

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE MINNESOTA BOARD OF TEACHING

In the Matter of the Denial of the  
Licensure Application of Joel W.  
Andersen.

FINDINGS OF FACT,  
CONCLUSIONS, AND  
RECOMMENDATION

The above matter came on for hearing before Administrative Law Judge George A. Beck at 9:30 a.m. on October 27, 1999 at the Office of Administrative Hearings, 100 Washington Avenue South in the City of Minneapolis, Minnesota. The record closed on the date of the hearing.

Bernard E. Johnson, Assistant Attorney General, 525 Park Street, Suite 200, St. Paul, Minnesota 55103-2106, appeared on behalf of the Executive Director of the Board of Teaching. Douglas R. Rainbow, Esq., 250 Second Avenue South, Suite 120, Minneapolis, Minnesota 55401, appeared on behalf of the applicant, Joel W. Andersen.

NOTICE

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board of Teaching. Parties should contact Michael Tillman, Executive Director, Minnesota Board of Teaching, 1500 Highway 36 West, Roseville, MN 55113 (651) 582-8833 to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this contested case proceeding is whether or not the applicant has engaged in immoral conduct and whether he has taught without a teaching license.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The applicant, Joel Andersen, is a 30 year old graduate of Mankato State University. He has applied to the Board for a teaching license in the areas of physical education K-12 and developmental adaptive physical education and coaching.
2. He completed his first two years of education at Mankato State University in approximately 1991 and then worked for six years as a paraprofessional in several

school districts. He assisted with mentally disabled students and level 5 EBD students from 1991 to 1997.

3. He received positive performance evaluations from Wayzata Senior High School in 1991 and from Eden Prairie Central Middle School in 1995.<sup>[1]</sup>

4. The applicant decided to return to school to complete his education and completed his degree in 1998. During the last two years of his education his grade point average was approximately 3.1. In his major his grade point average was 3.6. He was selected as the outstanding physical education major by Mankato State University.<sup>[2]</sup>

5. During the 1998-99 school year Mr. Andersen taught as a substitute in the Chaska School District. He served as a long term substitute at Jonathan Elementary School in the Chaska District in April and May of 1999. He taught first through fifth grade physical education classes including working with EBD students. He worked well with staff and students and the physical education teacher wrote a written recommendation for him.<sup>[3]</sup>

6. At the time he worked as a substitute teacher, Mr. Andersen's teacher's license application was pending.

7. The applicant was employed as an assistant manager at the Bush Lake Park in Bloomington during the summers. His supervisor, an adaptive PhyEd teacher during the school year, found him to be capable of handling conflict situations with good judgment and found him to be professional, calm and friendly.<sup>[4]</sup>

8. The applicant is presently an assistant swim coach with the Eden Prairie Swim Club. Another assistant swim coach, who is also a 30 year physical education teacher in the Minneapolis school district, described the applicant as a calm, self-confident, reliable communicator who was respected by the swimmers.<sup>[5]</sup>

9. As a part of his license application dated September 30, 1998 the applicant disclosed that he had a criminal charge currently pending against him. He stated that he was charged with a fifth degree felony in Blue Earth County in June of 1997.<sup>[6]</sup> In the application Mr. Andersen stated:

In June, 1997, I was involved in a dispute between a few acquaintances. A female friend chose to intervene and was pushed away from the dispute, injuring her leg. Blue Earth County is charging me with these allegations, although, the person involved in the injury has chosen not to.<sup>[7]</sup>

10. The charges against the applicant resulted from an incident that occurred in the early morning hours of June 21, 1997 at an apartment complex in Mankato. The applicant and his girlfriend, Alicia Vonlorenz were attending a barbecue along with 10 to 15 other people at the apartment of Connie Berger. Mr. Andersen lived in the same apartment complex. A good deal of alcohol was consumed during the party and Mr. Andersen was impaired at the time of the incident.

