

HDY #7817-99 and EDE #9001-00 (consolidated)
SBE #526-06/99-219
SB #47-00

IN THE MATTER OF THE REVOCATION OF : STATE BOARD OF EDUCATION
THE TEACHING CERTIFICATES OF M.S. : DECISION
BY THE STATE BOARD OF EXAMINERS. :

Decided by the State Board of Examiners, June 15, 2000

For the Respondent-Appellant, Wills, O'Neill & Mellk (Arnold M. Mellk, Esq.,
of Counsel)

For the Petitioner-Respondent, Peter D. Alvino, Deputy Attorney General
(John J. Farmer, Jr., Attorney General of New Jersey)

On June 15, 2000, the State Board of Examiners revoked the teaching certificates of M.S. (hereinafter "respondent"), a tenured teaching staff member, for unbecoming conduct. The Board of Examiners adopted the findings and conclusions of the Administrative Law Judge, agreeing that the charge of improper sexual conduct had been proven by a preponderance of the credible evidence and that the respondent's conduct was so egregious as to warrant revocation of her certificates.

After a thorough review of the record, we affirm the decision of the State Board of Examiners substantially for the reasons expressed therein. In so doing, we have carefully reviewed the audio tape made by A.E., a former student in the district, exhibit P-1, in evidence, rather than simply relying on the transcript of that tape. Moreover, we agree that the testimony clearly establishes that the voice on the tape is that of the respondent. Both the Superintendent of Schools and the Director of Special Services,

who directly supervised the respondent, identified the respondent's voice on the tape. Tr. 10/6/99, at 92, 94. Although it is difficult to establish on the basis of that tape whether the respondent, as alleged by A.E., grabbed his genitals and displayed her breasts to him during the course of their conversation, we conclude that the sexual nature of the exchange—in which the respondent was an active and willing participant—in addition to the ample evidence in the record, fully support the Board of Examiners' determination that the charges of improper sexual conduct had been proven and that the appropriate sanction under the circumstances is the revocation of the respondent's teaching certificates. We agree that the respondent's conduct was so egregious as to warrant precluding her from serving as a teacher in any school district in this state.

Consequently, we affirm the decision of the State Board of Examiners substantially for the reasons expressed therein.

December 6, 2000

Date of mailing _____