

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOY NORTHROP DEVINCENZI : ORDER OF SUSPENSION
_____ : DOCKET NO: 478-06/98-205

At its meeting of June 18, 1998, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education regarding Joy Northrop DeVincenzi (hereafter DeVincenzi), the Superintendent of the Boonton School District. The Commissioner found that DeVincenzi had acted arbitrarily, capriciously and in bad faith and had violated the agreement between the Boards of Education of Lincoln Park and Boonton in implementing a selection search process to fill the position of Principal of Boonton High School. DeVincenzi currently holds School Administrator, School Business Administrator, Assistant Superintendent for Business, Teacher of Bookkeeping and Accounting, Teacher of Data Processing, Teacher of General Business Studies and Teacher of Typewriting certificates.

This case originated in 1995 when the Lincoln Park Board of Education filed two petitions with the Commissioner of Education. The first petition (which is not at issue here) alleged that Boonton had violated its sending-receiving agreement with Lincoln Park with regard to the rights of Lincoln Park's representative on the Boonton Board of Education. The second petition alleged that DeVincenzi and the Boonton Board had acted arbitrarily, capriciously and in bad faith regarding the selection and the appointment of the Boonton High School principal.

The Commissioner of Education transmitted the cases to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Mumtaz Bari-Brown consolidated the cases and heard testimony over twelve days in February, March, April

and May 1996. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on January 23, 1997.

After considering all the testimony, ALJ Bari-Brown found that DiVincenzi's conduct was improper. The Judge found that Lincoln Park and Boonton had agreed to a principal selection process that required six affirmative votes by the selection committee to advance a candidate for final consideration. (Initial Decision, slip op. at 36). The ALJ also found that DiVincenzi had unilaterally changed the minutes of a meeting to reflect a change in the number of approval votes needed when, in fact, the Board had approved no such change. DeVincenzi also falsely testified that this change had occurred at a public Board meeting (Initial Decision, slip op. at 36-37).

ALJ Bari-Brown also found that DeVincenzi inappropriately referred candidates who did not meet the minimum requirements for the principal position to the screening committee. Furthermore, the ALJ concluded that DeVincenzi arbitrarily chose the cut-off score for candidates and failed to reconvene the screening committee after the first-round ratings were completed as she had promised. (Initial Decision, slip op. at 42-43). Judge Bari-Brown also noted that DiVincenzi misrepresented the salary available for the position, thereby causing some qualified candidates to withdraw. (Initial Decision, slip op. at 43). The Judge ultimately concluded that the record supported a finding that DiVincenzi acted "arbitrarily, capriciously, illegally and in bad faith in implementing the 'selection search process'." (Initial Decision, slip op. at 48).

As a result of her decision, Judge Bari-Brown ordered the principal search reopened. She allowed the current position holder, Walter Angilly, to remain principal

pending the new selection and ordered that he be given the same opportunity to resubmit his application as any other candidate. (Initial Decision, slip op. at 51-52).

In a decision dated May 30, 1997, the Commissioner of Education affirmed the ALJ's Initial Decision. The Commissioner agreed with the ALJ that DeVincenzi's actions (as well as those of the Boonton Board) necessitated the re-opening of the principal selection process. (Commissioner's Decision, slip op. at 74). The Commissioner also allowed Angilly to remain in the position pending the outcome of a new search. Finally, due to his finding that DeVincenzi acted arbitrarily, capriciously and in bad faith and violated the spirit of the Agreement between the two boards, the Commissioner referred the decision to the New Jersey State Board of Examiners for review and any action it deemed appropriate. (Commissioner's Decision, slip op. at 75).

Thereafter, on June 18, 1998, the State Board of Examiners issued an Order to Show Cause to DeVincenzi as to why her certificates should not be suspended or revoked. The Order was predicated on the ALJ's findings (as adopted by the Commissioner) that DeVincenzi had acted arbitrarily, capriciously and in bad faith during the principal selection process for Boonton High School.

