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Sears holds hearing on loopholes in sex abuse laws

Posted Wednesday, January 18, 2017 9:33 pm

By MIKE DONOGHUE, Vermont News First

MONTPELIER — Five months after an arbitrator upheld the firing of a former Vermont Teacher of the Year for improper contact with a female student, the South Burlington educator is still free to teach in schools across Vermont.

Jay Hoffman, a longtime technology education teacher at the Tuttle Middle School in South Burlington was honored in 2013 as Vermont's Agency of Education Teacher of the Year.

Public records now show Hoffman's firing, which was upheld in August 2016 by an arbitrator, was based on the second of three unrelated cases of young girls reporting charges of unwanted and improper touching by Hoffman.

The Vermont Agency of Education discipline records show it has taken no action to suspend or revoke the teaching license of Hoffman, who was being paid \$88,254 a year when fired.

Education Secretary Rebecca Holcombe did not respond Wednesday to a request for an interview, but referred questions to her spokeswoman.

"By law licensing investigations are confidential. All stages of licensing investigations, from initial report through investigation completion, are confidential," Haley Dover said in an email to Vermont News First.

"Only when formal charges have been served on the educator may information be released about a licensing investigation. In addition, if action has been taken against an educator's license (either through a formal hearing or by stipulation), the AOE posts such disciplinary actions on its website."

Holcombe's agency is responsible for overseeing licensing and discipline, but in 2016 most of the disciplinary actions involved either private reprimands or people guilty of misconduct agreeing to surrender their teaching license.

In its only action this month the Agency issued a private reprimand to some unknown educator.

"Licensee had an inappropriate relationship with a fellow staff member," is the only notation for the Jan. 4 listing on the agency's website.

The AOE gave no indication of what kind of relationship was involved and what might have been considered "inappropriate."

The agency's website also provided no name of the teacher, no address, no school, no license or endorsement information and wrote it was all "confidential."

The Vermont Education Agency has two fulltime investigators.

As Vermont's AOE Teacher of the Year, Hoffman was invited to the White House with the winners from the other states to meet the President in April 2013. The state also had Hoffman spend time traveling to other Vermont schools to share his knowledge.

Hoffman was named to the Vermont Standards Board for Professional Educators to help craft new standards for teachers.

Gov. Peter Shumlin opted not to reappoint Hoffman when his paid three-year term on the standards board ended in June 2015, a spokesman said at the time.

Attempts to reach Hoffman, who taught at Wappinger Falls (N.Y.) Junior High from 1992-95, have been unsuccessful.

He and a "former Agency of Education expert" have co-founded Project Shift, according to Hoffman's LinkedIn page. He says "working together their goal is to build a cohesive network of teacher-leaders who are committed to sharing and improving their own teaching practices."

AOE and its disciplinary efforts have resurfaced as the Vermont Legislature attempts to deal with handling of teachers that have faced misconduct charges.

The Senate Judiciary Committee, chaired by Sen. Richard Sears, D-Bennington, has scheduled a hearing for this morning on loopholes in Vermont sex abuse laws. The hearing was sparked in part by an investigation printed in December by the Spotlight Team at the Boston Globe about how schools, mostly private, across New England allow teachers accused of misconduct to leave quietly — often with glowing recommendation letters.

"The Globe Spotlight series made me look at our Vermont laws to see where we are ahead of the other New England states and where we are behind. This is about protecting our kids," Sears told Vermont News First

about why he asked for the hearing.

Republican Gov. Phil Scott, who took office two weeks ago, is concerned about the issue, his communications director said Wednesday.

"We're glad Sen. Sears is having a hearing to learn more about the findings in the Boston Globe series, clearly it is critically important to understand exactly how we're protecting — or can better protect — our students. We'll be looking to learn more based on what's discussed tomorrow," Rebecca Kelley said in an email to Vermont News First.

Hoffman, in his application for Teacher of Year award, wrote, "The greatest reward for me is to watch my students smile with satisfaction and amazement when they achieve their goals through hard work and perseverance."

A former student filed a complaint that said while in seventh grade, Hoffman came into a small secluded and soundproofed room behind the main broadcasting stage where she was working, records show. Hoffman put his hand on her upper thigh "with his finger poised close (to) the crease between my legs. I felt extremely uncomfortable," she wrote in her complaint.

The girl said Hoffman had recruited her for his news casting program class which produced a weekly news show for the school, which has students in grades 6-8, records show.

After the first complaint about Hoffman, the South Burlington School District placed Hoffman on paid leave March 29, 2015 without explanation. Records show an arbitrator rejected on July 31, 2015 efforts by the School District to fire Hoffman for improper conduct with the seventh grade girl. Hoffman was ordered reinstated and went back on the district's regular payroll in August 2015.

His reinstatement lasted two days. A second girl came forward to file a complaint of improper touching by Hoffman while he was teaching at the Middle School, records show. The district suspended Hoffman again and after another independent investigation sought to fire him. The School Board upheld the firing, but Hoffman appealed again. He also filed a civil lawsuit.

The arbitrator in the first case, Michael C. Ryan, heard the second case, but this time ruled in favor of the School District. Ryan said in his Aug. 14, 2016 ruling that the firing was proper based on all the evidence.

In his 18-page decision, Ryan also criticized another Tuttle School employee that the girl told about the incident and did little. The employee was a "mandatory reporter of child abuse by statute," wrote Ryan, a member of the American Arbitration Association.

The arbitrator's written decision was initially made public in August 2016, but 40 lines of his ruling were blacked out. A later appeal by Vermont News First won access to those missing passages. They show a third young girl came forward with an improper touching complaint while the second case was being investigated.

Ryan in his decision said he said all parties agreed to allow the third victim to testify during the June 15, 2016 hearing. She discussed how Hoffman tried to pressure her when she was 14 years old to have sex with him, Ryan wrote.

But in the end Ryan ruled he would focus only on the complaint by the second girl. The arbitrator said the

incident involving the third girl allegedly happened before Hoffman was hired by the South Burlington School District in 1997. Instead, Ryan wrote, he focused his decision on the testimony by the second student about the improper touching.

"The intentional, inappropriate touching described by the complainant, although not necessarily illegal, plainly and seriously offended the basic norms of teacher conduct towards students. Such touching provides just cause for termination," Ryan wrote.

A judge ordered in December 2015 more than 100 pages of documents relating to the incidents involving girls from 2001 and 2005 were released by the South Burlington School District in response to a Vermont Public Records request. They included emails, letters, personnel records, an earlier arbitrator's decision and other records that describe two incidents related to Hoffman and young girls.

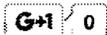
Hoffman tried to block the release of the records, but Vermont Superior Court Judge Helen Toor ruled the material should be public. The veteran judge said the public interest in the allegations and in how the city School District handled them outweighed any claim to privacy by Hoffman.

The records were released following public records requests from media organizations including the Burlington Free Press.

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