

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE LICENSES OF : STATE BOARD OF EXAMINERS  
TERESE CAPRIGLIONE : ORDER OF SUSPENSION  
\_\_\_\_\_ : DOCKET NO. 427-12/96-147

At its meeting of December 12, 1995, the State Board of Examiners reviewed information received from the Division of Criminal Records Research in the Division of Criminal Justice indicating that Terese Capriglione, who is the holder of Teacher of Art, Director of Student Personnel Services, School Social Worker and Student Personnel Services licenses pled guilty in September, 1996 to charges of disturbing an election, a fourth degree offense. She was sentenced to two (2) years' probation and fined.

At that meeting, the State Board of Examiners voted that the conviction constituted sufficient grounds for issuing an Order to Show Cause. Thereafter, Terese Capriglione was served with the Order to Show Cause by regular and certified mail on or about January 21, 1997. On or about February 3, 1997 an Answer to the Order to Show Cause was forwarded by Sanford R. Oxfeld, Esq., on behalf of his client, Terese Capriglione.

Ms. Capriglione's Answer denies that she pled guilty to violating N.J.S.A. 2C:2-6, but admits to having pled guilty to violating N.J.S.A. 18A:14-65. She acknowledges in her Answer that she was sentenced to two years probation, community service and received fines. She adds as affirmative defenses that she is guilty of no conduct warranting the revocation of her licenses and states that she was directed to undertake all activities and did so at the direction of the principal of her high school. She submits in her Answer that she faced repercussions if she did not accede to the demands of her administrators.

By letter dated April 10, 1997, the Secretary of the State Board of Examiners directed submission of exhibits supporting Ms. Capriglione's denial that she pled guilty to violating N.J.S.A. 2C:2-6 but instead admitting she plead guilty to violating N.J.S.A. 18A:14-65. By letter dated April 30, 1997, Ms. Capriglione's attorney forwarded the indictment, plea, sentence and administrative report. By letter dated May 27, 1997, Ms. Capriglione's attorney forwarded a letter explaining her understanding that, while she pled guilty to N.J.S.A. 18A:14-65, disturbing the results of an election, N.J.S.A. 2C:2-6 is not an additional criminal offense to which she pled guilty. Rather, she avers, the latter offense is entitled Liability for the Conduct of Another. Her counsel submits that Ms. Capriglione could not place a factual basis on the record for disturbing the results of an election. She claims the fact that she was present when certain election fraud allegedly took place indicates she aided and abetted in the commission of this offense. She avers the lack of her direct involvement in this offense makes her guilty of aiding and abetting the underlying offense of disturbing the results of an election. She submits that N.J.S.A. 2C:2-6 allows the prosecution to take the plea of guilty to disturbing the results of an election without Ms. Capriglione's direct involvement.

Pursuant to N.J.A.C. 6:11-3.6(a)1, on March 13, 1998, a hearing notice was mailed by certified mail to Mr. Oxfeld. A regular mail copy was forwarded to Ms. Capriglione. The notice explained that, it appearing that no material facts were in dispute, Ms. Capriglione was provided an opportunity to offer legal argument on the issue of whether her conviction constituted conduct unbecoming a teacher. On March 30, 1998, a response to the hearing notice was received from Ms. Capriglione's attorney expressing his concern as to how to answer the hearing notice, insofar as no hearing had been conducted before an Administrative Law Judge nor before the Commissioner of Education to establish the material facts in question.

The response to the hearing notice on behalf of respondent, submits, nevertheless, that she was initially employed in the Newark School District in 1973 and for the ensuing twenty-two years had an exemplary record. While respondent admits guilt to a misdemeanor offense of disturbing the results of a school board election, she claims the statute has now been repealed, and that many others were also involved in the 1992 school board election. She claims others pled guilty to similar offenses and that the penalties imposed on the other were much less severe. Ms. Capriglione submits that the question of forfeiture was within the province of the criminal court judge. Respondent also notes that in the one case that the State Board has already decided, In the Matter of the Licensure of Gregory Palumbo, Dkt. No. 325-12/95-101, decided by the State Board of Examiners October 9, 1997, Mr. Palumbo's license was suspended for a period of one year. She states she was already suspended by the school district for a period of greater than one year and received no income or other fringe benefits during that time, so that she has already lost approximately \$85,000 in salary and benefits, coaching and other stipends. If the appropriate penalty, assuming identical records between Mr. Palumbo and her, is a one-year suspension of licensure, respondent submits she should be found to have served that time already. She adds that due to her cooperation with the probation office, her probationary period was reduced from two years to one. Finally, she contends that, in the Palumbo case, the State Board relied upon In Re Otto Krupp, 3 N.J.A.R. 285 (1981), in which Mr. Krupp's conviction of murder in the first degree was found to be conduct unbecoming a teacher. Respondent claims the conviction for first-degree murder is of a wholly different nature than a guilty plea to a statute under a school law that no longer exist.

