

STATE BOARD OF EXAMINERS DKT. NO. 1314-170
AGENCY DKT NO. 10-11/14A

IN THE MATTER OF THE SUSPENSION OF :
THE CERTIFICATES OF YVETTE NICHOLS : COMMISSIONER OF EDUCATION
BY THE STATE BOARD OF EXAMINERS. : DECISION

Order of Suspension Decision by the State Board of Examiners, October 23, 2014

For the Respondent-Appellant, Ronald J. Ricci, Esq.

For the Petitioner-Respondent State Board of Examiners, Frederick H. Wu,
Deputy Attorney General (John J. Hoffman, Acting Attorney General of
New Jersey)

The Commissioner has reviewed the record and the papers filed in connection with the appellant, Yvette Nichol's, appeal of the State Board of Examiners' (Board) Order of October 23, 2014, suspending her Teacher of Elementary School Certificate of Eligibility With Advanced Standing and her Teacher of Elementary School Certificate for one year. On appeal the appellant does not deny that she posted inappropriate comments about a student on her Facebook page. Instead the appellant argues that her comments do not rise to the level of conduct necessary to suspend her certificates because they do not make her unfit to be a school teacher. In the alternative, the appellant maintains that if the one-year suspension is upheld it should be retroactive to one of the following dates: the date when the petitioner resigned as a teacher with the district; the date when the Board issued the Order to Show Cause; or the date when the Board voted to suspend her certificates.

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 is 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 a one-year suspension of the appellant's certificates was the appropriate penalty. There is nothing in the record to suggest that the Board's decision was arbitrary, capricious or unreasonable, and as a result the Commissioner finds no basis upon which to disturb the decision of the State Board of Examiners. Moreover, the Commissioner is not persuaded by the appellant's argument that the commencement date for the one year suspension should be triggered by one of the dates proposed by the appellant. The one-year suspension of the appellant's certificates was not finalized until the Board issued its decision on October 23, 2014, and there is nothing in the applicable regulatory provisions to suggest that backdating the appellant's suspension would be appropriate.

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

IT IS SO ORDERED*

COMMISSIONER OF EDUCATION

Date of Decision: May 6, 2015
Date of Mailing: May 6, 2015

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