The Order to Show Cause was mailed to Respondent by regular and certified mail on July 17, 1998. The Order provided that if respondent desired to file an Answer to the Order that Answer must be filed within 20 days. After receiving an extension of time, DeVincenzi filed an Answer on August 21, 1998. In her Answer DeVincenzi denied that she had acted inappropriately during the principal selection process. Rather, she argued that every action she took was with the knowledge and approval of the Boonton Board. (Answer, ¶¶ 2-4). She also stated that all of her actions were within her authority as

Superintendent and always approved by her employer, the Boonton Board of Education. DeVincenzi added that the allegations, even if true, did not rise to the level of unbecoming conduct pursuant to N.J.A.C. 6:11-3.4 and did not touch upon any certificate other than her school administrator's certificate. (Answer, Affirmative Defenses, ¶¶ 2-8). In the remainder of her Answer, DeVincenzi added that the Order to Show Cause did not allege any facts that proved that she engaged in conduct unbecoming a superintendent or teacher. She also claimed that since the underlying case referred to the Board of Examiners was not a tenure case, the findings of the ALJ and Commissioner with regard to her conduct were not binding on the Board with regard to the revocation or suspension of her certificates. (Answer, Affirmative Defenses, ¶¶ 9-16). To support the claims in her Answer, DeVincenzi submitted affidavits from seven Boonton Board of Education members. (Answer, Exhibits A-G). These affidavits all stated that the Boonton Board did discuss changing the principal selection process by requiring five confirming votes rather than six. The Affidavits also claimed that DeVincenzi's actions with regard to the principal selection process were all undertaken with the knowledge of the Board. (Exhibits A-G).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on May 6, 1999, a hearing notice was mailed by regular and certified mail to DeVincenzi. The notice explained that, since it appeared no material facts were in dispute, 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.

After receiving an extension of time, DeVincenzi responded to the Hearing Notice on July 27, 1999. In that response, DiVincenzi claimed that when she became superintendent, Lincoln Park and Boonton already had a contentious relationship. She was expected to encourage the two boards to work cooperatively and fulfill her obligation to her employer, the Boonton Board. (Hearing Response, p. 2.) She also argued that the issue of her professional conduct was never at issue in the case before the ALJ and that her certificates were never at issue until the parties filed their exceptions and the case was referred to the Board of Examiners. (Hearing Response, p.4.) Furthermore, DiVincenzi claimed that she merely acted in her capacity as the superintendent when recommending a candidate for principal. She posits that the ALJ imbued the selection process with undue significance since only the superintendent is statutorily empowered to recommend a candidate, N.J.S.A. 18A:27-4.1, and only the receiving board (in this case Boonton) had the power to appoint. (Hearing Response, p.5.)

DeVincenzi argued that in this matter the emphasis should be on whether she fulfilled her obligations as a superintendent and that she clearly did: “Mrs. DeVincenzi had the duty to make the recommendation for principal. Lincoln Park’s concerns were to be taken into account. No one prevented Lincoln Park from having the right to vote on the final selection. Under the relevant statutes, that was the full extent of the superintendent’s obligations.” (Hearing Response, p.6.) She also claimed that the ALJ did not even consider the possibility that discussions regarding changing the selection process occurred during closed sessions. (Hearing Response, p.7.) Rather the ALJ relied

on “indirect evidence and presumption that Mrs. DeVincenzi and the Boonton Board acted in bad faith to control the selection process. The reality [*sic*] is that the process was always theirs to control.” (Hearing Response, p.7.) DeVincenzi also stated that it was Lincoln Park and not Boonton, her employer, which referred her case to the Board of Examiners. Finally, DeVincenzi reiterated that she was caught between two warring boards and that she never engaged in unbecoming conduct. She urged the Board of Examiners to consider suspension as an alternative penalty, if indeed, a penalty was warranted here. (Hearing Response, pp. 8-10.)

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether DeVincenzi’s conduct constitutes conduct unbecoming a certificate holder. At its meeting of November 4, 1999, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After reviewing her response, the Board of Examiners determined that no material facts related to DeVincenzi’s conduct were in dispute. Although DeVincenzi denied that she acted in bad faith and stated that she always acted with the Board’s knowledge and approval, she does not deny the ALJ’s finding that she changed various aspects of the selection process. Thus, DeVincenzi cannot deny the charges in the Order to Show Cause. Accordingly, the State Board of Examiners finds that her actions, which the ALJ concluded were improper, constitute conduct unbecoming a certificate holder. Furthermore, the State Board of Examiners can rely on the facts as found at the tenure hearing in its independent review of the record when determining whether an individual has engaged in conduct unbecoming a teacher. See In The Matter of the Revocation of

the Teaching Certificates of Frank Roberts, No. A-420-98T2 (App. Div. Sept. 28, 1999)(slip op.).