Thereafter, pursuant to N.J.A.C. 6:11-3.6, the Commissioner of Education forwarded to the State Board of Examiners a tenure case captioned, In the Matter of the Tenure Hearing of

Terese Capriglione, State-Operated School District of the City of Newark, Essex County, Agency Dkt. NO. 557-11/96. In that case, the State-Operated School District of the City of Newark certified tenure charges against Ms. Capriglione, a tenured teaching staff member, following her September, 1996 guilty plea to one count of disturbing the results of an election, in violation of N.J.S.A. 2C:2-6, and N.J.S.A. 18A:14-65, a fourth degree offense. As noted above, in the criminal matter, Ms. Capriglione was sentenced to two (2) years' probation, 120 hours of community service and fined.

The Commissioner of Education decided the tenure matter on Motion for Summary Decision on April 22, 1998 after the State Board of Examiners issued the Order to Show Cause to respondent. He found Ms. Capriglione guilty of conduct unbecoming a teacher for fraudulently casting and aiding others in the casting of illegal votes at the Newark School Board election held on April 7, 1992. Finding Ms. Capriglione's conduct egregious and unprofessional, the Commissioner directed a seven-month unpaid suspension from Ms. Capriglione's tenured teaching position, which period shall include the 120-day unpaid suspension already served, and forfeiture of her increments for the 1998-99 and 1999-2000 school years. The Commissioner directed a copy of the decision be forwarded to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6, noting the matter was already under the Board's consideration, and he further directed that the penalty in the tenure matter be in addition to any penalty which the State Board of Examiners may ultimately choose to impose.

At its meeting of June 18, 1998, the State Board of Examiners reviewed the charge against Ms. Capriglione as well as her responses to the Order to Show Cause and the hearing notice. After its review, the State Board of Examiners determined that no material facts related to Ms. Capriglione's offense were in contest, and that the matter could, therefore, proceed to a

determination as to whether the criminal charges proven against her constitute conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

School law cases have traditionally recognized the right of the State Board of Examiners to revoke licenses where the teacher was involved in criminal activities, even if the activities were not related to the classroom. See Cox v. State Board of Examiners (App. Div. Docket No. A-3527-81T3) (November 18, 1993); State Board of Examiners v. Krupp, 3 N.J.A.R. 285 (1981). In this case, Ms. Capriglione has been found guilty of crimes of dishonesty. The State Board of Examiners takes judicial notice of the, Commissioner Decision, Capriglione, supra, at 3. She admits she knowingly and willingly engaged in a course of conduct intended to interfere with the conducting of a school election in the City of Newark.

The Commissioner has determined in the past that such guilty pleas involving dishonesty do constitute conduct unbecoming a teaching staff member sufficient to warrant dismissal. See, e.g., In the Matter of the Tenure Hearing of Emil J. Guasconi, School of the Town of West New York Hudson County, 1977 S.L.D. 513. It is the conclusion of the State Board of Examiners that the offense to which Ms. Capriglione herein pled guilty discredits her professional stature. The Board further finds that such offense, tampering with the outcome of a school election, affects her credibility as a role model to her pupils. It is well established that teachers are holders of the public trust and are held to the highest standards of good conduct. See, Tenure Hearing of Sammons, 1972 S.L.D. 302, 321. It is particularly troublesome that a teacher would seek to subvert a school election. Ms. Capriglione's illegal conduct cannot be excused or blamed on the undue influence of others or on political pressure.

In considering the record as a whole in this matter, the Board determines that the appropriate penalty for Ms. Capriglione's unbecoming conduct is the suspension of respondent's licensure for the same period of time that the courts assessed as a period of probation, one year. The State Board of Examiners emphasizes that this sanction is in addition to the penalty imposed in the tenure matter. In that case, Ms. Caprilione was found guilty of conduct unbecoming a teacher employed by The School District of Newark. In this matter, she is being sanctioned for conduct unbecoming a license holder. A sanction for improper conduct in a tenure case does not preclude a sanction for improper conduct in a licensure case.

It is, therefore, ORDERED that the charge to which Respondent pled guilty warrants suspension of Terese Capriglione's licensure. Ms. Capriglione's Teacher of Art, Student Personnel Services, Director of Student Personnel Services and School Social Worker licenses, are hereby suspended on this 18<sup>th</sup> day of June, 1998 until one year from this date, June 18, 1999.

It is, therefore, further ORDERED that Terese Capriglione return her licenses to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter for the period of suspension.

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Ida B. Graham, Secretary  
State Board of Examiners

Date of Mailing: July 23, 1998

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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