

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
MARCUS RHANEY : ORDER OF REVOCATION
_____ : DOCKET NO: 0910-217

At its meeting of July 22, 2010, the State Board of Examiners (Board) reviewed information received pursuant to *N.J.A.C. 6A:9-17.4* from the Montclair Township School District (Montclair) regarding Marcus Rhaney. Montclair reported that Rhaney resigned from his position in the district after he was accused of inappropriate conduct by female employees. Specifically, Rhaney allegedly sent three photos to a female employee's cell phone depicting male genitalia in a state of arousal. The next day, Rhaney kept texting the employee and left her several voicemails asking her to delete the photos, apologizing and stating that he was drunk at the time he sent the photos. Rhaney continued to leave numerous voicemail messages on the employee's cell phone over the next several days. The employee also reported that Rhaney had sent her numerous inappropriate communications over the course of several months which included sexual innuendo, negative or inappropriate comments about other staff members, profanity and threats against other employees' jobs. Montclair suspended Rhaney pending its investigation into the allegations. In the course of that investigation, Montclair discovered that Rhaney had transferred photos from his personal Blackberry to his home account using the district's system. One of the photos transferred was one the Montclair employee alleged she had received from Rhaney. In addition to the allegations by the Montclair employee, after Rhaney's suspension was reported in the local paper, an employee from Garfield met with the Montclair superintendent. That employee stated that when Rhaney worked as an assistant principal in her building in Garfield, he tried to kiss her after a holiday party. She added that she pushed him away and told him that she was not interested. She claimed that Rhaney began to text her and that many of the messages contained sexual innuendos. She also stated that Rhaney tried to kiss

her several times in her classroom. Rhaney holds a Teacher of Elementary School Certificate of Eligibility, issued in December 1996, a Teacher of Elementary School certificate, issued in March 1998, a Principal Certificate of Eligibility, issued in May 2005 and a Principal Provisional certificate, issued in September 2009. Upon review of the above information, at its September 16, 2010 meeting, the Board voted to issue Rhaney an Order to Show Cause why his certificates should not be revoked.

The Board sent Rhaney the Order to Show Cause by regular and certified mail on September 23, 2010. The Order provided that Rhaney must file an Answer within 30 days. Rhaney responded on November 22, 2010. In that response, Rhaney never denied that he had engaged in the conduct alleged in the Order to Show Cause. Rather, he accepted full responsibility for his actions and stated that “[a]s an education professional, I failed to live up to the ethical standards expected by the State of New Jersey, the district of Montclair and, ultimately, myself.” (Answer, p. 1). Rhaney claimed that over the past 14 months he had engaged in “professional counseling, personal reflection and self-evaluation.” (Answer, p. 1). He added that his spiritual life had become the cornerstone of his existence and he now recognized that “an important key to rehabilitation...is to not look for scapegoats, cast partial blame elsewhere or imply partial wrong-doing by other individuals.” (Answer, p. 1). He noted that in his more than 10 years of classroom teaching “there were no moral or [sic] ethical transgressions committed....” (Answer, p. 1). Finally, in the remainder of his Answer, Rhaney again apologized for his “inappropriate, immature and sophomoric behavior” and stated that he would be “forever grateful” for a second chance. (Answer, pp. 1-2). In addition to his Answer, Rhaney also provided the Board with positive evaluations he had received both as a Principal and an Assistant Principal.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on January 5, 2011, the Board sent Rhaney a hearing notice by regular and certified mail. The notice explained that it appeared that no material

facts were in dispute. Thus, Rhaney was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against his certificates. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if Rhaney's conduct warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Rhaney was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Rhaney filed a response on January 19, 2011.

In that response, Rhaney recounted the events of the night he sent the inappropriate cell phone photos to his female colleague. (Hearing Response, p. 1). He indicated that he had no plans to contact her that evening but she texted him first and that he was already inebriated when she did so. (Hearing Response, p. 1). He stated that his texts became "innuendo laden" and that he ultimately sent her the inappropriate photos. (Hearing Response, p. 1). He added that he and the female employee had been involved in an inappropriate texting relationship for several months prior to this incident. (Hearing Response, p. 1). As for the female staff member from Garfield, Rhaney claimed that she failed to disclose the full extent of their relationship. (Hearing Response, p. 2). He admitted to making advances toward her after a holiday party in 2006, but noted that they had a sexual relationship from March 2007 through September 2007, which they kept secret because she was engaged. (Hearing Response, p. 2).

The threshold issue before the Board in this matter, therefore, is whether Rhaney's conduct, as set forth in the Order to Show Cause, constitutes conduct unbecoming a certificate holder. At its meeting of May 12, 2011, the Board considered the allegations in the Order to Show Cause, Rhaney's response and his response to the Hearing Notice. The Board determined that no material facts related to Rhaney's conduct were in dispute since he never denied that he had engaged in the alleged conduct. Thus, the Board determined that summary decision was appropriate in this matter.

N.J.A.C. 6A:9-17.7(h). It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The Board must now determine whether Rhaney's conduct, as set forth in the Order to Show Cause, represents just cause to act against his certificates pursuant to *N.J.A.C.* 6A:9-17.5. The Board finds that it does.

The Board 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. "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. Moreover, the Commissioner has long held that teachers serve as role models for their students. Rhaney's conduct in sending pornographic cell phone photos to a staff member, engaging in inappropriate communications which included sexual innuendo, negative or inappropriate comments about staff members, profanity and threats against other employees' jobs and making unwanted advances toward another female employee is inappropriate and crosses the boundary of acceptable behavior. In this instance, Rhaney's lack of professional judgment warrants revocation.

Finally, notwithstanding Rhaney's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." *See In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners*, 96 *N.J.A.R.* 2D (EDE) 1, 16 *aff'd*, App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing *In the Matter of the Revocation of the Teaching Certificate of James Noll*, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Rhaney has undergone therapy and

has also sought the help of spiritual advisors, while steps in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on May 12, 2011, the Board voted to revoke Marcus Rhaney's Teacher of Elementary School and Principal Certificates of Eligibility and his Teacher of Elementary School and Principal Provisional certificates. On this 16th day of June 2011 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Rhaney's certificates be effective immediately. It is further ORDERED that Rhaney return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. 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:

Appeals may be made to the Commissioner of Education pursuant to *N.J.S.A.* 18A:6-38.4.