

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
DIANE ROTHACKER : ORDER OF REVOCATION
_____ : DOCKET NO: 0607-210

At its meeting of March 29, 2007, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Diane Rothacker from her tenured position with the State-Operated School District of the City of Newark (Newark) for charges of abandonment of position, chronic and excessive absenteeism, insubordination and other just cause. *In the Matter of the Tenure Hearing of Diane Rothacker*, Docket No. 441-11/06 (Commissioner's Decision, February 1, 2007). Rothacker currently holds a Teacher of the Handicapped certificate, issued in February 1997.

This case originated on November 30, 2006, when Newark certified tenure charges against respondent, Diane Rothacker. Specifically, the district alleged that Rothacker was granted an unpaid personal leave of absence that expired on September 1, 2003 and despite repeated written inquiries had neither returned to work nor provided notice of her intent to return. (Commissioner's Decision, slip op. at 3). On November 30, 2006, the Commissioner sent Rothacker a notice by regular and certified mail to respond to the tenure charges. The notice informed her that if she failed to answer, the charges would be deemed admitted. Rothacker did not respond to the tenure charges.

In a decision dated February 1, 2007, the Commissioner of Education held that the district had demonstrated that Rothacker's actions constitute "abandonment of her position, chronic and excessive absenteeism, insubordination and other just cause amply warranting dismissal from her position. (Commissioner's Decision, slip op. at 3). The

Commissioner held that since Rothacker did not respond to the charges against her, summary decision should be granted to the district. (Commissioner's Decision, slip op. at 3). Accordingly, the Commissioner removed Rothacker from her tenured employment with Newark. (Commissioner's Decision, slip op. at 3). The Commissioner then transmitted the matter to the State Board of Examiners for appropriate action regarding Graham's certificate.

Thereafter, on May 3, 2007, the State Board of Examiners issued Rothacker an Order to Show Cause as to why her certificate should not be suspended or revoked. The Order was predicated on the charges of abandonment, chronic and excessive absenteeism, insubordination and other just cause that had been proven in the tenure hearing.

The Board sent the Order to Rothacker by certified and regular mail on May 8, 2007. The Order provided that Rothacker's Answer was due within 30 days. The regular mail copy was not returned and the certified mail copy was returned as unclaimed. Rothacker did not respond to the Order. The Board then sent her another notice on June 15, 2007 by certified and regular mail. Neither copy was returned. Once again, Rothacker did not respond to the charges. On October 5, 2007, the Board sent Rothacker correspondence allowing him the opportunity to appear before the Board and/or submit documentation to present testimony regarding the penalty phase of his hearing. Rothacker did not respond.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Rothacker's conduct and her subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of November 1, 2007, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since Rothacker had not

responded to the Order, the charges were deemed admitted. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. Accordingly, Rothacker's abandonment of position, chronic and excessive and absenteeism, insubordination and other just cause constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Rothacker's offenses as set forth in the Order to Show Cause, represent just cause to act against her certificate pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9-17.5*. Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). "Teachers ... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." *Tenure of Sammons*, 1972 *S.L.D.* 302, 321. In this case, Rothacker was given a leave of absence and failed to return or notify her district as to her intent. Furthermore, she disregarded her professional obligation to respond to the charges against her, both before the Commissioner and the Board. Her disinterest in safeguarding her teaching career speaks volumes about her continued fitness as a role model. Thus, after considering all of these factors, the Board's response to Rothacker's actions is the revocation of her certificate.

Accordingly, pursuant to the Board of Examiners' vote, it is therefore ORDERED that Diane Rothacker's Teacher of the Handicapped certificate be revoked effective this 21st day of February 2008. It is further ORDERED that Rothacker return her certificate to the Secretary of the State Board of Examiners, Office of Licensure, PO Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing: FEBRUARY 27, 2008

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