

OAL DKT. NO. EDE 5320-05
STATE BOARD OF EXAMINERS DKT NO. 0708-146
COMMISSIONER APPEAL NO. 6-8/09A

IN THE MATTER OF THE : COMMISSIONER OF EDUCATION
TEACHING CERTIFICATES OF : DECISION
LORI LOWENSTEIN-MASE. :

Decided by the State Board of Examiners, June 22, 2009

For the Petitioner-Appellant, Lori Lowenstein-Mase, pro se

For the Respondent, Deputy Attorney General Cynthia Raymond Rimol

On August 17, 2009, appellant filed with the Commissioner a copy of a notice of appeal from an order of the State Board of Examiners (the Board) revoking her teaching certificates/endorsements. By letter dated August 24, 2009, the Director of the Bureau of Controversies and Disputes (the Director) notified appellant that her notice of appeal was deficient because she did not include a copy of the order/decision from which she was appealing and because she failed to provide proof that she served the notice of appeal upon the Attorney General – counsel for the Board.

On September 2, 2009, counsel for the Board submitted a list of items comprising the record of this matter and copies of said items, including a copy of the Board’s decision/order of revocation. Appellant’s failure to present proof of service and a copy of the order of revocation was consequently deemed cured.

Pursuant to *N.J.A.C.* 6A:4-2.7(a), the brief supporting appellant's appeal was due 20 days later – i.e., September 22, 2009, but no brief was filed with the Commissioner by that date. By letter dated December 3, 2009, the Director then extended the deadline for the filing of appellant's brief to December 21, 2009. Upon appellant's request, on January 11, 2010 a final extension to January 31, 2010 was granted, and she perfected her appeal on January 29, 2010. Respondent's brief was filed on February 9, 2010.

In reviewing appeals from decisions of the State Board of Examiners, the Commissioner may not substitute his judgment for that of the Board so long as the appellant received due process and the Board's decision is supported by sufficient credible evidence in the record. *N.J.A.C.* 6A:4-4.1(a)(1). Further, the Board's decision should not be disturbed unless the appellant demonstrates that it is arbitrary, capricious, or unreasonable. *N.J.A.C.* 6A:4-4.1(a)(2). Upon review of the record, Board decision, and appellate submissions in this case, the Commissioner concludes that appellant received the process that she was due. The evidence in the record supports the Board's factual findings and provides a rational basis for the Board's revocation decision. Consequently, the Commissioner sees no reason to overturn same.

As to the penalty imposed by the Board upon respondent, the Commissioner rejects the contention that a more lenient sanction than revocation of appellant's teaching certificates is warranted under the circumstances of this case. First, appellant was convicted of at least one crime, *i.e.*, theft by deception (*N.J.S.A.* 2C:20-4a), that requires disqualification from public school employment, pursuant to *N.J.S.A.* 18A:6-7.1(c)(2). Indeed, "forfeiture of public employment in the State of New Jersey for life" was a term of the plea agreement appellant entered into on May 7, 2008. Revocation of appellant's certificates can be viewed as a

reasonable measure to impede appellant's return to employment in a primary or secondary school setting.

Second, appellant's argument – that she should not be stripped of certificates which she validly obtained – ignores the nature and severity of her subsequent conduct. She essentially stole the “speech language specialist” certificate of another individual, showing herself unworthy of retaining the previously acquired professional certificates which allow individuals to educate and serve as role models to children and youth.

Similarly, appellant's argument that revocation is too harsh a penalty for a teacher who served in good standing for many years must be rejected. Unfitness for a position may be shown by a series of incidents, or just one – if sufficiently flagrant. *See, e.g. Redcay v. State Board of Education*, 130 N.J.L. 369, 371 (Sup. Ct. 1943), *aff'd.*, 131 N.J.L. 326 (E&A 1944). The Commissioner cannot find fault with the Board's determination that appellant's theft of another teacher's credentials is sufficient to show unfitness to teach and to justify revocation of her certificates/endorsements.

In summary, the Commissioner finds no basis upon which to disturb the decision of the State Board of Examiners. Accordingly, it is affirmed for the reasons set forth therein.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: May 17, 2010

Date of Mailing: May 17, 2010

¹ Pursuant to P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1), Commissioner decisions are appealable to the Appellate Division of the Superior Court.