

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
DAVID WUNSCH : ORDER OF SUSPENSION
_____ : DOCKET NO: 1112-226

At its meeting of June 21, 2012, the State Board of Examiners (Board) reviewed information the Leonia School District (Leonia) had forwarded regarding David Wunsch. In May 2003, the Board accepted a settlement proposal Wunsch had submitted and voted to suspend his certificates for one year, effective July 1, 2003. Leonia reported that Wunsch did not inform the district of his suspension and continued to work under his certificates during the period of his suspension. Wunsch currently holds a Teacher of English Certificate of Eligibility With Advanced Standing, issued in September 1996 and a Teacher of English certificate, issued in July 1997. Upon review of the above information, at its July 26, 2012 meeting, the Board voted to issue Wunsch an Order to Show Cause.

The Board sent Wunsch the Order to Show Cause by regular and certified mail on August 2, 2012. The Order provided that Wunsch had 30 days to respond. Wunsch submitted an Answer on August 22, 2012. In that Answer Wunsch admitted that his certificates had been suspended effective July 1, 2003 and that he did not inform Leonia of that fact and continued to teach. (Answer, ¶ 3). Wunsch stated that he was waiting for notification to turn in his certificate and that the suspension decision did not advise him to turn in his certificates. (Answer, ¶ 3). Wunsch added that since he did not have to turn in his certificates he believed that he could continue teaching. (Answer, ¶ 3). Finally, Wunsch requested that, rather than revoke his certificates, the Board suspend them instead. (Answer, ¶ 5).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on September 4, 2012, the Board sent Wunsch a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Wunsch 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 as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against his certificates. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if Wunsch's offenses warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Wunsch was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. After receiving an extension of time in which to submit a response, Wunsch responded on November 26, 2012. He also asked to appear before the Board to provide testimony.

In that response, Wunsch admitted his "misconduct in not surrendering [my] certificates and continuing to teach during the term of [my] suspension in violation of the Stipulation of Settlement." (Hearing Response, p. 2). He reiterated his request that his certificates not be revoked, but rather, suspended and argued that his behavior, while deviating from the standards expected of a teacher, was not so egregious as to warrant revocation. (Hearing Response, pp. 2-3).

In his testimony, Wunsch acknowledged that he detested his actions and stressed that teaching was his life. He stated that he thought he would have to turn in his certificates when they were suspended and when he did not hear from the Board he thought a delay had occurred. Wunsch noted that after he and his wife had failed to conceive after numerous attempts, they tried to adopt. He added that after an aborted adoption at the last minute it was a traumatic for him to think of losing the career that he cherished. Wunsch stated that his job kept him going and that if he couldn't be a parent at least he could teach. He said that the loss of his certificates "would tear him to shreds." Wunsch's attorney also stated that the settlement decision did not

state that Wunsch should turn in his certificates and that although Wunsch did not inform Leonia of his suspension, no one else did either. His attorney also noted a psychologist's report he had submitted which stated that Wunsch was suffering anxiety at the time period of the suspension decision.

The threshold issue before the Board in this matter is whether Wunsch's conduct constitutes conduct unbecoming a certificate holder. At its meeting of February 28, 2013, the Board considered the allegations in the Order to Show Cause, Wunsch's Answer, Hearing Response and testimony. The Board determined that no material facts related to Wunsch's offense were in dispute since he admitted that he had continued to teach after his suspension in 2003. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The Board must now determine whether Wunsch's conduct, as set forth in the Order to Show Cause and admitted to by him, provides just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that it does.

The Board 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. In this matter, Wunsch's failure to tell Leonia that his certificates had been suspended represents a serious lapse in judgment. His explanation that he thought he could continue to teach because the Board did not specifically ask for the return of his certificates is all the more incredible because it was Wunsch who proposed the settlement offer that led to his

initial suspension. That settlement agreement specifically notes that the one year suspension of Wunsch's teaching certificate was effective July 1, 2003 through June 30, 2004. While the Board recognizes that Wunsch may have been experiencing a difficult period in his personal life, those circumstances do not excuse his conduct or justify a claim that he did not know the suspension was in effect. Moreover, Wunsch himself recognizes that a penalty is appropriate in this case. Accordingly, the Board believes that a three year suspension of Wunsch's certificates is warranted here: one year for the initial suspension he did not serve, plus an additional two years to emphasize the serious nature of his offense.

Accordingly, on February 28, 2013, the Board voted to suspend Wunsch's Teacher of English Certificate of Eligibility with Advanced Standing and Teacher of English certificate for a period of three years. On this 12th day of April 2013 the Board voted to adopt its formal written decision and it is therefore ORDERED that the suspension of David Wunsch's certificates for a period of three years be effective immediately. It is further ORDERED that Wunsch return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing:

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.

RRH:MZ:th