The State Board of Examiners must now determine whether DeVincenzi's actions as set forth in the Order to Show Cause, represent just cause to act against her certificates pursuant to N.J.A.C. 6:11-3.6(a)1. After an independent review of the record we find that they do.

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). In this instance, DeVincenzi deviated from the behavior expected of a chief school administrator. While her own board may extend her broad latitude, she still had some obligations to both districts to choose the best principal using the process agreed to by the selection committee. Unilaterally changing the process or imposing different criteria for selection may be acceptable to her board (which was involved in an ongoing dispute with Boonton), but it is clearly unacceptable to the ALJ, the Commissioner and this Board. Thus, these actions point squarely to a finding of conduct unbecoming a certificate holder.

Furthermore, DeVincenzi's implication that this Board should not be reviewing her behavior because the Lincoln Park board did not suggest until late in the case that her certificates should be revoked or because she was never brought up on tenure charges must be rejected. DeVincenzi was always a named respondent in the case between

Lincoln Park and Boonton that involved the principal selection process. Thus, she was clearly on notice that her decisions as superintendent would be called into question. Moreover, pursuant to N.J.A.C. 6:11-3.6, there are several different mechanisms whereby the Board of Examiners receives its cases; the Commissioner's referral of tenure cases is merely one of those avenues.

The only issue that remains before the Board of Examiners therefore is the appropriate sanction to impose. The Board acknowledges that DeVincenzi found herself in a difficult situation and that all actions were undertaken with the knowledge and approval of her employing board. Due to these mitigating circumstances, the Board of Examiners believes that revocation would be too severe a penalty in this matter.

The Board, however, must underscore the need to send a strong message regarding appropriate administrator conduct and the regulation of the teaching profession. In fact, the Supreme Court of this State agrees that eliminating undesirable members from a profession is a necessary public service:

The purpose of a disciplinary sanction, whether it be a reprimand, suspension, or a disbarment, is not punishment, but maintenance of the integrity and purity of the bar, elimination of unfit persons from the practice of law, and vindication of public confidence in the bar and the administration of justice.

In Re Logan, 70 N.J. 222,227 (1976). The Court's words in Logan, while referring to attorneys, are pertinent to teachers and school administrators as well. Revocation proceedings, when taken to the ultimate conclusion, allow the profession to maintain high standards as well as protecting the public from those teachers who ought not to be in a classroom.

Furthermore, the Commissioner and State Board of Education have always recognized that school administrators, especially superintendents, are held to an even higher standard than teachers:

[P]rior decisions regarding the level of conduct expected from teaching staff are uniformly consistent in holding that teachers hold positions of public trust, are responsible for the care of children for whom they serve as role models, and are thus held to higher standards in behavior than most other employees and individuals. *See e.g., In the Matter of the Tenure Hearing of Jacque L. Sammons, 1972 S.L.D.302.* It is equally clear in prior decisions that the professional conduct demanded of superintendent is significantly higher yet.

As enunciated by the State Board of Education in *In the Mater of the Tenure hearing of Frank J. Napoli, 1988 S.L.D. 284:*

If the standard of behavior required of teachers is stringent, the standard for high administrative personnel must be even more stringent.

In the Mater of the Tenure Hearing of Dr. Richard C. Horowitz, 93 N.J.A.R.2d 232, 271 (EDU).

Here, DeVincenzi's lapse in judgment is not so unconscionable as to bar her from the profession forever. Furthermore, in this case, the Board feels justified in drawing a distinction between improper action DeVincenzi took as an administrator and her unchallenged record as a classroom teacher. DeVincenzi's lapses as superintendent were sufficiently serious, however, to warrant her suspension from the profession **as an administrator** for a substantial period of time. The Board believes that a five-year

suspension of only DeVincenzi's administrative certificates will protect the public while not unduly punishing DeVincenzi.

Accordingly, it is therefore ORDERED that Joy Northrop DeVincenzi's Assistant Superintendent for Business, School Business Administrator and School Administrator certificates be suspended for a period of five years, effective July 1, 2000 through June 30, 2005. It is further ORDERED that DeVincenzi return those certificates to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 by July 1, 2000.

Secretary
State Board of Examiners

Date of Mailing: March 20, 2000

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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