

STATE BOARD OF EXAMINERS DKT. NO. 0910-102
AGENCY DKT NO. 4-5/12A

IN THE MATTER OF THE :
REVOCATION OF THE CERTIFICATES : COMMISSIONER OF EDUCATION
OF JUDITH PITCHER BY THE : DECISION
STATE BOARD OF EXAMINERS. :

Order of Revocation by the State Board of Examiners, April 2, 2012

For the Respondent-Appellant, Gail Oxfeld Kanef, Esq.

For the Petitioner-Respondent State Board of Examiners, Angela L. Valez,
Deputy Attorney General (Paula T. Dow, Attorney General of New Jersey)

The Commissioner has thoroughly reviewed the record and the papers filed in connection with the appellant Judith Pitcher's appeal of the State Board of Examiners' April 2, 2012 Order revoking her Teacher of Nursery School and Elementary School certificates. On appeal, the appellant maintains that the Board's decision to revoke her certificates was based on facts that were not in the record. Specifically the appellant argues that the findings by the Board that she "humiliate[d] and frightened her young students in front of their peers," and that she had a "dismissive attitude regarding the harm she inflicted" were not supported by the record. The appellant further maintains that it was these findings that resulted in the Board's determination that the revocation of appellant's certificates was the appropriate penalty.

In reviewing appeals from decisions of the State Board of Examiners, the Commissioner may not substitute his judgment for that of the Board so long as the appellant received due process and the Board's decision is supported by sufficient credible evidence in the record. Further, the Board's decision should not be disturbed unless the appellant demonstrates that it was arbitrary, capricious or unreasonable. *N.J.A.C.* 6A:4-4.1(a).

After full consideration of the record and all submissions, the Commissioner finds that the record adequately supports the Board's determination that the appellant engaged in unbecoming conduct, and that revocation of the appellant's certificates was the appropriate penalty. Contrary to the appellant's assertions on appeal, the credible evidence in the record supported the Board's findings that the appellant "humiliate[d] and frightened her young students in front of their peers," and had a "dismissive attitude regarding the harm she inflicted." The Initial Decision of the Administrative Law Judge contains several findings regarding the inappropriate conduct of the appellant that caused her kindergarten-age students to be frightened and humiliated, i.e. calling a student an idiot; directing other students to shout out the "idiot of the day;" angrily grabbing and brusquely moving students; yelling at the students; and bringing students to tears. It is also clear from the record that the appellant's unbecoming conduct was not an isolated incident, but rather a pattern of conduct that took place over a 13 year period from 1995 through 2008 – despite the fact that school administrators had warned the appellant about her inappropriate behavior. The Board's penalty determination in this case was not based on any one fact but rather the totality of the circumstances and, as a result, there is nothing in the record to suggest that the Board's decision was arbitrary, capricious or unreasonable. Consequently, the Commissioner finds no basis upon which to disturb the decision of the State Board of Examiners.

Accordingly the decision of the State Board of Examiners is affirmed for the reasons expressed therein.*

COMMISSIONER OF EDUCATION

Date of Decision: September 13, 2012
Date of Mailing: September 14, 2012

*This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.