

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOHN LISTER : ORDER OF REVOCATION
_____ : DOCKET NO: 648-10/01-323

At its meeting of October 1, 2001, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed John Lister from his tenured position with the State Operated School District of the City of Newark (hereafter Newark). In the Matter of the Tenure Hearing of John Lister, Dkt. No. 548-11/96 (Commissioner's Decision, January 21, 2000). Lister currently holds a Teacher of Social Studies certificate issued in August 1971, a Teacher of Elementary School certificate issued in October 1972, and a Substance Awareness Coordinator certificate issued in October 1992.

This case originated on November 15, 1996, when Newark certified tenure charges against respondent, John Lister. The district charged him with unbecoming conduct for participating in a scheme to defraud the State Health Benefits Program. Lister had allegedly provided a psychologist, Dr. Carl Lichtman, with personal information so that Lichtman could file a claim for psychological services he had purportedly provided to Lister. In fact, Lichtman had not treated Lister and was filing false claims. He would then give Lister a portion of the payment he had received on the false claims. Lister also provided Lichtman with the names of other Newark employees who were willing to participate in the fraud scheme.

Before the case was scheduled for hearing, on January 3, 2000, Lister notified the Commissioner that he no longer wished to contest the tenure matter. On January 21, 2000, the Commissioner issued an Initial Decision which held that each of the tenure

issues was deemed admitted by Lister. The Commissioner therefore sustained each charge of unbecoming conduct and found that Lister willfully and knowingly participated in the scheme to defraud the SHBP. The Commissioner held that Lister's behavior warranted his removal from his tenured position. The Commissioner then transmitted the matter to the State Board of Examiners for appropriate action regarding Lister's certificates.

Thereafter, on October 1, 2001, the State Board of Examiners issued Lister an Order to Show Cause as to why his certificates should not be suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board of Examiners sent Lister the Order to Show Cause by regular and certified mail on April 5, 2002. The Order provided that Lister must file an Answer to the Order within 20 days. The certified mail copy was signed and returned and the regular mail copy was not returned. As Lister did not respond to the Order, on March 12, 2003, the Board sent Lister a second notice by regular and certified mail providing him an additional ten days to file a response to the Order. Only one copy of the letter was returned but, once again, Lister did not respond to the Order.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Lister's conduct constitutes conduct unbecoming a certificate holder. Since Lister 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)1.¹ Since Lister's 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 his 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 Lister's participation in a scheme to defraud the State Health Benefits Program negates any claim he can have to being a role model for students. Thus, the only proper response to Lister's breach is revocation.

Accordingly, it is therefore ORDERED that John Lister's Teacher of Social Studies, Teacher of Elementary School and Substance Awareness Coordinator certificates be revoked on this 12th day of June 2003. It is further ORDERED that Lister return his

¹ On January 20, 2004, the State Board of Education adopted a new administrative code governing professional licensure and standards. N.J.A.C. 6A:9-1 et seq. Although this decision was mailed after the effective date of the new code, the Board of Examiners' decision in this case predates the effective date of the new code and was therefore decided under the old code. All citations in this decision therefore are to the prior administrative code.

certificates to the Secretary of the State Board of Examiners, Office of Licensing, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: December 29, 2004

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