

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JANE L. BERKLEY : ORDER OF SUSPENSION
_____ : DOCKET NO: 1718-183

At its meeting of March 1, 2018, the State Board of Examiners (Board) reviewed information the National Association of State Directors of Teacher Education and Certification (NASDTEC) had forwarded regarding Jane L. Berkley. NASDTEC provided notice that, in July 2017, Florida issued a complaint to Berkley alleging that she had used both hands to forcefully push a student and threatened to slap another student. Berkley agreed to resolve the matter and received a letter of reprimand.

In New Jersey, Berkley currently holds a Teacher of the Handicapped certificate. Upon review of the above information, at its April 13, 2018 meeting, the Board voted to issue Berkley an Order to Show Cause as to why her certificate should not be suspended.

The Board sent Berkley the Order to Show Cause by regular and certified mail on April 18, 2018. The Order provided that Berkley had 30 days to respond. The certified mail receipt was signed and returned and the regular mail copy was not returned. Berkley did not respond. On June 1, 2018, the Board sent Berkley another notice by certified and regular mail providing her an additional 15 days to respond to the Order to Show Cause. Neither the certified mail nor the regular mail copy was returned. Berkley did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on July 31, 2018, the Board sent Berkley a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted as a result of her failure to file an Answer. Thus, Berkley 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 found just cause to take action against her certificate. It also explained that, upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if Berkley's offense warranted action against her certificate.

Thereupon, the Board would also determine the appropriate sanction, if any. Berkley was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned and the regular mail copy was not returned. Once again, Berkley did not file a response.

The threshold issue before the Board in this matter is whether Berkley's conduct constitutes conduct unbecoming a certificate holder or other just cause. Since Berkley failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, at its meeting of December 17, 2018, the Board considered only the allegations in the Order to Show Cause and the information received from NASDTEC. The Board concluded that no material facts related to Berkley's offense were in dispute since she never denied that he had engaged in the conduct alleged. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*. After reviewing the allegations, the Board found that Berkley had engaged in unbecoming conduct.

The Board must now determine whether Berkley's conduct, as set forth in the Order to Show Cause, provides just cause to act against her certificate pursuant to *N.J.A.C. 6A:9B-4.4*. 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:9B-4.4*. "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. 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 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). Berkley's actions in allegedly pushing a student and threatening to slap another indicate a serious lapse in judgment unacceptable for a role model. However, because she elected to settle her Florida case without

adjudication and without admitting or denying the conduct, the Board therefore concludes that the appropriate response to her breach is a one-year suspension of her certificate.

Accordingly, on December 17, 2018, the Board voted to suspend Jane L. Berkley's Teacher of the Handicapped certificate for a period of one year. On this 24th day of January 2019 the Board voted to adopt its formal written decision and it is therefore ORDERED that the suspension of Berkley's certificate be effective immediately. It is further ORDERED that Berkley return her certificate to the Secretary of the State Board of Examiners, Office of Certification and Induction, 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:
Via certified and regular mail

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