

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
YVETTE NICHOLS : ORDER OF SUSPENSION  
\_\_\_\_\_ : DOCKET NO: 1314-170

At its meeting of December 6, 2013, the State Board of Examiners (Board) reviewed information the Wayne Township School District (Wayne) had forwarded pursuant to *N.J.A.C. 6A:9-17.4* regarding Yvette Nichols. Nichols resigned from her tenured position in Wayne following allegations that she and others had posted inappropriate comments on Facebook about a student in her class. Nichols allegedly posted a screenshot of an assignment one of her students had completed instructing students to “practice writing my name the kindergarten way.” The student’s name contained a curse word and Nichols allegedly posted ““I want to ask the parents if I can change it” and ‘I still can’t get over the student’s name!’” In response to others’ comments about the name, Nichols allegedly wrote “How do you think I feel when I have to address him???? I literally can’t stop laughing! I have to go all year with this’---!!!” Wayne investigated and determined that Nichols had violated the district’s Harassment, Intimidation and Bullying (HIB) policy. Nichols currently holds a Teacher of Elementary School Certificate of Eligibility With Advanced Standing, issued in September 2000 and a Teacher of Elementary School certificate, issued in June 2001. Upon review of the information, at its January 17, 2014 meeting, the Board voted to issue Nichols an Order to Show Cause.

The Board sent Nichols the Order to Show Cause by regular and certified mail on January 24, 2014. The Order provided that Nichols must file an Answer within 30 days. Nichols responded on March 3, 2014. In that Answer, Nichols admitted to the allegations regarding her Facebook posts but denied that she had engaged in bullying, harassment or intimidation. (Answer, ¶¶ 3, 4). Nichols further denied that her conduct warranted the revocation of her certificates or that her actions had any effect on “the maintenance of discipline and the proper administration of the school system.” (Answer, Affirmative Defenses, ¶¶ 2, 3). She added that her conduct had resulted from a lapse in judgment rather than a pattern of conduct and noted that she had no prior disciplinary history as a teacher in New Jersey. (Answer,

Affirmative Defenses, ¶¶ 5, 6). In a certification attached to her Answer, Nichols stated that she had only had the student in question for a few days and had no ill will towards him and “intended no harm towards him or his family.” (Certification, ¶ 3). Nichols added that “I had and still do not have any idea of the student’s name is based on religious beliefs or his national origin.” (Certification, ¶ 3). Nichols admitted that her statements were immature but noted that they were “based solely on the fact the student’s name contained the word ‘shit’.” (Certification, ¶ 4). Nichols stated that she resigned from Wayne because she did not want to adversely affect the administration of the school or distract from the education of the students. (Certification, ¶ 6). She acknowledged that the lapse in judgment took place when she was depressed because of a recent divorce and subsequent break up, struggling with diabetes and raising her child as a single mother without any support. (Certification, ¶ 7). Nichols added that she had just started counseling when the conduct took place and had continued with the counseling sessions. (Certification, ¶ 9). She noted that she understood her comments were inappropriate and she expressed her remorse. (Certification, ¶ 10). She added that she disagreed with Wayne’s findings that her actions constituted bullying and added that the investigator would not meet with her to discuss the district’s concerns. (Certification, ¶ 12). Nichols requested that while the Board may find her conduct inappropriate, that it not result in the suspension or revocation of her certificates. (Certification, ¶ 14).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on March 11, 2014, the Board sent Nichols a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Nichols 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 her certificates. It also explained that upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if Nichols’ offenses warranted action against her certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Nichols was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Nichols submitted a Hearing Response on April 11, 2014.

In her response, Nichols again admitted to posting the comments on Facebook but denied that she was bullying the child. (Hearing Response, pp. 2-3). Nichols insisted that “the curse word in the name was the target of the Facebook post, not the child himself.” (Hearing Response, p. 3). She added that the boy had only been her student for a few days and she “obviously did not harbor any ill will towards the young man or his family during such a short time period.” (Hearing Response, p. 3). Nichols emphasized that her posts were based on the uniqueness of the student’s name and that there was nothing to indicate that the comments were based on the student’s national origin. (Hearing Response, p. 4). In her Hearing Response, Nichols also contrasted prior instances where teachers had engaged in patterns of inappropriate communications with students and received various suspensions of their teaching certificates. (Hearing Response, pp. 5-7). Finally, Nichols argued that the loss of her teaching position was a serious enough punishment for her conduct. (Hearing Response, pp. 7-9). In addition to her Hearing Response, Nichols requested to appear before the Board.

In testimony before the Board, Nichols’ counsel argued that Nichols was a teacher who was well liked by her peers, students and the community. He added that she was dealing with health and financial issues at the time of her conduct and resigned right away because she did not want to cause a commotion in the district. He noted that Nichols apologized immediately and that she never meant to hurt anyone. Finally, he added that Nichols’ loss of her dream job and her self-imposed suspension from public school employment was a sufficient penalty for her conduct.

Nichols testified that she was extremely remorseful and recognized that she had acted immaturely and made a bad decision. She stated that she had no intention to hurt anyone and repeated that she was “very, very sorry.” Nichols added that she loved teaching and did not want that to be taken away.

The threshold issue before the Board in this matter is whether Nichols’ posting comments on Facebook about a student’s name constitutes conduct unbecoming a certificate holder. At its meeting of September 19, 2014, the Board considered the allegations in the Order to Show Cause, Nichols’ Answer and Hearing Response with accompanying submissions and her testimony. The Board determined that no material facts related to Nichols’ offense were in dispute since she admitted to the conduct alleged in the

Order to Show Cause. 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 Nichols' conduct, as set forth in the Order to Show Cause, provides just cause to act against her 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. Furthermore, the Commissioner has long held that teachers serve as role models for their students.

In this matter, Nichols had posted comments on her Facebook page ridiculing a child's name. Regardless of whether or not she intended her comments to be made public, Nichols' conduct was immature and hurtful and falls below the "role model" status that is expected of teachers. Accordingly, the Board believes that Nichols' behavior here cannot go unremarked.

Nonetheless, Nichols fully accepted responsibility for her actions and has offered an explanation about what led to her conduct. She has also undertaken counseling to deal with her level of stress and many responsibilities. She has also had a long record of teaching experience free of any disciplinary action. However, although the Board cannot condone Nichols' actions, her sincere sense of remorse coupled with her long and unblemished record and her cogent explanation of what transpired in her life during that time period, militate against the revocation of her certificates. Thus, the Board believes that the appropriate sanction in this case is the suspension of Nichols' certificates.

Accordingly, on September 19, 2104, the Board voted to suspend Nichols' Teacher of Elementary School Certificate of Eligibility With Advanced Standing and her Teacher of Elementary School certificate for a period of one year. On this 23rd day of October 2014 the Board voted to adopt its formal

written decision and it is therefore ORDERED that the one-year suspension of Yvette Nichols' certificates be effective immediately. It is further ORDERED that Nichols return her 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.

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Robert R. Higgins, Secretary  
State Board of Examiners

Date of Mailing:

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

RRH:MZ:th