

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ALYCE STEWART : ORDER OF REVOCATION
_____ : DOCKET NO: 470-04/98-160

At its meeting of April 2, 1998, the State Board of Examiners reviewed a decision issued by the Commissioner of Education which had dismissed Alyce Stewart from her tenured position with the State-Operated School District of the City of Newark for charges of unbecoming conduct. Stewart had conspired with Dr. Carl H. Lichtman, a licensed psychologist to defraud the State Health Benefits Commission by submitting false claims for psychological services.

Stewart had never responded to the charges filed by the school district although given numerous opportunities to do so, both directly and through her attorney. As a result, on April 15, 1997 the Commissioner issued a decision granting summary judgment to the district and dismissing Stewart from her position. The Commissioner also referred the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6 for appropriate action with regard to Stewart's certificates. Stewart currently holds Elementary School Teacher, Secondary School Teacher of French and Secondary School Teacher of Social Studies certificates.

Stewart appealed the Commissioner's decision to the State Board of Education on May 13, 1997. After reviewing Stewart's submissions, the State Board affirmed the Commissioner's decision. The State Board rejected Stewart's contention that she had not responded to the charges due to her then-attorney's neglect. She claimed that she had a meritorious defense to all of the charges against her. The State Board found that Stewart had ample opportunity to respond on her own and had not, even as of the date of her appeal, denied the charges against her. The State Board added that the charges needed to be proven only by the preponderance of the

evidence and that therefore Stewart's innocence with regard to a criminal charge did not demonstrate that she had not engaged in conduct unbecoming. Accordingly, the State Board found that the Commissioner properly disposed of the matter on a summary basis and that the charges as admitted constituted conduct unbecoming. Under the circumstances the State Board found that the conduct warranted Stewart's dismissal.

Upon review of the State Board of Education's decision, the State Board of Examiners voted to issue an Order to Show Cause to Stewart on April 2, 1998. The Order was based on the charges underlying Stewart's tenure matter before the Commissioner.

The Order to Show Cause was mailed to Respondent by regular and certified mail on May 4, 1998. The regular mail copy was not returned. The Order provided that if Respondent desired to file an Answer to the Order that Answer must be filed within twenty (20) days. Stewart filed an Answer on May 22, 1998. In her Answer, Stewart admitted that the State-Operated School District of Newark had certified tenure charges against her, that those charges had been adjudicated on a summary basis and that she had been dismissed from her tenured employment. Stewart consistently denied that the charges had a proper basis and reiterated that her failure to respond in the tenure case was due to her attorney's negligence.

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on June 22, 1998, a hearing notice was mailed by regular and certified mail to Stewart. The notice explained that since it appeared no material facts were in dispute regarding the tenure charges, respondent 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. It also explained that, upon review of the charges against her and the legal arguments tendered in her defense, the State Board of Examiners would determine if her offense warranted action against her certificates.

Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. The regular mail copy was not returned. Stewart's attorney responded to the Hearing Notice on July 13, 1998. In that letter Stewart disagreed with the Board of Examiners' conclusion that no material facts were in dispute in the case. Nevertheless, she informed the Board that she no longer wished to contest the revocation proceedings.

The issue before the State Board of Examiners in this matter, therefore, is to determine whether Stewart's conduct and her subsequent loss of tenure constitute conduct unbecoming a certificate holder. Since Stewart stated that she no longer wished to contest the revocation proceedings, the State Board of Examiners considered her Answer as the only responsive pleading in the hearing process.

At its meeting of September 24, 1998, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to Stewart's offense were in dispute since she admitted that the Commissioner had ruled against her.

It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. The issue before the State Board of Examiners in this matter, therefore, is to determine whether Respondent's offense as set forth in the Order to Show Cause, represents just cause to act against Respondent's certificates pursuant to N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners 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. 6:11-3.4. Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130

N.J.L. 369, 371 (S. Ct. 1943), aff'd. 131 N.J.L. 326 (E & A 1944). "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. In this regard, school law cases have traditionally recognized the right of the State Board of Examiners to revoke certificates where the teacher was involved in criminal activities, even if the activities were not related to the classroom. See, Cox v. State Board of Examiners (App. Div. Docket No. A-3527-81T3) (November 18, 1983); State Board of Examiners v. Krupp, 3 N.J.A.R. 285 (1981). Here, Stewart acted in concert with another individual to defraud the State Health Benefits Commission. She clearly did not exhibit the behavior expected of a role model for children. This conduct cannot be excused and Stewart cannot remain a teacher.

Accordingly, it is therefore ORDERED that Alyce Stewart's Elementary School Teacher, Secondary School Teacher of French and Secondary School Teacher of Social Studies certificates be revoked on this 24th day of September 1998. It is further ORDERED that Alyce Stewart return her certificates to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this letter.

Secretary
State Board of Examiners

Date of Mailing: December 3, 1998

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

IBG:MZ:br:alycestewart