

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
CRAIG A. FORTE : ORDER OF SUSPENSION
_____ : DOCKET NO: 1112-212

At its meeting of June 25, 2012, the State Board of Examiners (Board) reviewed information it had received regarding Craig A. Forte. The Office of Fiscal Accountability and Compliance (OFAC) forwarded its March 23, 2012 report titled “East Orange School District – APA Security Breach” to the State Board of Examiners (Board). OFAC was asked to investigate the Cicely Tyson Middle School (Tyson School) by the Office of Assessments due to an evaluation completed by Pearson, the company that scores the APA, disclosing similarities in Language Arts Literacy (LAL) writing tasks across multiple student portfolios at the school. The LAL assessments were administered by special education teacher, Forte.

In the report, which is incorporated herein by reference, OFAC concluded that Forte breached security protocol when administering the APA because there were too many instances of similar or verbatim Language Arts Literacy responses across 22 student portfolios and four writing tasks. Forte was the only teacher responsible for the student portfolios in question.

Forte currently holds a Teacher of Elementary School Certificate of Eligibility With Advanced Standing, Teacher of Students With Disabilities Certificate of Eligibility and Teacher of Elementary School, and Teacher of Students With Disabilities certificates. After reviewing the above information, at its June 21, 2012 meeting, the Board voted to issue an Order to Show Cause (OSC) to Forte as to why his certificates should not be revoked.

The Board sent Forte the OSC by regular and certified mail on July 25, 2012. The OSC provided that Forte must file an Answer within 30 days. Forte responded on July 23, 2012. In his

Answer, Forte denied all the allegations from the OFAC report, indicating that he never received a copy of the report, but acknowledges receipt of the Order to Show Cause. (Answer, ¶¶ 2-5).

Since there were material facts in dispute, on August 10, 2012, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. On June 25, 2019, Administrative Law Judge (ALJ) Leslie Z. Celentano issued an Initial Decision in the case. *In the Matter of the Certificates of Craig Forte*, Dkt. No. EDE 10823-12 (Initial Decision, June 25, 2019).

After reviewing the record, ALJ Celentano found that Forte's conduct had a "tangible impact upon the administration of the 2010-2011 APA." (Initial Decision, slip op. at 21.) After noting that Forte received training on how the test should be administered, the ALJ noted Forte's testimony that he did not notice that "numerous students produced nearly identical or identical essays strains credulity." Ibid. ALJ Celentano stated that Forte's conduct was similar to that which had been found previously to constitute "unbecoming conduct" and for which a revocations and suspension were imposed and, therefore, a suspension was appropriate here. Ibid. Specifically, ALJ Celentano stated that "[t]he results achieved by the students would not be possible without substantive assistance." Ibid.

The ALJ further opined that Forte's conduct is distinguishable from the facts of cases where certificates were revoked for test breaches. Specifically, the ALJ indicated that Forte's conduct did not result in a re-administration of the testing. Balancing the above, the ALJ determined that a suspension of six (6) months was appropriate. Id. at 19. The Deputy Attorney General (DAG or Deputy) representing the Board filed Exceptions and Forte filed reply exceptions.

In the Exceptions, the DAG argues that the length of the suspension is not a sufficient penalty for the unbecoming conduct. Specifically, the ALJ found that Forte's conduct was "somewhat distinguishable from the facts supporting the harsher penalties given in Mascuch and Radzik." (Exceptions, p. 2). The only factor used to distinguish the cases was that there was no re-administration of the test. However, reliance upon re-administration as a factor is misplaced. Ibid. The DAG indicates that there is nothing in the record regarding the possibility of re-administration such that it should be used as a basis for weighing the severity of the penalty.

The DAG further argued that there are other facts which lean towards revocation. Specifically, Forte's testimony was "inherently unbelievable" and "strained credulity." (Exceptions, p. 3). Despite using the same sample essays, Forte claimed to not recognize the words of the samples when the students submitted identical copies. Additionally, Forte claimed that he did not notice the identical essays. The DAG states that "[t]here is no reasonable, innocuous explanation for having a dozen or more students hand in identical work on a State assessment." Ibid.

