

**MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:**

**March 2014**

**CONSIDERATION TO DISCIPLINE THE  
LICENSE TO TEACH OF CODY EVANS, CASE # HR 14-005**

**STATUTORY AUTHORITY:**

Section 168.071, RSMo

Consent  
Item

Action  
Item

Report  
Item

**DEPARTMENT GOAL NO. 3:**

Missouri will prepare, develop, and support effective educators.

**SUMMARY:**

Mo. Rev. Stat. §168.071 (2013) authorizes the State Board of Education to discipline certificates of license to teach, which includes the authority to resolve issues by consent agreement or agreed settlement or voluntary surrender of the certificate of license. 5 CSR 20-400.230 provides that the state board of education may accept a voluntary surrender or informally settle a case through a consent agreement or agreed settlement.

Cody Evans holds a teaching certificate in the area of social science, grades 9-12, and a substitute certificate which expires August 1, 2014.

On February 21, 2014, a settlement agreement between the Department of Elementary and Secondary Education and Cody Evans was received. The parties have agreed that this settlement agreement should be submitted to the State Board of Education for consideration.

**PRESENTER(S):**

Mark Allan Van Zandt, General Counsel, will participate in the presentation and discussion of this agenda item.

**RECOMMENDATION:**

It is recommended that the State Board of Education accept the statement of settlement submitted by the Department of Elementary and Secondary Education and Mr. Evans and revoke his certificates.

**SETTLEMENT AGREEMENT BETWEEN THE**  
**DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION**  
**AND**  
**CODY EVANS**

Cody Evans (“Evans”) and the Department of Elementary and Secondary Education (“DESE”) enter into this Settlement Agreement for the purpose of resolving the question of whether Evans’ certificates to teach will be subject to discipline. Pursuant to § 168.071.11, RSMo Supp. 2012, the parties hereto waive the right to a hearing before the Missouri State Board of Education (“State Board”) under § 168.071.1, RSMo Supp. 2012. DESE and Evans jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 168.071.11, RSMo Supp. 2012, and 5 CSR 20-400.230(8).

Evans acknowledges that he understands the various rights and privileges afforded him by law, including: (1) the right to a hearing of the charges against him; (2) the right to appear and be represented by legal counsel; (3) the right to have all charges proven upon the record by competent and substantial evidence; (4) the right to cross-examine any witnesses appearing against him at the hearing; (5) the right to present evidence on his behalf at the hearing; (6) the right to a decision upon the record of the hearing before the State Board, the Commissioner of Education, and/or the designee of the Commissioner of Education concerning the charges against him; (7) the right to a ruling on questions of law by the Hearing Officer and/or the State Board; (8) the right to

present evidence in mitigation of discipline; (9) the right to a claim for attorney fees and expenses; and (10) the right to obtain judicial review of the decision of the State Board.

Being aware of these rights provided to him by law, Evans knowingly and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to him.

Evans acknowledges that he has received a copy of documents that were the basis upon which DESE determined there was cause for discipline, along with citations to law and/or regulations DESE believes were violated. Evans stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with DESE that Evans's certificates as a teacher are subject to disciplinary action by the State Board in accordance with the provisions of Chapter 168, RSMo, as amended and 5 CSR 20-400.230.

The parties stipulate and agree that the disciplinary order agreed to by DESE and Evans in Part II herein is based only on the agreement set out in Part I herein. Evans and DESE jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to 5 CSR 20-400.230(8). Evans understands that DESE and/or the State Board may take, or participate in, further disciplinary action against him based on facts or

conduct not specifically mentioned in this document that are either now known to DESE and/or the State Board or may be discovered.

Based upon the foregoing, DESE and Evans herein jointly stipulate to the following findings of fact and conclusions of law, for the purpose of settlement in this matter, and request the State Board to adopt these Joint Findings of Fact and Conclusions of Law as the State Board's Findings of Fact and Conclusions of Law.

### I.

#### **Joint Stipulation of Facts and Conclusions of Law**

1. DESE is an agency of the state of Missouri, created and established pursuant to § 161.020, RSMo 2000, for the purpose of administering and enforcing the provisions of Chapters 161 and 168, RSMo 2000, governing public school personnel, including teachers and others.

2. Evans currently holds a Missouri certificate of license to teach in the area of social science, grades 9-12 (expiring on 8/4/15), and a Missouri substitute certificate of license to teach (expiring on 8/1/14).

3. Evans' Certificates were current and valid at all times relevant to the allegations in this petition.

4. Jurisdiction and venue are proper before the State Board pursuant to § 168.071, RSMo Supp. 2012, and 5 CSR 80-800.300.

5. Section 168.071.1, RSMo Supp. 2012, authorizes the Board to discipline a certificate if there is evidence of incompetence, immorality, or neglect of duty by the certificate holder. Section 168.071, RSMo Supp. 2012, states, in part:

1. The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:

\* \* \*

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder[.]

6. State Regulation 5 CSR 20-400.230, provides, in part:

(1) The State Board of Education (the board) may discipline, refuse to issue, or renew a certificate of license to teach for any one (1) or combination of the following:

\* \* \*

(C) Evidence of the certificate holder's incompetence, immorality, or neglect of duty[.]

\* \* \*

(8) The board may suspend or revoke for a specified time, or indefinitely, a certificate of license to teach pursuant to the rules promulgated by the board. The board may also accept a voluntary surrender or informally settle a case through a consent agreement or agreed settlement.

