

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
KEVIN W. ARENA : ORDER OF SUSPENSION
_____ : DOCKET NO: 1516-108

At its meeting of October 30, 2015, the State Board of Examiners (Board) reviewed information the Atlantic County Prosecutor's Office (ACPO) had forwarded regarding Kevin W. Arena. According to the ACPO's investigation report, Arena was not truthful when first interviewed by the ACPO when he denied any knowledge of another teacher's dating relationship with a student. Arena later cooperated after the ACPO informed him that it had received information he was not truthful during his initial interview. No criminal charges were filed against Arena. Arena currently holds a Teacher of Music Certificate of Eligibility With Advanced Standing, issued in September 2008 and a Teacher of Music certificate, issued in August 2009. Upon review of the above information, at its December 10, 2015 meeting, the Board voted to issue Arena an Order to Show Cause as to why his certificates should not be suspended.

The Board sent Arena the Order to Show Cause by regular and certified mail on December 16, 2015. The Order provided that Arena had 30 days to respond. The certified mail copy was returned as "Unclaimed" and the regular mail copy was not returned. Arena did not file a response.

Thereafter, on February 1, 2015, the Board sent Arena another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail copy was returned as "Unclaimed" and the regular copy was not returned. Arena did not respond.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on February 23, 2016, the Board sent Arena a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted as a result of his failure to file an Answer. Thus, Arena 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 found just cause 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 his offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Arena was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Once again, Arena did not respond.

The threshold issue before the Board in this matter is whether Arena’s conduct constitutes conduct unbecoming a certificate holder or other just cause. Since Arena failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, at its meeting of May 20, 2016, the Board considered only the allegations in the Order to Show Cause and the information received from the ACPO. The Board concluded that no material facts related to Arena’s offense were in dispute since he never denied that he engaged in the conduct alleged. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*. After reviewing the allegations, the Board found that Arena had engaged in unbecoming conduct.

The Board must now determine whether Arena’s conduct, as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to *N.J.A.C. 6A:9B-4.4*. 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:9B-4.4*. “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, 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 (1943), *aff’d*, 131 *N.J.L.* 326 (E & A 1944). Arena’s action in initially lying to the ACPO when it was investigating criminal activity of another teacher is

conduct that indicates a serious lapse in judgment. The Board therefore concludes that the appropriate response to his breach is a six-month suspension of his teaching certificates.

Accordingly, on May 20, 2016, the Board voted to suspend Kevin W. Arena's Teacher of Music Certificate of Eligibility With Advanced Standing and his Teacher of Music certificate for a period of six months, effective immediately. On this 23rd day of June 2016 the Board voted to adopt its formal written decision and it is therefore ORDERED that the suspension of Arena's certificates be effective immediately. It is further ORDERED that Arena return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, 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

RRH/MZ/th

Date of Mailing:
via certified and regular mail

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