

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
DANIEL MOORE : ORDER OF REVOCATION
_____ : DOCKET NO: 0304-138

At its meeting of November 14, 2002, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Daniel Moore from his tenured position with the Board of Education of State-Operated School District of the City of Newark (hereafter Newark) for charges of excessive absenteeism and lateness. In the Matter of the Tenure hearing of Daniel Moore, Docket No. 98-4/02 (April 30, 2002.) Moore currently holds Teacher of Health and Physical Education, Teacher of the Handicapped and Teacher of Driver Education certificates.

This case originated on April 2, 2002, when Newark certified tenure charges against respondent, Daniel Moore. The district had charged him with excessive absenteeism, excessive tardiness, unbecoming conduct, and insubordination.

On April 3, 2002, the Commissioner of Education directed Moore via regular and certified mail to file an Answer to the tenure charges. In his decision, the Commissioner noted that there was no indication that Moore did not receive a copy of the charges. Since Moore did not respond to the notices, the tenure charges against him were deemed admitted.

The Commissioner noted that Moore was absent from his position as a teacher for approximately 149.5 days from 1998 through the time he was suspended in April 2002. (Commissioner's Decision, slip op. at 2.) In addition, the Commissioner noted that Newark had documented numerous instances of Moore's tardiness since 1998 and his failure to appear for a district-ordered psychiatric and physical exam in 2001.

(Commissioner's Decision, slip op. at 2.) Furthermore, the Commissioner held that the district had demonstrated that Moore's actions constituted "excessive absenteeism, excessive tardiness, unbecoming conduct and insubordination." (Commissioner's Decision, slip op. at 2.) The Commissioner determined that Moore's actions warranted dismissal from his tenured teaching position. (Commissioner's Decision, slip op. at 2.) Accordingly, the Commissioner granted the district summary judgment and dismissed Moore from his tenured position. (Commissioner's Decision, slip op. at 2). 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 Moore's certificates.¹

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1 on November 14, 2002, the State Board of Examiners issued Moore 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 sent Moore the Order to Show Cause by regular and certified mail on January 24, 2003. The Order provided that Moore must file his Answer within 20 days. Neither copy was returned but the Office of Licensure and Credentials did not receive the certified mail return receipt. Thereafter, on March 28, 2003, the Board sent Moore a second notice by regular and certified mail, allowing him an additional ten days to file an Answer. The regular mail copy was not returned and the certified copy was returned as unclaimed. Once again, Moore did not file a response.

¹On 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.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Moore's excessive absenteeism, excessive tardiness, unbecoming conduct and insubordination gives the Board just cause to act against his certificates pursuant to N.J.A.C. 6:11-3.6(a)1. Since Moore 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 Moore's behavior as described in the Order to Show Cause is admitted, the Board of Examiners must now decide whether it constitutes a sufficient basis to act against his certificate 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 Bd. of Educ., 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 instance, Moore's chronic and excessive absenteeism greatly affected the students in his charge. Whatever the reasons for his absences, they adversely affected the continuity of instruction to which the students were entitled. This excessive absenteeism provides the Board a sufficient predicate to take action against his teaching certificates.

In determining the appropriate sanction in this case, the Board of Examiners is mindful that Moore's chronic and excessive absenteeism from his duty as a teacher has negatively impacted the education provided to the children of Newark. Moreover, Moore's failure to respond to the Board of Examiners, although given numerous opportunities to do so, further illustrates his disregard of his responsibilities to the teaching profession. Yet, the Board cannot ignore the long teaching career Moore had before the behavior arose that led to the tenure charges. Consequently, the Board of Examiners believes that the appropriate sanction in this case is the suspension of Moore's teaching certificates for a period of two years.

Accordingly, it is therefore ORDERED that Daniel Moore's Teacher of Health and Physical Education, Teacher of the Handicapped and Teacher of Driver Education certificates be suspended for a period of two years beginning on this 30th day of October 2003. It is further ORDERED that Daniel Moore return his certificates to the Secretary of the State Board of Examiners, Office of Licensing, PO Box 500, Trenton, NJ 08625-0500 within 20 days of receipt of this decision for the period of the suspension.

Michael K. Klavon, Secretary
State Board of Examiners

Date of Mailing: November 5, 2004

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