11. During the party another male falsely implied to Mr. Andersen that he had had a relationship with Alicia. This later led to an argument between the applicant and Alicia

which occurred in a parking lot 12 to 14 feet away from the apartment building. The argument led to an altercation in which Mr. Andersen held Alicia down on the grass by sitting on top of her and holding her hands behind her head. He then struck her in the face.<sup>[8]</sup>

12. When news of this occurrence reached the apartment Connie Berger and Jason Wallig left the apartment to try to intervene. Mr. Wallig tried to remove Mr. Andersen from Alicia and Ms. Berger attempted to keep Alicia away from Mr. Andersen.

13. When Mr. Wallig tried to restrain Mr. Andersen, Mr. Andersen punched him in the face. Ms. Berger then attempted to get in Mr. Andersen's way and he picked her up by the shoulders and tossed her aside onto a sidewalk. Ms. Berger was unable to get up because she couldn't move her leg. Mr. Andersen left the scene after the police arrived.<sup>[9]</sup>

14. Ms. Berger was taken to the hospital where it was determined that she had a fracture of the upper femur in three places. She underwent surgery during which pins were inserted into her hip. She was in the hospital for four days and has an eight inch scar from her hip to above her knee as a result of the operation.<sup>[10]</sup>

15. Ms. Berger was scheduled to start a new job on June 23, 1997 but was not able to do so until approximately October of 1997. She was in a wheelchair for the first month after surgery and then on crutches after that. She still has some numbness on the side of her leg.

16. On September 5, 1997 Mr. Andersen was charged in Blue Earth County with assault in the third degree, a felony, for the harm done to Connie Berger; assault in the fifth degree, a misdemeanor, for striking Alicia Vonlorenz; and assault in the fifth degree, a misdemeanor, for striking Jason Wallig.<sup>[11]</sup>

17. On March 22, 1999 Mr. Andersen pled guilty to assault in the fourth degree and was sentenced to 45 days in jail with work release. He was ordered to make restitution in the amount of \$5,700.00 to Connie Berger and was placed on probation for two years. As a part of his probation he was ordered to complete an anger management course within 90 days of sentencing.<sup>[12]</sup>

18. As of the date of this contested case hearing, Mr. Andersen had paid Ms. Berger almost all of the \$5,700.00. Mr. Andersen has not yet completed the anger management course. The delay was agreed to by his probation officer. He underwent an anger management assessment on September 20, 1999 but has not yet been provided with the results.

19. In a letter dated June 30, 1999, the then acting Executive Director of the Board advised Mr. Andersen that the disciplinary committee of the Board had decided to deny his application for licensure for a minimum of two years and until he had been discharged from probation including the requirement that he complete an anger management program. The letter also advised Mr. Andersen of his appeal rights.<sup>[13]</sup> Mr. Andersen appealed the decision in a letter received by the Board office on July 28, 1999.<sup>[14]</sup>

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### CONCLUSIONS

1. The Minnesota Board of Teaching and the Administrative Law Judge have jurisdiction in this matter under Minn. Stat. § 122A.20 and 14.50 and Minn. Rule pt. 8710.0950.
2. The Board has complied with all relevant, substantive, and procedural requirements of statute and rule.
3. The applicant received proper and timely notice of the hearing in this matter.
4. Under Minn. Stat. § 122A.20, subd. 1(a) the Board has jurisdiction to refuse to issue a teacher's license on the grounds of (1) immoral character or conduct; and (4) failure to meet licensure requirements.
5. Under Minn. Rule part 1400.7300, subp. 5 the applicant has the burden of proof to establish the facts at issue by a preponderance of the evidence in this proceeding.
6. That a preponderance of the evidence supports the facts as set out above.
7. That the licensee has taught as a substitute on a long term basis in a school district in Minnesota without being licensed.
8. The applicant has therefore failed to meet licensure requirements within the meaning of Minn. Stat. § 122A.20, subd. 1(a)(4).
9. That the applicant engaged in immoral conduct on June 21, 1997 in violation of Minn. Stat. § 122A.20, subd. 1(a)(1).
10. That the above conclusions are arrived at for the reasons set out in the memorandum which follows, which is incorporated into these conclusions.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Board of Teaching deny the application for a teaching license of Joel W. Andersen with appropriate conditions.

