

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOHNNIE BENNETT : ORDER OF REVOCATION
_____ : DOCKET NO: 628-05/01-291

At its meeting of May 10, 2001, the State Board of Examiners reviewed a decision the Commissioner of Education had forwarded, dismissing tenure charges the State-Operated School District of the City of Newark had filed against Johnnie Bennett. In the Matter of the Tenure Hearing of Johnnie Bennett, Docket No. 549-11/96 (March 12, 2001.) Bennett currently holds Teacher of Elementary School and Educational Media Specialist certificates.

This case originated when the State-Operated School District of the City of Newark certified tenure charges against respondent, Johnnie Bennett. The district charged her with unbecoming conduct for participating in a scheme to defraud the State Health benefits program (SHBP.)

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Prior to a hearing at the OAL, Bennett pled guilty in a criminal proceeding to conspiracy and theft. As part of her guilty plea, Bennett agreed that she would not apply for pretrial intervention and that she would resign her tenured position with the State-Operated School District of the City of Newark. Administrative Law Judge (ALJ) Maria Mancini La Fiandra therefore dismissed the tenure case as moot. Id. at 2.

In a decision dated March 12, 2001, the Commissioner of Education affirmed the ALJ's Initial Decision dismissing the tenure matter as moot. (Commissioner's Decision,

slip op. at 4). Accordingly, the Commissioner dismissed the tenure charges against Bennett and transmitted the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6 for appropriate action regarding Bennett's certificates.

Thereafter, on May 10, 2001, the State Board of Examiners issued an Order to Show Cause to Bennett as to why her certificates should not be suspended or revoked. The Order was predicated on the criminal conviction and Bennett's forfeiture of her position with the Newark district.

The Board sent Bennett an Order to Show Cause by regular and certified mail. The Order provided that an Answer must be filed within 20 days. Bennett filed an Answer and in her Answer admitted that the district had brought tenure charges against her. (Answer, ¶ 3). In the remainder of her Answer, Bennett denied that there was cause for the consideration of the revocation or suspension of her certificates.(Answer, ¶ 8.)

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on May 20, 2002, the Board of Examiners sent Bennett a hearing notice was mailed by regular and certified mail. The notice explained that, since it appeared no material facts were in dispute regarding the tenure charges, Bennett 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.

Bennett responded to the Hearing Notice on June 10, 2002. In that response, she claimed that she had been an exemplary teacher until this incident and that her crime was

not connected to her duties as a teacher. (Hearing Response, p. 1.) She also stated that the likelihood of her ever working in a public school district was remote but that the Board should allow her to retain her certificates. Bennett also argued that revoking her certificates would serve no purpose and that “neither the school district or (*sic*) anyone in the district was put in harm’s way as a result of the acts for which she pled guilty.” (Hearing Response, p.1.) Finally, Bennett admitted that her actions were unbecoming a teacher but reiterated that they were not related to her position as a teacher. (Hearing Response, p.1.)

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Bennett’s conduct, her subsequent criminal conviction and loss of tenured position constitute conduct unbecoming a certificate holder. At its meeting of September 26, 2002, the State Board of Examiners reviewed the charges and papers Bennett filed in response to the Order to Show Cause. After reviewing her response, the Board of Examiners determined that no material facts related to Bennett’s offense were in dispute since she admitted to engaging in conduct unbecoming a teacher and having a criminal conviction as a result of her actions. Thus, Bennett has not denied the charges in the Order to Show Cause and the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners must now determine whether Bennett’s offense as set forth in the Order to Show Cause, provides just cause 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. “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. Bennett’s acts of participating in a scheme to defraud the SHBP are inexcusable for any individual, teacher or not. While Bennett may have been an exceptional teacher in the classroom, she has not demonstrated like behavior outside that arena.

Bennett argues that she should retain her certificates since the incident occurred off school grounds. It is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated 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).

Moreover, the Commissioner has long held that teachers serve as role models for their students. Therefore, a teacher’s whole life is subject to scrutiny, not just his actions within the schoolhouse doors:

[R]espondent’s argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. Individuals who must comport themselves as models for young minds to emulate choose the teaching profession. This heavy responsibility does not begin at 8:00 a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. See, In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County, 1965 S.L.D. 159, aff’d

State Board of Education 1970 S.L.D. 448; In the Matter of the Tenure Hearing of John H. Stokes, School District of the City of Rahway, Union County, 1971 S.L.D. 623.

In the Matter of the Tenure Hearing of Robert H. Beam, 1973 S.L.D. 157, 163. Bennett therefore cannot exclude her “out-of-school” behavior from this tribunal’s examination.

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). There can be no dispute that Bennett’s participation in a scheme to defraud the SHBP negates any claim she can have to being a role model for children. Thus, the only proper response to Bennett’s breach is revocation.

Accordingly, it is therefore ORDERED that Johnnie Bennett’s Teacher of Elementary School and Educational Media Specialist certificates be revoked on this 26th day of September 2002. It is further ORDERED that Johnnie Bennett 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: July 30, 2003

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