In his Reply Exceptions Forte argued that the cases cited by the DAG to support revocation are distinguishable from the facts in this case. (Reply Exceptions, p. 1). Specifically, Forte was using an acknowledged method of instructing students with autism – discrete trial instruction (DTI). (Reply Exceptions, p. 2). This intervention method was not prohibited in the training materials for testing and thus Forte did not engage in a knowing defiance of testing procedure. Id.

Forte also filed his own Exceptions (noted as Forte Exceptions). Forte argued that the ALJ failed to properly consider the discrete trial instruction method he used with the autistic students. (Forte Exceptions, p. 3). Forte presented an expert clinical psychologist and Board certified behavior analyst, Dr. Lisa Spano, to support his contention that the teaching model Forte used

during the instructional period of the APA was similar to the DTI method. Ibid. Dr. Spano testified that the student's responses lacked variety and creativity which "one would generally expect from individuals with autism." Ibid.

Forte further argues that the APA Procedure Manual or Elizabeth Celentano's PowerPoint presentation does not specifically prohibit the use of the DTI method such that it would be considered a breach of the APA. (Forte Exceptions, p. 6). Moreover, Forte argued that Celentano's testimony indicates she has no experience with autistic children and therefore her testimony lacks probative value. (Forte Exceptions, p. 8). Forte also goes to great lengths to specifically compare the differences in the APA samples. Those comparisons are noted by the Board in its review of this initial decision. (Forte Exceptions, p.10-19).

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of August 1, 2019, the Board reviewed the Initial Decision, both Exceptions and Reply Exceptions. After full and fair consideration of the Decision and submissions, the Board voted to adopt the Initial Decision, but modify the penalty in this matter.

The ultimate issue in this matter is the nature and degree of assistance Forte provided to her students during the assessment. As noted above, ALJ Celentano found that Forte breached testing protocols during the exam but determined that a six-month suspension of his certificates was appropriate given the mitigation he presented. After reviewing the entire record, the Board agrees with the ALJ's assessment regarding Forte's unbecoming conduct but disagrees with the appropriate resultant penalty. Forte's conduct was more than a mere technical oversight and his conduct directly impacted the security of the test, as indicated by ALJ Celentano in the initial decision. The ALJ noted that the results achieved by the student would not have been possible without substantive assistance.

The Board has found unbecoming conduct where the certificate holder breached a rule or regulation governing standardized test security. The penalty for such conduct has ranged from a two-month suspension to revocation. See I/M/O the Licenses of Mark Jacob, Dkt. No. 398-06/96-126 (November 20, 1997) (suspending certificates for two months where teacher duplicated portions on the HSPA); I/M/O the Certificates of Nelson Evans, Dkt. No. 1112-111 (December 6, 2013) (suspending certificates for one year where teacher helped at least one student during the administration of the NJASK and conducted a review prior to the test); I/M/O the Certificates of William Mascuch, Dkt. No. 0607-134 (January 17, 2008) (revoking certificates where teacher read aloud the test questions on the NJASK, allowed extra time and provided one student an answer).

The Board agrees that Forte's conduct does not warrant a revocation as in Mascuch above. However, given that the ALJ found Forte's conduct to be more than a technical oversight, but rather a direct impact to the security of the test, the Board believes that this matter requires a lengthier suspension. A one year suspension is consistent with the decision in I/M/O the Certificates of Nelson Evans, Dkt. No. 1112-111 (December 6, 2013) wherein Evans directly impacted the test by helping at least one student during the test and conducting a review prior to the test. Accordingly, a more fitting penalty in this matter is a one-year suspension of his certificates.

Accordingly, on August 1, 2019, the Board voted to adopt the Initial Decision and ordered a one-year suspension of Forte's certificates. On this 19th day of September 2019, the Board formally adopted its written decision to adopt the Initial Decision in this matter and it is therefore ORDERED that Craig Forte's Teacher of Elementary School Certificate of Eligibility with Advanced Standing, Teacher of Students with Disabilities Certificate of Eligibility, Teacher of Elementary School Certificate, and Teacher of Students with Disabilities certificates are hereby

SUSPENDED for a period of one year, effective immediately. It is further ordered that Forte return his certificates 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.

Rani Singh, Acting 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.