



State of Vermont
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Agency of Education

September 26, 2018

Mario Macias

Essex Junction, Vermont 05452

Dear Mr. Macias:

Please see the enclosed materials.

Sincerely,

Emily Simmons, Agency of Education
Assistant Attorney General

Cc: Francisco Guzman, Esq.

Yaw Obeng, Burlington School District, Superintendent



STATE OF VERMONT
AGENCY OF EDUCATION

In Re: LI-17-253 (Mario Macias)

SUPPLEMENTAL FORMAL CHARGE AND AMENDED RECOMMENDATION

Supplemental Charge

By authority of State of Vermont pursuant to 16 V.S.A. §1701(b) the Secretary of Education charges Licensee with unprofessional conduct in violation of 16 V.S.A. §1698, to wit:

Count 7

Mario Macias, Licensee, while employed as the Guidance Director for Burlington High School in the Burlington School District, inappropriately engaged a student witness in a discussion of the licensing charges against him, in a manner that he should have known would cause the student severe emotional distress. The student did experience severe emotional distress because of Licensee's conduct, and together this conduct is a single egregious act of willful misconduct in violation of duties and obligation of the position in violation of 16 V.S.A. §1698(1)(E).

Secretary's Amended Recommendation

The Secretary of Education hereby recommends that the Vermont Educator License of Mario Macias be REVOKED.

DATED: September 26, 2018



Daniel M. French, Ed.D.
Secretary of Education

STATE OF VERMONT
AGENCY OF EDUCATION

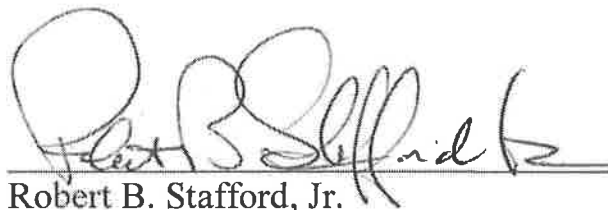
In Re: LI-17-253

AFFIDAVIT

NOW COMES Investigator Robert B. Stafford, Jr., affiant, deposes on oath and states he has reasonable cause to believe Licensee Mario Macias engaged in unprofessional conduct as follows:

1. Mario Macias discussed the charges against him with a student witness. Macias shared the charge with the student and requested that the student make a statement in his defense. The discussion caused the student severe emotional distress.

Further your affiant sayeth not.



Robert B. Stafford, Jr.
Investigator, Agency of Education

Subscribed and sworn to before me on this 25 date of September, 2018.



Notary Public

Comon. exp. 2/10/19

STATE OF VERMONT
AGENCY OF EDUCATION

In re: Case # LI-17-253 (Mario Macias)

NOTICE OF HEARING AND
PROCEDURAL RIGHTS NOTICE

Notice to Licensee:

The Secretary of Education has filed formal charges against you for unprofessional conduct with the hearing panel administrative officer. The hearing panel administrative officer will appoint a hearing officer and a hearing panel, as well as the chair of the hearing panel. The chair of the hearing panel will fix the time and date of the hearing which will be conducted between 30 and 60 days from the date of filing. The hearing officer will hear the case and issue recommended findings of fact, conclusions of law and a proposed decision for the hearing panel. You have certain procedural rights which include the following:

1. You have a right to file a written response to the formal charges with the chair of the hearing panel within 20 days of service of the charges;
2. You have the right to appear personally in the administrative proceeding before the hearing officer;
3. You have the right to be represented by counsel during the conduct of the proceedings;
4. You have the right to produce witnesses and evidence;
5. You have the right to cross-examine witnesses called by the Agency of Education;
6. You have the right to examine documentary evidence as may be produced by the Agency of Education in this proceeding; and
7. You have the right to be informed of the range of actions to which you are subject if the charges are substantiated.

VERMONT **GENERAL ASSEMBLY****The Vermont Statutes Online****Title 16 : Education****Chapter 051 : PROFESSIONAL EDUCATORS**

(Cite as: 16 V.S.A. § 1701)

§ 1701. Secretary's determination

(a) Matters involving denial of licensure. With respect to an applicant's appeal, the Secretary shall, within 10 days of receiving the committee's recommendation, affirm or reverse the licensing decision and notify the applicant in writing. If the Secretary reverses the decision, the office shall issue a license accordingly. If the Secretary affirms the decision, the applicant may appeal by notifying the Secretary in writing within 10 days of receiving the Secretary's decision. The Secretary shall notify the hearing panel administrative officer of the appeal.

(b) Matters involving alleged unprofessional conduct or incompetence. With respect to a licensee alleged either incompetent or to have engaged in unprofessional conduct, the Secretary shall, within 10 days of receiving the investigation committee's recommendation, determine whether to issue a formal charge and what, if any, licensing action should be imposed. If the Secretary determines no formal charge is warranted, the Secretary shall notify in writing the licensee and, if the licensee is employed, the superintendent of the school district of employment. If the Secretary determines a formal charge is warranted, the Secretary shall prepare a formal charge, file it with the hearing panel administrative officer, and cause a copy to be served upon the licensee charged together with a notice of hearing and procedural rights, as provided in this chapter. The Secretary shall provide a copy of the formal charge to the superintendent of the school district, if any, in which the licensee is employed, or if the licensee is employed as a superintendent, to the chair of the supervisory union that employs the superintendent, provided the superintendent or board chair agrees to maintain the confidentiality and privileged status of the information as provided in subsection 1708(d) of this title. If the Secretary finds that public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in the formal charge, the hearing panel may order summary suspension of a license pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. (Added 2005, No. 214 (Adj. Sess.), § 2, eff. July 1, 2007; amended 2013, No. 92 (Adj. Sess.), § 166, eff. Feb. 14, 2014.)

