

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
CARMELLA CONFESSORE : ORDER OF SUSPENSION
_____ : DOCKET NO: 0405-103

At its meeting of September 23, 2004, the State Board of Examiners reviewed information received from the Department of Education's Office of Compliance Investigation (OCI) regarding Carmella Confessore. The OCI had investigated a preschool that Confessore co-owned that received Abbott funding. As a result of the investigation, the OCI concluded that Confessore's school was making fraudulent payroll payments to an individual who did not perform any functions at the preschool. Judy Treanor, a part-time employee of the school did not have her name on any of the school's payroll registers. Instead, her salary payments went to her son Brian Treanor who was not a school employee. Confessore was aware of the payment arrangements with the Treanors. Confessore currently holds a Teacher of Elementary School certificate, issued in August 1973 and a Teacher of Preschool Through Grade 3 Certificate of Eligibility, issued in August 2001.

The Board sent Confessore the Order to Show Cause by regular and certified mail on April 19, 2005. The Order provided that Confessore must file an Answer within 30 days. Confessore filed her Answer on May 19, 2005.

In her Answer, Confessore admitted that Judy Treanor was a part-time employee at Confessore's school, the Harrison Learning Center (HLC). (Answer, ¶ 2). Confessore admitted that Judy Treanor's name did not appear on any of HLC's payroll registers and that her salary payments were instead made to her son, Brian Treanor. (Answer, ¶2). Confessore also stated that Brian Treanor did work at HLC performing maintenance, custodial and computer duties. (Answer, ¶ 3). She explained that she arranged Judy Treanor's salary payments this way because

Treanor was concerned that her income from HLC would affect her receipt of her deceased husband's Social Security benefits. (Answer, ¶ 3). Confessore also noted that she had been a teacher in the Harrison school district for 31 years prior to her retirement in 2004. (Answer, ¶ 5). She stated that she was never disciplined during her 31-year career and that her evaluations were all exemplary. (Answer, ¶5). In addition, Confessore explained that had Judy Treanor received her rightful salary payments, her Social Security benefits would not have been affected and therefore Confessore's actions had not created any harm. (Answer, ¶ 5).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on July 15, 2005, the Board sent Confessore a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, she 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 disqualifying offense warranted action against her certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Confessore filed a response to the hearing notice on September 1, 2005.

In that response, she claimed that her conduct did not rise to the level of conduct unbecoming because it did not "involve an act of violence or a pattern of improper actions." (Hearing Response, p. 11). She also stated that her conduct was an isolated incident and not the type of egregious conduct that would support a finding of unbecoming conduct. (Hearing Response, p. 11). Instead she characterized her behavior as a "misguided attempt" to help a friend in the throes of emotional and financial turmoil. (Hearing Response, p.11). Confessore explained that her payment arrangement was not fraudulent, as all appropriate state and federal

taxes were withheld from the paychecks. (Hearing Response, p. 12). She also stated that Brian Treanor did work at the school, but that his work was performed after hours as it was custodial in nature. (Hearing Response, p. 12). Confessore also argued that the totality of the circumstances of the case combined with her unblemished record, militated against suspension or revocation of her certificates. (Hearing Response, pp. 14-19). Confessore noted that this was an isolated incident that did not result in any financial benefit to herself, that there was nothing illegal about the financial arrangement, and that her conduct had no injurious effect on the maintenance of discipline and proper administration of the school system. (Hearing Response, p. 18).

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Confessore's conduct constitutes conduct unbecoming a certificate holder. At its meeting of November 3, 2005, the State Board of Examiners reviewed the charges and papers Confessore filed in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to Confessore's conduct were in dispute since Confessore admitted in her answer that Judy Treanor was a part-time employee of HLC and that her name was not included on any of HLC's payroll registers and that her salary payments were made to her son, Brian Treanor. (Answer, ¶ 3). Further, Confessore admitted that she authorized the payments to Brian Treanor at Judy Treanor's request as Ms. Treanor was concerned that her income from HLC could have disqualified her from receiving her husband's Social Security benefits. (Answer, ¶ 3). Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*.

The State Board of Examiners must now determine whether Confessore's conduct, as outlined in the Order to Show Cause, represents just cause to act against her certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds 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. 6A:9-17.5*. “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. Here, Confessore authorized the decision to have Judy Treanor’s salary made payable to her son Brian Treanor, because Ms. Treanor did not want to be disqualified from receiving her husband’s Social Security benefits. Although Confessore states that she “reluctantly agreed” to make Treanor’s salary payable to her son, she still authorized a decision, which, at the time was presented to her as a request to avoid possible disqualification of Social Security benefits. However well-intentioned Confessore may have been there can be no dispute that her actions were dishonest and misleading even if they were designed to help a friend.

Confessore argues, however, that “even if HLC paid Ms. Treanor directly during 2003, she would not have been disqualified in any way from receiving her husband’s Social Security benefits that she was not entitled to.” (Hearing Response, p. 6). Further, she argues that she did not benefit from the payment format. (Hearing Response, p. 6). Nevertheless, even though Confessore’s actions did not ultimately result in any “defalcation of Social Security benefits,” (Hearing Response, p.11), the Board finds that her behavior violated the standard of conduct expected of a certificate holder.

A teacher’s behavior outside the classroom may be relevant in determining that person’s qualifications and continued fitness to retain his/her certificate. *In re Grossman*, 127 *N.J. Super.* 13, 30 (Sup. Ct. 1943), *aff’d*, 131 *N.J.L.* 326 (E&A 1944). Moreover, 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 (Sup. Ct. 1943), *aff'd*, 131 N.J.L. 326 (E & A 1944). In this instance, Confessore's otherwise unblemished career does weigh heavily in her favor and has tempered the Board's decision regarding the appropriate penalty in this matter. Accordingly, the State Board of Examiners finds that a suspension of Confessore's certificates is the proper response to her breach of conduct.

Accordingly, it is therefore ORDERED that Carmella Confessore's Teacher of Elementary School certificate and Teacher of Preschool Through Grade 3 Certificate of Eligibility be suspended for a period of two years beginning on this 3rd day of November 2005. It is further ORDERED that Confessore return her certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: NOVEMBER 9, 2005

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