Tallahassee, Florida 32399-0400
(850) 922-7095
ATTORNEY FOR PETITIONER

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**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

**TOM GALLAGHER, as
Commissioner of Education,**

Petitioner,

vs.

CASE NO. 978-2820-M

DONALD J. PHARIS

Respondent.

_____ /

AMENDED ADMINISTRATIVE COMPLAINT

Petitioner, TOM GALLAGHER, as Commissioner of Education, files this Administrative Complaint against Donald J. Pharis. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to Sections 231.262 and 231.28, 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 231.262(6) and 231.28(1), Florida Statutes.

The Petitioner alleges:

JURISDICTION

1. The Respondent holds Florida Educator's Certificate 247319, covering the areas of Administration, Supervision and Physical Education, which is valid through June 30, 2002.
2. At all times pertinent hereto, the Respondent was employed as a Physical Education teacher at Suntree Elementary School, in the Brevard County School District.

MATERIAL ALLEGATIONS

3. On or about January 1991, Respondent operated his vehicle while he was intoxicated. Respondent was arrested and charged with Reckless Driving. On or about January 25, 1991, Respondent pled Guilty and was adjudicated guilty by the court. Respondent was sentenced to 6 months probation, to pay fines and costs and required to attend the "Counter Attack" Program.
4. On or about October 25, 1997, Respondent operated his vehicle while he was intoxicated and was involved in an accident where there was vehicle damage. Respondent was arrested and charged with Driving Under the Influence and Driving Under the Influence Resulting in

Property Damage. On or about April 24, 1998, Respondent pled Guilty to a lesser charge of Reckless Driving and was adjudicated guilty. Respondent was sentenced to 9 months probation, to pay court costs, DUI school, 75 hours of community service and participate in the Victim Awareness Program.

STATUTORY VIOLATIONS

COUNT 1: The allegations of misconduct set forth herein are in violation of Section 231.28(1)(c), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude.

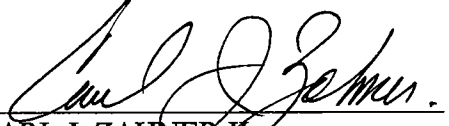
COUNT 2: The allegations of misconduct set forth herein are in violation of Section 231.28(1)(e), Florida Statutes, in that Respondent has been convicted of a misdemeanor, felony, or other criminal charge, other than a minor traffic violation.

COUNT 3: Section 231.28(2), Florida Statutes, provides that the plea of guilty in any court or a decision of guilty by any court is prima facie proof of grounds for the revocation of the certificate.

WHEREFORE, the Petitioner recommends that the Education Practices Commission impose an appropriate penalty pursuant to the authority provided in Sections 231.262(6) and 231.28(1), Florida Statutes, which penalty may include a reprimand, probation, restriction of the authorized scope of practice, administrative fine, suspension of the teaching certificate not to exceed three years, permanent revocation of the teaching certificate, or combination thereof, for the reasons set forth herein, and in accordance with the Explanation and Election of Rights forms which are attached hereto and made a part hereof by reference.

EXECUTED on this 11th day of February, 1999.

TOM GALLAGHER, as
Commissioner of Education,
State of Florida


CARL J. ZAHNER II
Counsel
Professional Practices Services