

BEFORE THE TEACHER STANDARDS AND PRACTICES COMMISSION  
OF THE STATE OF OREGON

In the Matter of the	)	
Charter School Registration of	)	FINAL ORDER
	)	
DEBORAH YVONNE WALDEN	)	Office of Administrative
	)	Hearings Case No. 116191

On September 2, 2004, Administrative Law Judge Catherine P. Coburn issued a Proposed Order in this case.

The Teacher Standards and Practices Commission adopts the Findings of Fact, Conclusions of Law and sanction contained in the attached Proposed Order.

ORDER

The Commission adopts the Proposed Order and denies Deborah Walden's application for Charter School registration.

Dated this 7 day of October 2004.

TEACHER STANDARDS AND PRACTICES COMMISSION

By: Victoria Chamberlain  
Victoria Chamberlain, Executive Director

NOTICE: If you are dissatisfied with this Order you may not appeal it until you have asked the agency to rehear the case or to reconsider the Order. To obtain agency rehearing or reconsideration you must file a petition for rehearing or reconsideration pursuant to OAR 584-019-0045 within 60 days from the day this Order was served on you. If this Order was personally delivered to you, the date of service is the day you received the Order. If this Order was mailed to you, the date of service was the day it was *mailed*, not the day you received it. If you do not file a petition for rehearing or reconsideration within the time limits provided, you will lose your opportunity for

rehearing or reconsideration and you will lose your right to appeal to the Oregon Court of Appeals.

If, after you have filed a petition for rehearing or reconsideration, the agency issues an Order that you are dissatisfied with, you have a right to appeal that Order to the Oregon Court of Appeals pursuant to ORS 183.482.

If, 60 days after you have filed a petition for rehearing or reconsideration, the agency has not issued an Order, your petition will be considered denied and at that time you will have the right to appeal the original Order to the Oregon Court of Appeals pursuant to ORS 183.480 and ORS 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days from the day that your petition for rehearing or reconsideration is deemed denied. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF OREGON  
for the  
TEACHER STANDARD AND PRACTICES COMMISSION**

In the Matter of the Charter School	)	OAH Case No.: 116191
Registration of	)	DOJ File No.: 584001-GE0088-04
Deborah Yvonne Walden	)	
	)	
TEACHER STANDARDS	)	
AND PRACTICES COMMISSION	)	<b>PROPOSED ORDER</b>
	)	
v.	)	
	)	
DEBORAH YVONNE WALDEN	)	

On June 18, 2004, the Teacher Standards and Practices Commission (Commission) filed a Motion for Ruling on Legal Issues (Summary Judgment) moving for a proposed order denying the Charter School Registration Application of Deborah Yvonne Walden (Applicant) on grounds that there is no genuine issue as to any material fact, and the Commission is entitled to a ruling to this effect as a matter of law. The motion is based on OAR 137-003-0580 and supported by an affidavit and exhibits. On May 21, 2004, the Commission referred the matter to the Office of Administrative Hearings. On August 25, 2004, Administrative Law Judge Catherine P. Coburn conducted a pre-hearing telephone conference to give Applicant an opportunity to be heard on the motion. Assistant Attorney General Joe Gordon McKeever represented the Commission. Applicant appeared without benefit of counsel and does not contest the facts asserted in the motion and supporting documents.

**ISSUES**

- (1) Whether Applicant was convicted of a crime that requires the Commission to deny her application for Charter School Registration under ORS 342.175.
- (2) Whether there is an issue of material fact that is relevant to the resolution of the legal issues in this case.
- (3) Whether the Commission is required to deny Applicant's application for Charter School Registration.

**EVIDENTIARY RULINGS**

The evidentiary record consists of the Commission's Exhibits A through E and the affidavit of Joe Gordon McKeever, Assistant Attorney General.

## FINDINGS OF FACT

- (1) Applicant has applied for Charter School Registration. (Affidavit of McKeever.)
- (2) Applicant, Deborah Yvonne Walden, and Brenda Meyers are the same person. (Exhibit C.)
- (3) In 1975, 1976 and 1978, Brenda Meyers was convicted of the crime of prostitution in violation of Hawaii Revised Statute 712.1200(1). (Exs. A, B and C.)

