

BEFORE THE STATE BOARD OF EDUCATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Application  
for a General Secondary Credential  
of

BARBARA R. BOZMAN,

Respondent.

CASE NO. 627

OSF-4706

RECEIVED  
Administrative Advisor  
MAY 13 1966

PROPOSED DECISION

The above-entitled matter came on regularly for hearing upon a Statement of Issues before Paul A. Winton, Hearing Officer, Office of Administrative Procedure, at San Francisco, California, on March 25, 1966. Roger D. Wolfertz, Assistant Counsel, represented the State Board of Education. The respondent was present and was represented by Neil F. Horton, attorney. Oral and documentary evidence was introduced and submission of the matter was deferred to permit the filing of written argument. Such documents were received and marked respectively as Exhibits 5, 6 and C, all for identification only, and the matter was finally submitted on April 27, 1966, and the Hearing Officer now makes the following findings of fact:

I

Robert D. Wolfertz made the Statement of Issues in his official capacity as an Assistant Counsel of the Department of Education.

II

It is true that respondent, Barbara R. Bozman, is a female person of the age of 25 years.

III

It is true that on or about March 2, 1965, the respondent made application to the Committee of Credentials of the State Department of Education pursuant to the Education Code and to Title 5 of the California Administrative Code for the issuance to her of a General Secondary Teaching Credential. Thereafter, on or about November 24, 1965, the Committee of Credentials denied the respondent's

application. Thereafter, on or about December 2, 1965, the respondent, acting pursuant to Education Code Section 13108 and Section 6076 of Title 5 of the California Administrative Code, filed an appeal from the action of the Committee of Credentials denying respondent's application.

#### IV

It is true that on or about the 3rd day of December, 1964, the respondent, with no apparent lawful business to pursue, did then and there refuse to leave a public building, to wit, Robert Gordon Sproul Hall of the University of California at Berkeley, in or about the City of Berkeley, County of Alameda, State of California, during the hours of the day and night when said building was regularly closed to the public, upon request to do so by a regularly employed guard, watchman, and custodian of the University of California at Berkeley.

It is true that on or about December 3, 1964, on or about the campus of the University of California at Berkeley, in or about the City of Berkeley, County of Alameda, State of California, the respondent did then and there remain present at a place of an unlawful assembly after respondent had been warned to disperse.

It is true that on or about December 3, 1964 on or about the campus of the University of California at Berkeley, in or about the City of Berkeley, County of Alameda, State of California, the respondent did then and there willfully resist, delay, and obstruct a public officer in an attempt to discharge the duty of his office.

#### V

It is true that by reason of the facts found to be true in Finding IV above, the respondent was arrested and charged with violation of California Penal Code Section 602(o) (Refusal to Leave a Closed Public Building), Section 409 (Refusal to Disperse), and Section 148 (Resisting, Delaying, or Obstructing a Public Officer). On or about June 29, 1965, in the Municipal Court for the Berkeley-Albany Judicial District, County of Alameda, State of California, the respondent was found guilty and convicted of California Penal Code Sections 602(o) and 148, and fined \$250. Said Judgment of conviction is

presently on appeal and is not final.

## VI

It is true that on or about March 2, 1965, the respondent filed with the Committee of Credentials of the State Department of Education her application for a General Secondary Teaching Credential upon the form prescribed for such application. Upon said application the following oath appears, to wit:

"I solemnly affirm that I will support the Consti-  
swear  
tution of the United States of America, the Constitution of the State of California, and the laws of the United States and the State of California, and will by precept and example, promote respect for the Flag and the statutes of the United States and of the State of California, reverence for law and order, and undivided allegiance to the Government of the United States of America."

The respondent did, on February 9, 1965, before Patricia Margaret Yeager, Notary Public, subscribe, affirm, and swear to the above quoted oath.

## VII

It is true that on or about July 19, 1965, in the Municipal Court of the Albany-Judicial District, County of Alameda, State of California, during the criminal proceedings described in Finding V above, the said court offered probation to the respondent, one of the terms of probation being as follows:

(1) "That you shall not engage in any of the following activities:

"(a) Participating in any unlawful group trespass on public or private property.

"(b) Participating in any group disturbance of the peace.

"(c) Participating in any unlawful sit-in, walk-in, stand-in, or lie-in activity on the property of any private person or persons or corporation or of any public entity."

The respondent refused probation. As set forth in Finding V above,

the Judgment of Conviction preceding the offer of probation is presently on appeal and is not final.

#### VIII

It is true that on or about October 19, 1965, the respondent appeared before the Committee of Credentials of the State Department of Education in Sacramento, California, at which time the respondent failed or refused to confirm that she will not use illegal methods or engage in intentional violations of the law in order to support what the respondent may feel is a just or desirable cause.

#### IX

Respondent introduced evidence which proved the following:

(a) Respondent has worked since she was 15 years of age and has supported herself since high school.

