

179-24
State Board of Examiners Dkt. No.
2021-163 OAL Dkt. No. EDE 06423-2021
Agency Dkt. No. 13-11/23A

New Jersey Commissioner of Education

Final Decision

In the Matter of the Certificates of
Nicole M. Maffucci, State Board of
Examiners, New Jersey Department
of Education.

Order of Suspension by the State Board of Examiners, dated October 27, 2023

For the Respondent-Appellant, Justin M. Schwam, Esq.

For the Petitioner-Respondent State Board of Examiners, Sadia Ahsanuddin,
Deputy Attorney General (Matthew J. Platkin, Attorney General of New Jersey)

The Commissioner has reviewed the record, hearing transcripts, and papers filed in connection with Nicole M. Maffucci's appeal of the Order of the State Board of Examiners (Board), dated October 27, 2023, suspending her Teacher of Elementary K-6 Certificate of Eligibility with Advanced Standing, Teacher of Elementary K-6 Standard Certificate, Teacher of Students with Disabilities Certificate of Eligibility, Teacher of Students with Disabilities Standard Certificate, and Supervisor Certificate for a period of one year.

On or about May 13, 2021, the Board issued an Order to Show Cause (OSC) regarding the suspension of appellant's certificates. The OSC alleged that appellant applied for a Principal Certificate in October 2020. After being advised by an examiner at the New Jersey Department of Education (Department) that her Record of Professional Experience (ROPE) form was deficient,

appellant allegedly submitted a revised ROPE form to her employer for signature which contained inaccurate information. The OSC further alleged that appellant failed to notify her employer about the alterations she made to the ROPE form and indicated only that it required a signature and submission to the Department.

Although the ROPE form instructions state that the employer must complete Parts B, C, and D, it is uncontested that appellant filled out the ROPE forms herself (except for the employer’s signature line). The record reflects that the ROPE form rejected as deficient by the Department’s examiner, which was submitted in February 2021, listed her “Successful Professional Experience” in Part B as follows:

Position Held	Name of certificate required for this position	If Teacher, indicate subject taught	Grade Level	Start Date	End Date	Check One: Full-Time Part-Time (50% or more) (less than 50%)
Special Education Teacher	Teacher of Students with Disabilities	Social Studies	9-12	12/1/14	Current	X

Part C of the February 2021 ROPE form, “Teacher Evaluation,” stated that appellant’s district evaluated her as a Special Education Teacher in 2016-2017, 2017-2018, 2018-2019, and 2019-2020, rating her as “4 – highly effective” in each school year.

Because appellant did not receive her Teacher of Students with Disabilities Standard Certificate until 2018, the Department’s examiner advised appellant that Part B experience prior to 2018 needed to be under her Teacher of Elementary K-6 Standard Certificate and asked whether she had any additional experience under that certificate. This inquiry prompted appellant to prepare a revised ROPE form.

In March 2021, appellant prepared a revised ROPE form listing her “Successful Professional Experience” in Part B as follows:

Position Held	Name of certificate required for this position	If Teacher, indicate subject taught	Grade Level	Start Date	End Date	Check One: Full-Time Part-Time (50% or more) (less than 50%)
Teacher	Elementary School Teacher K-6	Social Studies	6	12/1/14	6/8/18	X
Teacher	Teacher of Students with Disabilities	Social Studies	9-12	6/8/18	Current	X

Part C of the March 2021 ROPE form, “Teacher Evaluation,” stated that appellant’s employer evaluated her as a 6th grade Social Studies teacher in 2016-2017 and 2017-2018, rating her as “4 – highly effective.” It further stated that appellant’s employer evaluated her as a Special Education teacher in 2018-2019 and 2019-2020, rating her as “4 – highly effective.”

During the contested hearing at the OAL, appellant admitted, contrary to what the March 2021 ROPE form indicated, that she never taught 6th grade on a full-time basis and was not evaluated by her employer specifically as a 6th grade Social Studies teacher. However, she credibly testified that she taught a group of 6th through 8th grade students during the 2016-2017 and 2017-2018 school years in U.S. Government and World Geography classes while also teaching high school Social Studies to grades 9 through 12. She produced copies of schedules from 2016-2017 and 2017-2018 which stated that she taught U.S. Government, among other courses, in 2016-2017 and World Geography, among other courses, in 2017-2018, several days per week. Two district administrators who supervised appellant between 2016 and 2020, whom the ALJ also found to be credible, testified that appellant never taught 6th grade.