## CONCLUSIONS OF LAW

- (1) Applicant was convicted of a crime that requires the Commission to deny her application for Charter School Registration under ORS 342.175.
- (2) There is no issue of material fact that is relevant to the resolution of the legal issues in this case.
- (3) The Commission is required to deny Applicant's application for Charter School Registration.

## OPINION

### Grounds for Denial of Application

ORS 342.175(2) provides:

Notwithstanding ORS 670.280,<sup>1</sup> the Commission shall

**<sup>1</sup> 670.280 Denial, suspension or revocation of license based on criminal conviction; denial of license or imposition of discipline for conduct substantially related to fitness and ability of applicant or licensee.** (1) As used in this section:

(a) "License" includes a registration, certification or permit.

(b) "Licensee" includes a registrant or a holder of a certification or permit.

(2) Except as provided in ORS 342.143 or 342.175, a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license.

(3) A licensing board, commission or agency may deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards.

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revoke any license or registration and shall revoke the right of any person to apply for a license or registration if the person has held a license or registration at any time within five years prior to issuance of the notice or charges under ORS 342.143(3).

ORS 167.700 (prostitution) is one of the crimes described in ORS 342.143(3)(a)(A). ORS 342.143(3)(a)(C) further includes conviction of a crime that is substantially equivalent to any of the crimes listed in subparagraph ORS 342.143(1)(a)(A).

#### Applicant's Conviction

The record establishes that Brenda Myers, who is the same person as Applicant, was convicted of the crime of prostitution in violation of Hawaii Revised Statute 712.1200(1) which provides:

A person commits the offense of prostitution if the person engages in, or agrees or offers to engage in, sexual conduct with another person for a fee.

ORS 167.007 provides:

- (1) A person commits the crime of prostitution if:
  - (a) The person engages in or offers or agrees to engage in sexual conduct or sexual contact in return for a fee;

Hawaii Revised Statute 712.1200(1) is substantially similar to ORS 167.007. The wording of the statutes is such that the Oregon statute would cover any situation that is covered by Hawaii Revised Statute 712.1200(1). Therefore, I find that Applicant was convicted in the State of Hawaii of a crime that is substantially equivalent to ORS 167.007.

#### Legal Standard for Motions for Ruling on Legal Issues

OAR 137-003-0580 provides in pertinent part:

- (6) The hearing officer shall grant the motion for a legal ruling if:
  - (a) The pleadings, affidavits, supporting documents (including any interrogatories or admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

ORS 342.175(2) is mandatory; the agency is required to deny Applicant's application for Charter School Registration based on her convictions for prostitution.<sup>2</sup> Applicant does not deny that she is the same person as Brenda Myers who was convicted of prostitution. Thus, there is no issue as to any material fact that is relevant to the resolution of the legal issue in this case. Therefore, the Commission is entitled to a favorable ruling as a matter of law.

### **RULING**

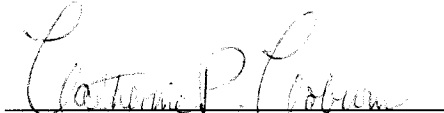
The Commission's Motion for Ruling on Legal Issues (Summary Judgment) is granted.

### **PROPOSED ORDER**

I propose that the Teachers Standards and Practices Commission issue the following order:

Applicant's application for Charter School registration is denied.

Dated this 2<sup>nd</sup> day of September 2004.

  
Catherine P. Coburn  
Administrative Law Judge  
Office of Administrative Hearings

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<sup>2</sup> The five-year provision does not apply because Applicant was not licensed or registered within five years before the convictions.

## EXCEPTIONS

The proposed order is the Administrative Law Judge's recommendation to the Teacher Standards and Practices Commission. If you disagree with any part of this proposed order, you may file written objections, called "exceptions," to the proposed order and present written argument in support of your exceptions. Written argument and exceptions must be filed **within fourteen (14) days after mailing of the proposed order** with the:

Teacher Standard and Practices Commission  
465 Commercial Street, NE  
Salem, Oregon 97301

The Commission need not allow oral argument. The Executive Director may permit oral argument in those cases in which the Director believes oral argument may be appropriate or helpful to the Commissioners in making a final determination. If oral argument is allowed, the Commission will inform you of the time and place for presenting oral argument.