(b) Respondent obtained her Bachelor of Arts degree from the University of California Los Angeles in 1962. She was enrolled at the University of California at Berkeley between September 1963 and January 1965 to attain her teaching credential.

(c) While so enrolled at the University of California at Berkeley, she engaged in practice teaching and volunteered to do student teaching of culturally deprived children under difficult circumstances. She coped very well with these problems and displayed a high degree of conscientiousness in this endeavor.

(d) Respondent has also done voluntary tutoring of underprivileged children in the Hunters Point area of San Francisco.

(e) Respondent was an active participant in the Sproul Hall incident referred to hereinabove for the reason that she sincerely believed that students had the right to peacefully petition and request the University Administration to hear and discuss various matters relating to student activities. Respondent refused to voluntarily leave the building in question after regular business hours after being requested to do so for the reason that University officials had refused to discuss these matters and her presence in said edifice was an act of protest against what she considered an arbitrary

denial of her right to petition and assembly. Respondent would willingly have left said premises if there had been any indication by the University Administration to listen to and discuss such student grievances. Respondent at no time had any intention by her actions to temporarily disrupt the normal functioning of said University. Her actions were motivated solely by what she felt were her constitutional rights of freedom to petition and speech.

(f) Respondent, at the time of her interview with the Credentials Committee of the Department of Education on October 19, 1965, stated that in response to an inquiry that she would follow school district rules and regulations if she were accorded the privilege of becoming a teacher. She declined to answer certain questions relating to what her attitude might be or what actions she might contemplate in certain fact situations if she felt certain rules were unjust or arbitrary. Her refusal to answer these hypothetical questions were based upon the advice of her counsel who was then present.

During the course of the present proceeding, similar questions were posed to respondent concerning her attitudes and contemplated actions where she might feel some action of her local school board was unjust. Respondent replied that she would first discuss the matter in question with other teachers and if others were sympathetic to her views she would explore all normal channels then available. She would not consider any activity which would interfere with the functioning of her school and specifically would not resort to a "teacher sit in" as she feels this would be an improper action on the part of a teacher. Respondent would not consider resorting to any irregular or illegal action unless all regular avenues and channels proved fruitless, unless the matter was of extreme importance and involved a basic or fundamental matter and unless a substantial number of people felt the way she did. The nature of such actions would be limited to such things as picketing, publicizing or enlisting support through the use of petitions. It was not established that respondent would exceed these types of remedies.

(g) Respondent does not ordinarily or usually engage in unlawful activities and her actions in the Sproul Hall incident represented a unique and probably once in a life time situation.

(h) As pointed out hereinabove, respondent refused probation following a verdict of guilty of the criminal charges alluded to. It is carefully noted that her conviction in said criminal proceeding is presently on appeal and is not final. Respondent was and presently is under no legal obligation to accept such probation. Respondent, however, stated that her refusal to accept probation was based on the proposition that she did not wish to legally obligate herself to be precluded in the future from participating in such actions as sit-ins in the South where in her judgment these are the only effective tactics which can be employed because of problems peculiar to that particular region of the United States.

(i) In essence, respondent is of the opinion that there are certain unusual occasions when morality comes into conflict with the law and because of the gravity of the problem involved morality in her judgment should govern. Respondent, however, would not necessarily break the law to achieve such goals but would reserve her judgment to decide what action was applicable at that particular time.

(j) Respondent, at the time she took the oath referred to hereinabove, at her appearances before the said Committee of Credentials and in her application, had no intention to deceive, misrepresent or commit fraud.

(k) Respondent established that she possesses good moral character.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, the Hearing Officer makes the following determinations of the issues presented:

I

Respondent did not intentionally practice or attempt to practice material deception or fraud in connection with her credential application and no grounds to deny said application exist under Section 13129(g) of the Education Code.

II

Respondent has not committed any act involving moral turpitude and no grounds to deny her application exist under Section 13129(e) of said Education Code.

III

Respondent has not committed acts involving immoral or unprofessional conduct within the meaning of Section 13202 of said Education Code and no grounds to deny her application exist thereby.

IV

Respondent furnished reasonable evidence of good moral character within the meaning of Section 13129(h) of said Education Code.

V

Respondent is not unfit for service in the public school system within the meaning of Section 13202 of the Education Code.

\* \* \* \* \*

WHEREFORE, the Hearing Officer proposes the following order:

1. The appeal of Barbara R. Bozman from the action of the Committee of Credentials in denying her application for the issuance to her of a General Secondary Teaching Credential is hereby granted.
2. The application of Barbara R. Bozman for the issuance of a General Secondary Teaching Credential is hereby granted.

I hereby certify that the foregoing constitutes my Proposed Decision in the above-entitled matter as the result of a hearing held before me on March 25, 1966, at San Francisco, California, and I hereby recommend its adoption as the decision of the Board of Education of the State of California.

DATED: May 4, 1966

PAUL A. WINTON

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PAUL A. WINTON, Hearing Officer