Dated this 17th day of November 1999.

S/ George A. Beck  
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GEORGE A. BECK  
Administrative Law Judge

## NOTICE

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

Reported: Taped. No Transcript Prepared.

## MEMORANDUM

The disciplinary committee of the Board of Teaching decided that Mr. Anderson should not be licensed as a teacher in the State of Minnesota until he completed his two year probationary period for his conviction of fourth degree assault, for which he was sentenced on March 22, 1999. The committee also felt that he should complete the anger management course as ordered by the Court. The committee's main concern was the possibility of violent behavior by the applicant. The committee determined that Mr. Andersen had assaulted his girlfriend, as well as Mr. Wallig and Ms. Berger, and had been teaching without a license. The committee determined that Mr. Andersen had minimized the incident in question.

At the hearing Mr. Andersen expressed his regret for the incident and stated that the assault was not typical of his behavior. He acknowledged that he had been impaired at the time of the incident and stated that he had not intentionally harmed anyone. He suggested that he had moderated his drinking substantially, had nearly completed restitution and would complete the anger management course as soon as he had the results on his assessment. He noted that he had no other brushes with the law and suggested that his lengthy experience in special education and the special Olympics should be balanced against this one incident in determining his moral character. He suggested that he reasonably believed that his unlicensed activity as a long-term substitute teacher was proper because other colleagues were in the same situation, namely teaching while an application was pending.

The Board staff emphasized that the concern here should be the safety of children and whether or not the applicant will exercise good judgment in the classroom. It points out that the applicant was not a young student at the time of the incident, and that he had previously taken crisis training in connection with his work as a special education paraprofessional. It suggests that Mr. Andersen minimized his conduct to the police and to the executive director and noted that he was still on probation and had not yet completed his anger management course. The staff suggested that it would not be possible to monitor the applicant in the classroom and that there should be further assurance that any anger or violence problem was under control before licensure occurred.

Although the applicant properly disclosed the incident in his application and expressed his regret for the incident at the hearing, the record supports the conclusion that he minimized his involvement to the police and to the executive director. The record also supports the conclusion that the applicant struck his girlfriend, as well as Mr.

Wallig, and that he threw Mr. Berger aside causing her to have multiple breaks in her leg. Although Mr. Andersen did not intend to injure Ms. Berger in that fashion, it appears that he did intend to strike his girlfriend and Mr. Wallig and did intend to throw or push Ms. Berger aside. The assaults by the applicant were serious and could indicate an inappropriate temperament. The applicant argues that the injuries were accidental and unpremeditated. However, the focus must be on whether the applicant can control his temper in the course of his teaching duties.

The record indicates that Mr. Andersen has established a good reputation as a paraprofessional and as a substitute teacher and that record does not appear to be marred by anger problems. He suggests that his licensure be made probationary so that he is able to teach without further delay. However, the committee was properly cautious in wanting to see the results of the anger management assessment and course work prior to licensure. Should that information be positive for Mr. Andersen, the Board would have authority to license Mr. Andersen prior to the end of his probation for the fifth degree assault conviction.

G.A.B.

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<sup>[1]</sup> Ex. B.

<sup>[2]</sup> Ex. D.

<sup>[3]</sup> Ex. A.

<sup>[4]</sup> Test. of Gregory Bagley.

<sup>[5]</sup> Test. of William Hedberg.

<sup>[6]</sup> He had actually been charged with a third degree felony as well as two misdemeanors. Ex. 2.

<sup>[7]</sup> Ex. 1.

<sup>[8]</sup> Ex. 2, Ex. 3, Ex. 7, Ex. 9, Ex. 10. Considering the record as a whole, including the testimony, these exhibits clearly constitute reliable hearsay.

<sup>[9]</sup> Ex. 2, Ex. 3, Ex. 7, Ex. 9, Ex. 10.

<sup>[10]</sup> Ex. 5.

<sup>[11]</sup> Ex. 2.

<sup>[12]</sup> Ex. 3.

<sup>[13]</sup> Ex. 11.

<sup>[14]</sup> Ex. 12.