Ultimately, the ALJ found that appellant had taught Social Studies classes (U.S. Government and World Geography) to 6th through 8th graders in addition to having taught Social Studies to high school students. The ALJ further found that the “errors” on appellant’s March 2021 ROPE form “do not constitute a knowing and willful effort to misrepresent her credentials, but an inadvertent error in compilation of the information in the documentation.” Initial Decision, at 16. The ALJ also noted the “lack of oversight by administration and abrogation of administration’s responsibility in preparing the forms.” *Ibid.*

Additionally, without expressly stating that appellant had committed unbecoming conduct, the ALJ concluded that a three-month suspension of appellant’s certificates was warranted because she “unintentionally submitted inaccurate information in her certificate application.” *Id.* at 19. The ALJ cited appellant’s confusion over how to fill out the ROPE form and the fact that she “stated on a form that she teaches sixth grade social studies, and she does in fact teach history courses to sixth graders.” *Ibid.* In the end, the ALJ characterized appellant’s actions as “an honest and minor mistake.” *Ibid.*

Upon considering appellant’s exceptions and the Board’s reply thereto, the Board voted to adopt the ALJ’s findings of fact and to find unbecoming conduct based upon those facts. Additionally, the Board voted to modify the Initial Decision to impose a one-year suspension of appellant’s certificates effective October 27, 2023. In determining the appropriate sanction, the Board found *In the Matter of the Certificates of Calvin J. Williams, Jr.*, OAL Dkt. No. EDE 3889-94, State Board of Examiners Dkt. No. 241 (May 18, 1995), to be instructive. It rejected the ALJ’s reasoning that: (1) appellant was a much less “seasoned” teacher than Williams, who had nearly 25 years of teaching experience; and that (2) her misrepresentation was more ambiguous than

that in *Williams*, as Williams submitted documents implying he held a certificate he did not have. The Board concluded that appellant, who began teaching in 2014, was no less of a “seasoned” teacher than Williams. Order of Suspension, at 5. Moreover, the Board emphasized that appellant “misrepresented her experience with regard to the capacity her certifications authorized her to teach.” *Ibid*.

On appeal, appellant maintains that no action should be taken against her certificates. She asserts that the facts as found by the ALJ do not support a finding of unbecoming conduct as she made an honest mistake on a draft ROPE form that was never submitted to the Department in support of her Principal Certificate application. Moreover, even if the facts supported a finding of unbecoming conduct, appellant argues that the Board unreasonably quadrupled the sanction from a three-month suspension to a one-year suspension of her certificates based upon the *Williams* case, which is distinguishable from the present matter.

In response, the Board argues that its decision was reasonable and supported by sufficient, credible evidence in the record. It emphasizes that appellant misrepresented her teaching experience on the March 8, 2021, ROPE form as she never taught 6th grade on a full-time basis between 2014 and 2018 and admitted same during the contested hearing. In reply, appellant requests that the Board’s letter brief be stricken as it was overlength by four pages in violation of *N.J.A.C. 6A:4-2.9(b)*; the Board ignored rule *N.J.A.C. 6A:4-2.8(d)(4)*; the Board failed to include an appendix in violation of *N.J.A.C. 6A:4-2.10(a)*; and the Board improperly attached exhibits.¹

¹ The Commissioner denies appellant’s request to strike the Board’s letter brief. See *N.J.A.C. 6A:4-4.4(a)*.

In reviewing appeals from decisions of the State Board of Examiners, the Commissioner may not substitute his judgment for that of the Board so long as the appellant received due process and the Board's decision is supported by sufficient credible evidence in the record. The Commissioner's role in reviewing appeals is constrained by *N.J.A.C. 6A:4-4.1(a)*, which specifies that "the Commissioner shall ascertain whether the decision is supported by sufficient credible evidence in the record and shall not disturb the decision unless the appellant has demonstrated that the State Board of Examiners . . . acted in a manner that was arbitrary, capricious, or contrary to law." The Commissioner finds that sufficient, credible evidence in the record supports the Board's determination that appellant committed unbecoming conduct.

