

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION

THE LICENSES OF : STATE BOARD OF EXAMINERS

MARK JACOB : ORDER OF SUSPENSION

_____ DOCKET NO: 398-06/96-126

At its meeting of June 20, 1997, the State Board of Examiners reviewed the information forwarded to the Board by both the Commissioner of Education and the Middlesex County Superintendent of Schools regarding a security breach in the administration of the High School Proficiency Test (HSPT) in the Middlesex County Vocation/Technical School. Mark Jacob, Respondent in this matter, admitted to school administrators that he secured portions of the test and copied them. Currently, Respondent holds Teacher of Mathematics and Teacher of History licenses in New Jersey.

At that meeting, the State Board of Examiners voted that said admission constituted sufficient grounds for issuing Respondent an Order to Show Cause why his teaching licenses should not be revoked or suspended. Respondent was served with said Order to Show Cause by regular and certified mail on or about August 9, 1996. Said Order provided that if Respondent desired to file an Answer to said Order, such answer must be filed within twenty (20) days. On September 10, 1996, an Answer to the Order to Show Cause was received from Stephen E. Klausner, Esq., on behalf of his client, Mark Jacob.

In the interim, the State Board of Education decided two cases which impacted on the hearing process conducted by the State Board of Examiners. The first case is captioned, In the Matter of the Revocation of the Teaching Certificates of Philip Sheridan by the State Board of Examiners, Dkt. No. 185-4/92-07, decided by the State Board of Examiners July 16, 1992, rev'd and

remanded, State Board of Education, September 7, 1994, Decision on Remand, June 15, 1995. The other was In the Matter of the Revocation of the Teaching Certificates of Charles Vitola by the State Board of Examiners, Dkt. No. 178-12/91-08, decided by the State Board of Examiners July 16, 1992, rev'd and remanded, State Board of Education, November 2, 1994, Decision on Remand, September 1, 1995. Within these two cases, the State Board of Education determined that the State Board of Examiners was required to amend its regulations in order to permit it to hear directly legal matters in which material facts are not in dispute. During the pendency of the revisions to the State Board of Examiner' regulations regarding its hearing process, all such hearings were held in abeyance. Said regulatory amendments were finally codified in May of 1997.

Pursuant to the newly amended provisions of N.J.A.C. 6:11-3.6(a)1, on July 21, a hearing notice was mailed by certified mail to Mr. Klausner. A regular mail copy was forwarded to Mr. Jacob. The certified mail return receipt was signed and returned. The regular mail copy was not returned. No response was received from either Mr. Klausner or Respondent. However, on August 14, 1997 letters written in support of Respondent's position in this appeal were received from Joseph C. Columbo, Superintendent of Middlesex County Vocational Schools and Richard A Stone, Principal. Thereafter, on September 2, 1997, Respondent was advised by regular mail that he was being provided an additional ten (10) days to file a response to the initial hearing notice. Mr. Klausner was forwarded a certified copy of the notice. The certified mail return receipt was signed and returned. The regular mail copy was not returned. No response has been received from either Mr. Klausner or Respondent. Respondent has, therefore, waived his right to participate in the hearing process. Thus, the State Board of Examiners will consider his Answer to the Order to Show Cause as his sole submission to counter the charges brought against him.

Respondent's Answer to the Order to Show Cause admits securing portions of the test and copying them in violation of the security provisions of the test, but responds by stating that insofar as he had already been administratively disciplined, the instant action is banned by the double jeopardy clause of the United State constitution. He further submits that the Order to Show Cause is time-barred by the appropriate statute of limitations.

At its meeting of November 20, 1997 the State Board of Examiners reviewed the charges lodged against Respondent as well as the documentation gathered by the Department of Education in its investigation of the breach of the security of the HSPT that served as the basis of the Order to Show Cause. The State Board of Examiners determined that no material facts related to the charges levied against Respondent were in contest. Respondent in fact admits that he secured portions of the HSPT and copied them. Accordingly, the matter could, therefore, proceed to a determination as to whether the charges levied against Respondent in the Order to Show Cause constitutes conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

In this case, Respondent has acknowledged that he removed a test booklet and duplicated two pages of the math portion. The record before the State Board of Examiners establishes that materials from the test were not shared with others and when the teacher realized the seriousness of the matter, he accepted a local suspension without pay of two weeks. While indicating that they cannot condone his behavior concerning the testing breach, Respondent's principal and superintendent have written letters of support on his behalf, attesting to his performance as a teacher of math and to his character.

The Commissioner has determined in the past that guilty pleas involving crimes of dishonesty constitute conduct unbecoming a teaching staff member sufficient to warrant dismissal. See, e.g., In the Matter of the Tenure Hearing of Emil J. Guasconi, School of the Town of West New York

Hudson County, 1977 S.L.D 513. While this matter did not concern a criminal conviction, the conduct involved is extremely serious. Respondent inappropriately, without authorization and contrary to testing security, duplicated two pages from the math portion of the HSPT for his own use in instructing his pupils. As noted in the memo dated October 10, 1995 from the High School's principal, a breach of security of the HSPT makes the test invalid, and therefore, all individual handling the HSPT materials are accountable for materials in their possession. Breaches of the testing security violate all students' and teachers' right to an assessment of performance. It is the conclusion of the State Board of Examiners that Respondent's actions reflect discredit upon the teaching profession and therefore represent conduct unbecoming a license holder.

A teacher's behavior outside the classroom may be relevant in determining that person's qualification and continuous fitness to hold a license to teach. In re Tenure of Grossman, 127 N.J. Super 13 (App. Div. 1974). Respondent's attempt to secure information from the HSPT for his own use as a classroom teacher reveals that he lacks an understanding of the standards of conduct required of a teacher. Respondent herein acted in a manner entirely inconsistent with the expectations of a teaching staff member, impairing the confidence the students and public placed in him.

It is the conclusion of the State Board of Examiners, therefore, that the knowing duplication of sections of the High School Proficiency Test warrants sanction beyond that administered by the local district in order to maintain the integrity of testing instrument and to deter others from breaching testing security measures. The Board thus determines that the appropriate penalty for Respondent's unbecoming conduct is the suspension of his licensure as a Teacher of Mathematics and a Teacher of History for a period of two (2) months, commencing July 1, 1998 through August 31, 1998.

It is, therefore, ORDERED that Mark Jacob's New Jersey licenses as a Teacher of Mathematics and as a Teacher of History are hereby suspended for two months commencing July 1, 1998 through August 31, 1998, on this 20th day of November, 1997.

It is further ORDERED that Mark Jacob return his licenses during the period of suspension to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 08625-0500 by June 30, 1998 during the pendency of the suspension period.

Secretary
New Jersey State Board of Examiners

Date of Mailing: January 27, 1998

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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