

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
CECELIA JAMES : ORDER OF REVOCATION
_____ : DOCKET NO: 605-02/01-274

At its meeting of February 22, 2001, the State Board of Examiners reviewed a tenure decision forwarded by the Commissioner of Education regarding Cecelia James. In the Matter of the Tenure Hearing of Cecelia James, Docket No.223-6/97 (November 8, 2000.) Although the tenure decision did not dismiss James from her tenured position because she had already forfeited it by virtue of a guilty plea in a criminal proceeding, the Commissioner determined that James had engaged in conduct unbecoming a teacher. James currently holds Teacher of Elementary School and Teacher of Social Studies certificates.

This case originated when the State-Operated School District of the City of Newark certified tenure charges against James. The district charged her with unbecoming conduct for participating in a scheme to defraud the State Health Benefits Program. James had supplied her name, address and social security number to Dr. Carl Lichtman, a psychologist, who then filed false claims for treatment with the State Health benefits program. Lichtman would then pay James a portion of the proceeds he received as payment for the false claims.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) MaryLouise Lucchi-McCloud heard testimony on several days in March 1998. After receiving post-hearing submissions, the record closed. In the interim Judge Lucchi-McCloud had retired and

ALJ Maria Mancini La Fiandra inherited the case. ALJ La Fiandra issued an Initial Decision on November 8, 2000.

In that decision ALJ La Fiandra found that James had given Lichtman her personal information. She also found that James never received any psychological treatment from Lichtman. After Lichtman received payment from the State Health Benefits Program, he deposited those checks and wrote his own checks payable to James. Lichtman paid James a total of \$2350. James negotiated the checks Lichtman gave her. (Initial Decision, slip op. at 5).

After considering all the testimony, ALJ La Fiandra found that James' conduct was improper. The Judge found that James' testimony that she did not know what was going on and did not know why she received the money was not credible. She also found that James participation in the scheme resulted in the theft of and improper payment of public monies. (Initial Decision, slip op. at 7.) Judge La Fiandra therefore concluded that James had engaged in conduct unbecoming a teacher. Although the issue of James' dismissal was moot since she had forfeited her public position in a criminal proceeding stemming from the same incident, the ALJ concluded that James was unfit to remain a teacher. (Initial Decision, slip op. at 8.)

In a decision dated December 22, 2000, the Commissioner of Education affirmed the ALJ's Initial Decision as to the tenure charges against James. The Commissioner agreed with the ALJ that the local board had proven its case against James with regard to the tenure charges of unbecoming conduct. (Commissioner's Decision, slip op. at 11). Accordingly, the Commissioner transmitted the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6 for appropriate action regarding James' certificates.

Thereafter, on February 22, 2001, the State Board of Examiners issued an Order to Show Cause to James as to why her certificates should not be or suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Order to Show Cause was mailed to James by regular and certified mail on April 27, 2001. The Order provided that an Answer must be filed within 20 days. James did not file an Answer although she had signed for the certified mail copy of the Order to Show Cause. On November 1, 2001 the Board of Examiners provided James an additional 10 days to file a response to the Order to Show Cause. Once again, James did not respond.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether James' criminal conviction and forfeiture of her tenured position give the Board just cause to act against her certificates pursuant to N.J.A.C. 6:11-3.6(a)1. Since James did not respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. N.J.A.C. 6:11-3.6(a)1. Since James' unbecoming conduct, as set forth in the Order to Show Cause, is admitted, the Board of Examiners must now decide whether that constitutes a sufficient basis to act against her certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

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. There can be no dispute that James' participation in a scheme to defraud the State negates any claim she can have to be a role model for children. Moreover, her guilty plea to the criminal charges and her agreement to forfeit her tenured position as part of that plea reinforce the Board of Examiners' resolve to prevent her from teaching in any New Jersey school district. Thus, the only proper response to James' breach is revocation.

Accordingly, it is therefore ORDERED that Cecelia James' Teacher of Elementary School and Teacher of the Handicapped certificates be revoked on this 17th day of January 2002. It is further ORDERED that James return her certificates to the Secretary of the State Board of Examiners, Office of Licensure and Credentials, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Joan E. Brady, Secretary
State Board of Examiners

Date of Mailing: March 12, 2003

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