"Conduct unbecoming" is an "elastic" concept that includes "conduct which adversely affects the morale or efficiency" of the public entity or "which has a tendency to destroy public respect for [public] employees and confidence in the operation of [public] services." *In re Emmons*, 63 *N.J. Super.* 136, 140 (App. Div. 1960). *Accord Bound Brook Bd. of Educ. v. Ciripompa*, 228 *N.J.* 4, 13 (2017). To maintain public confidence in the integrity of the Department's issuance of certificates to school employees, applicants must adhere to the Department's procedures and follow instructions. Here, although the ROPE form instructions state that Parts B, C, and D must be completed by the employer, appellant drafted both the February and March 2021 ROPE forms herself. She should not have done so. Moreover, appellant admitted during the contested hearing that she never taught 6th grade on a full-time basis. And yet, the March 2021 ROPE form she drafted indicates that she taught 6th grade on a full-time basis between December 2014 and June 2018. That is inaccurate. Furthermore, appellant indicated on the March 2021 ROPE form

that she was evaluated as a 6th grade Social Studies teacher in 2016-2017 and 2017-2018 and rated as highly effective in that area. That, too, is inaccurate.

Appellant's reliance upon *In the Matter of the Certificates of Sally Anne Mesh*, OAL Dkt. No. EDE 8424-04 (Initial Decision Jan. 30, 2006), State Board of Examiners Dkt. No. 0304-232 (May 10, 2006), is unpersuasive as that matter did not involve an application for a certificate. Mesh's employer questioned her use of "PhD" and EdD" on some Individualized Education Plans (IEPs) after her signature, as its files did not reflect that she held a doctorate degree, and it could not verify that she had obtained same. No evidence was produced at the contested hearing to dispute the authenticity of the doctorate degrees Mesh represented that she held. Thus, her use of "PhD" and "EdD" on IEPs was not proven to be inaccurate, and the Board concluded that the action to suspend or revoke her certificates should be dismissed. Here, appellant admitted that the March 2021 ROPE form she drafted contained inaccurate information and the Board found that her actions in this regard constituted unbecoming conduct. Even if the Commissioner would have decided the matter differently, he is not permitted to substitute his judgment for that of the Board so long as the Board's decision is supported by sufficient, credible evidence. *N.J.A.C. 6A:4-4.1(a)*.

However, the Commissioner concurs with appellant that a one-year suspension of her certificates is unreasonable in light of the mitigating circumstances present in this case and because *Williams*, upon which the Board primarily relied, is factually distinguishable. Appellant's supervisor directed her to complete the ROPE forms and, as found by the ALJ, abrogated the employer's responsibilities in that regard. Appellant revised the ROPE form following an email exchange with a Department examiner who asked whether she had other teaching experience

under her Teacher of Elementary K-6 Standard Certificate. At that point, she recalled that she taught Social Studies to 6th grade students between 2014 and 2018. As the ALJ found, appellant's confusion about whether to include this information on the ROPE form is understandable.

While the March 2021 ROPE form did contain inaccurate information, appellant did not fail to notify her employer about the alterations to the form as alleged in the OSC, nor did she tell her supervisor only that it required a signature and submission to the Department. Appellant was transparent with her supervisor and, when questioned, explained why she added the 6th grade teaching experience to the March 2021 ROPE form. In fact, the record reflects that appellant was clearly confused about how to complete the ROPE form and was engaged in dialogue with both Department staff and her supervisor about how to proceed. Appellant never submitted the March 2021 ROPE form to the Department, and she expressed to her supervisor during their email exchange that she did not expect her to sign it if she believed it to be inaccurate.

In addition, the Board's reliance upon *Williams* in support of its one-year suspension of appellant's certificates is misplaced. *Williams* negligently submitted fraudulent information to the Department in pursuit of a School Administrator Certificate, which he ultimately received despite his ineligibility. The documents he submitted to the Department implied that he held a certificate he did not have. Finding that his actions harmed the integrity of the teacher certification system, the Board revoked his School Administrator Certificate and suspended his other certificates for two years. In contrast, here, appellant neither submitted fraudulent information to the Department nor received a Principal Certificate under false pretenses. She did not submit documents to the Department implying that she held a certificate that she did not

have. Furthermore, it was unreasonable for the Board to conclude that appellant, who began her teaching career in 2014, is “no less of a ‘seasoned’ teacher” than Williams, who had nearly 25 years of teaching experience. Order of Suspension, at 5. It is also noted that appellant has never been disciplined as an educator before and was generally regarded as an excellent teacher.

Accordingly, the Commissioner finds that a three-month suspension of appellant’s certificates is appropriate given the nature and extent of the unbecoming conduct at issue. The decision of the State Board of Examiners is modified to reduce the sanction imposed for appellant’s unbecoming conduct from a one-year suspension, effective October 27, 2023, to a three-month suspension, effective October 27, 2023.²



ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 6, 2024

Date of Mailing: May 8, 2024

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.