7. During the 2011-2012 school year, Evans was employed at the Richmond R-16 School District High School (“School District”) as a social studies teacher.

8. On or about April 25, 2012, Brock Dover, the Vice Principal at Richmond High School received a phone call alleging that Evans was engaged in inappropriate relations with several female students at the high school.

9. On or about April 26, 2012, the Missouri Department of Social Services Children’s Division received a report alleging sexual maltreatment by Evans.

10. Following an investigation, it was confirmed that inappropriate conversations were taking place between Evans and several female students.

11. Evans engaged in inappropriate text conversations with Richmond High School Student One through a private phone number, (816-427-1364), created on Google Voice.

12. Evans’ inappropriate actions in his contact with Student One include, but are not limited to, the following:

A. Sending texts saying:

- i. “What are you wearing?”
- ii. “Let me just say...If I had the chance I would wreck your sexy ass haha”

- iii. “I’m trying. Sexually. Cover you in chocolate and I’m all over it! Don’t act like you don’t like being cover in chocolate. Kinky!”
- iv. “So how about you letting me wreck you?!”
- v. “:( why not. No one will know! I’m good at secrets”

B. Impersonating a student by claiming that a particular student was the person sending the messages to Student One.

13. Evans engaged in inappropriate text conversations with Richmond High School Student Two through the app “Draw Something.” His inappropriate actions in his contact with Student Two include, but are not limited to, the following:

- i. Texting Student Two through the “Draw Something” app asking Student Two if she was going tanning on a certain day because she looked good when she was tan.
- ii. Asking Student Two to change her name on the “Draw Something” app so people would not know it was Student Two.
- iii. Texting Student Two through the “Draw Something” app saying that the outfit Student Two wore on a certain day looked good, and was very cute.

- iv. Tossing a piece of paper down the shirt of Student Two.
14. Evans sent sexually inappropriate text messages to Richmond High School Student Three through a private number, (816-427-1364), created on Google Voice.
15. Principal, John Parker, and Vice Principal, Brock Dover, confronted Evans and he admitted that he had sent inappropriate messages via Google Voice number 816-427-1364.
16. Evans also admitted his conduct in a written statement given to the School District.
17. Evans voluntarily resigned from his position with the School District on May 2, 2012.
18. In signing the Teacher's Contract with the School District for the 2011-2012 school year, Evans acknowledged that he was aware of the School District's policies.
19. The School District has a policy titled PROHIBITION AGAINST ILLEGAL DISCRIMINATION AND HARASSMENT, which provides in pertinent part: "Discrimination...against...students...is strictly prohibited in accordance with law...Sexual Harassment—A form of discrimination...Behaviors that could constitute sexual harassment include, but are not limited to: 1. Sexual

advances and requests or pressure of any kind for sexual favors, activities or contact.”

20. Evans’s conduct, as set forth above individually and collectively, violates School District policies and/or is evidence of his incompetence, immorality, and/or neglect of duty, providing cause to discipline his Certificates to teach pursuant to § 168.071.1(3), RSMo Supp. 2012, and 5 CSR 20-400.230.

## **II. Joint Agreed Disciplinary Order**

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the State Board in this matter under the authority of § 168.071.1 and .11, RSMo Supp. 2012.

1. **Evans’s Certificates as a teacher are revoked and all indicia of certification shall be surrendered immediately.** Evans’ Certificates as a teacher are hereby REVOKED and ALL INDICIA OF CERTIFICATIONS SHALL BE SURRENDERED IMMEDIATELY upon this Settlement Agreement becoming effective.

2. Evans further agrees that after the surrender of his Certificates, he will not seek another certificate to teach in the State of Missouri.

3. This Settlement Agreement does not bind DESE and/or the State Board or restrict the remedies available to it concerning any future violations by

Evans of Chapter 168, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

4. This Settlement Agreement does not bind DESE and/or the State Board or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to DESE and/or the State Board or may be discovered.

5. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

6. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

7. The parties to this Settlement Agreement understand that DESE will maintain this Settlement Agreement as an open record of DESE as required by Chapter 610, RSMo, as amended.

8. Evans, together with his family, heirs, assigns, agents, employees, representatives, and attorneys, does hereby waive, release, acquit, and forever discharge DESE, its respective members, employees, agents, and attorneys

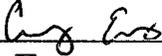
including former members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs, expenses, and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo, as amended, or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

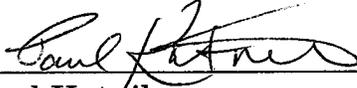
9. Evans understands that this Settlement Agreement will be submitted to the State Board for approval.

10. This Settlement Agreement shall become effective on the date the State Board issues its order approving this Settlement Agreement. If the State Board does not approve this Settlement Agreement, then DESE may proceed to seek discipline against Evans as allowed by law.

LICENSEE

DEPARTMENT OF  
ELEMENTARY AND  
SECONDARY EDUCATION

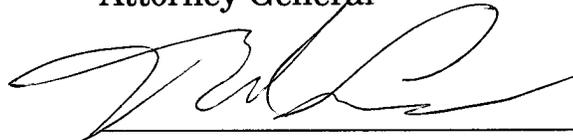
  
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Cody Evans

  
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Paul Katnik  
Assistant Commissioner

Date: 1/26/2014

Date: 2/21/2014

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