VERMONT **GENERAL ASSEMBLY****The Vermont Statutes Online****Title 16 : Education****Chapter 051 : PROFESSIONAL EDUCATORS**

(Cite as: 16 V.S.A. § 1703)

§ 1703. Time and notice of hearing

The chair of the panel shall fix the time of hearing, which shall be between 30 and 60 days after, as applicable, filing of the license application appeal or service of the charge on the licensee. The chair shall provide the applicant or licensee notice of the hearing, in it stating the following: the time and place of the hearing; the right of the applicant or licensee charged to file with the chair a written response within 20 days of the date of service; the fact that a record of the proceeding will be kept; the rights of the applicant or licensee charged at the hearing to appear personally, to be represented by counsel, to produce witnesses and evidence, to cross-examine witnesses, and to examine such documentary evidence as may be produced; and, in the case of formal charges against the licensee, the range of licensing actions to which the licensee charged may be subject if the formal charges are substantiated. (Added 2005, No. 214 (Adj. Sess.), § 2, eff. July 1, 2007.)

VERMONT GENERAL ASSEMBLY

The Vermont Statutes Online**Title 16 : Education****Chapter 051 : PROFESSIONAL EDUCATORS**

(Cite as: 16 V.S.A. § 1704)

§ 1704. Burden of proof

(a) Denial of licensure. Except as provided in subsection (b) of this section, the burden of proof in matters involving the denial of an initial license or the addition of an endorsement to a license once issued shall be on the applicant by a preponderance of the evidence.

(b) Alleged unprofessional conduct or incompetence. The burden of proof in matters involving alleged unprofessional conduct or incompetence, including denial of a license based on alleged unprofessional conduct or incompetence, shall be on the Secretary by a preponderance of the evidence, except that in the case of revocation or suspension for more than one year, the proof shall be by clear and convincing evidence. (Added 2005, No. 214 (Adj. Sess.), § 2, eff. July 1, 2007; amended 2013, No. 92 (Adj. Sess.), § 168, eff. Feb. 14, 2014.)

VERMONT **GENERAL ASSEMBLY**

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Title 16 : Education

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(Cite as: 16 V.S.A. § 1705)

§ 1705. Hearing officer recommendation

The hearing officer shall conduct the hearing for the purpose of issuing recommended findings of fact, conclusions of law, and a proposed decision to the hearing panel. The hearing officer may administer oaths and otherwise exercise the powers of a judicial officer regarding the conduct of a fair and impartial hearing. Within 30 days of the hearing, the hearing officer shall recommend to the hearing panel findings of fact, conclusions of law, and a decision and by certified mail provide a copy to the applicant or licensee. (Added 2005, No. 214 (Adj. Sess.), § 2.; eff. July 1, 2007.)

VERMONT **GENERAL ASSEMBLY****The Vermont Statutes Online****Title 16 : Education****Chapter 051 : PROFESSIONAL EDUCATORS**

(Cite as: 16 V.S.A. § 1706)

§ 1706. Decision and order

(a) Hearing panel decision. The hearing panel may take additional evidence and may accept, reject, or modify the recommendations of the hearing officer and shall issue findings of fact, conclusions of law, and an order within 30 days of receiving the recommendations, unless the hearing panel grants an extension for good cause. The hearing panel shall provide a copy of the decision to the Secretary and, by certified mail, the applicant or licensee charged. If formal charges are not substantiated, the hearing panel shall include in its order a statement that the charges were not substantiated by the evidence, and it shall dismiss the charges.

(b) Charges substantiated. If formal charges are substantiated, the hearing panel, in its order, may: take no action; issue a warning; issue a private reprimand; issue a public reprimand; or condition, limit, suspend, or revoke the license to practice. An administrative penalty not to exceed \$1,000.00 may be imposed by itself or in connection with the issuance of a warning or of a private or public reprimand. (Added 2005, No. 214 (Adj. Sess.), § 2,; eff. July 1, 2007; amended 2013, No. 92 (Adj. Sess.), § 169, eff. Feb. 14, 2014.)

The Vermont Statutes Online

Title 16: Education

Chapter 51: PROFESSIONAL EDUCATORS

16 V.S.A. § 1707. Appeal from panel order

§ 1707. Appeal from panel order

(a) Appeal to state board of education.

(1) A party aggrieved by a final decision of a hearing panel may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the administrative officer of the hearing panel who shall refer the case to the state board of education. The parties may agree to waive this review by written stipulation filed with the state board of education. The state board of education shall conduct its review on the basis of the record created before the hearing panel, and it shall allow the presentation of evidence regarding alleged irregularities in hearing procedure not shown in the record.

(2) The state board of education shall not substitute its judgment for that of the hearing panel as to the weight of the evidence on questions of fact. It may affirm the decision or may reverse and remand the matter with recommendations if substantial rights of the appellant have been prejudiced because the hearing panel's finding, inferences, conclusions, or decisions are:

(A) in violation of constitutional or statutory provisions;

(B) in excess of the statutory authority of the hearing panel;

(C) made upon unlawful procedure;

(D) affected by other error of law;

(E) clearly erroneous in view of the evidence on the record as a whole;

(F) arbitrary or capricious; or

(G) characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(b) Following appeal or waiver of appeal to the state board of education, a party may appeal to the superior court in Washington County which shall review the matter de novo. (Added 2005, No. 214 (Adj. Sess.), § 2,; eff. July 1, 2007.)