

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
DONALD F. CESARETTI : ORDER OF SUSPENSION
_____ : DOCKET NO: 1718-264

At its meeting of September 21, 2018, the State Board of Examiners (Board) reviewed information the Juvenile Justice Commission and the Office of Student Protection (OSP) forwarded regarding Donald F. Cesaretti. The JJC reported that Cesaretti resigned his position following allegations of unbecoming conduct. Specifically, the JJC alleged that Cesaretti had forcibly touched a student and threatened him. According to the Investigation report and the draft tenure charges (which are incorporated herein by reference), when Cesaretti was teaching, he was near student G.F.'s desk. G.F. had his head down on his desk and his face was near Cesaretti's watch. When the watch lit up, G.F. touched the watch face with his index finger. Cesaretti grabbed G.F.'s arm and wrist, pulling him upward in his chair. He then grabbed G.F. by his throat and said, "I will fucking kill you." After the incident, Cesaretti told the other students in the class not to "gas it up" and to "mind your business." Cesaretti did not report the incident as required by JJC policy. He filed a written report the next day but stated that G.F. grabbed him in an "inappropriate and potentially threatening manner." Cesaretti denied grabbing G.F. by the throat. A surveillance video from the classroom and witness statements from the other students confirmed G.F.'s version of the events.

Cesaretti currently holds a Teacher of Computer Science Technology Certificate of Eligibility and Teacher of Computer Science Technology certificate. Upon review of the above information, at its November 1, 2018 meeting, the Board voted to issue Cesaretti an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Cesaretti the Order to Show Cause by regular and certified mail on September 28, 2018. The Order provided that Cesaretti had 30 days to respond. Cesaretti filed an Answer on December 5, 2018.

In that Answer, Cesaretti indicated that he reached an amicable settlement with the Juvenile Justice Commission (JJC) relating to his employment. (Answer ¶ 3). Cesaretti stated that the investigation into the incident was flawed. He stated that he was teaching in the special population wing and the student involved in the incident was seated to his left sulking because Cesaretti refused to do him a favor. *Id.* at ¶ 4. The student grabbed at his wrist and he says that based upon policy, no students are permitted to touch staff. He acknowledges that he reacted defensively. *Id.* He states that it was his immediate reaction to protect himself as he and other staff members had been assaulted in the past. He also claims that the student's recitation of what transpired is flawed and the video does

not have audio in order to hear what was being said. *Id.* He also claims that he reported the incident the next day. *Id.* at ¶ 5.

Thereafter, pursuant to *N.J.A.C.* 6A:9B-4.6(d), the matter was transmitted to the Office of Administrative Law (OAL) as there were material facts in dispute based upon the Answer. On August 1, 2019, Cesaretti sent a letter to the Administrative Law Judge assigned to the matter indicating that he wishes to withdraw from the matter. The OAL thereafter returned the file to the Board.

Accordingly, on August 20, 2019, the Board sent Cesaretti a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute based upon his withdrawal at the OAL. Thus, Cesaretti was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause provided just cause to take action against his certificates 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 Cesaretti's offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Cesaretti was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Cesaretti did not file a response to that request. Accordingly, the matter was scheduled for a hearing on the papers at the Board's December 13, 2019 meeting.

The threshold issue before the Board in this matter is whether Cesaretti's conduct constitutes conduct unbecoming a certificate holder or other just cause. At its meeting of December 13, 2019, the Board considered the allegations in the Order to Show Cause. The Board determined that no material facts related to Cesaretti's offense were in dispute since he admitted that he had engaged in the alleged conduct and withdrew from the matter. 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 Cesaretti engaged in unbecoming conduct.

The Board must now determine whether Cesaretti's conduct, as set forth in the Order to Show Cause, provides just cause to act against his certificates 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). Cesaretti's conduct in physically touching a student at his throat in a threatening manner clearly indicates a serious lapse in judgment. However, given his otherwise unblemished record without notation as to similar incidents in the past, and the fact that Cesaretti entered into a settlement agreement and resigned his employment with the JJC, the Board concludes that the appropriate response to his breach is a one-year suspension of his certificates.

Accordingly, on December 13, 2019, the Board voted to suspend Donald F. Cesaretti's Teacher of Computer Science Technology Certificate of Eligibility and Teacher of Computer Science Technology certificates for a period of one year. On this 23rd day of January, 2020 the Board voted to adopt its formal written decision and it is therefore ORDERED that Cesaretti's certificates are hereby suspended for a period of one year, effective immediately. It is further ORDERED that Cesaretti 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, 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.