

STATE BOARD OF EXAMINERS DKT. NO. 1516-189
AGENCY DKT NO. 4-8/17A

IN THE MATTER OF THE :
REVOCATION OF THE CERTIFICATES : COMMISSIONER OF EDUCATION
OF ELOISE STEWART, : DECISION
STATE BOARD OF EXAMINERS. :

Order of Revocation by the State Board of Examiners, July 27, 2017

For the Respondent-Appellant, Carol R. Smeltzer, Esq.

For the Petitioner-Respondent State Board of Examiners, James M. Esposito,
Deputy Attorney General (Christopher S. Porrino, Attorney General of
New Jersey)

The Commissioner has reviewed the record and the papers filed in connection with appellant Eloise Stewart's appeal of the State Board of Examiners' (Board) Order of July 27, 2017, revoking her Teacher of the Handicapped Certificate and her Principal Certificate of Eligibility. This matter was referred to the Board by the Department of Education, Office of Certification and Induction, after it was determined that the course descriptions submitted by the appellant with her application for a Supervisor Certification may have been altered. Following a hearing at the Office of Administrative Law (OAL), the Administrative Law Judge (ALJ) found that the appellant engaged in conduct unbecoming a teacher by submitting a fraudulent course catalogue description in support of her certification application and recommended that the appellant's certificates be revoked. Thereafter, the Board adopted the Initial Decision of the ALJ and revoked the appellant's teaching certificates.

On appeal, the appellant contends that the decision of the Board finding that the appellant engaged in fraud by submitting a falsified course description to further her application

for a certification is not supported by the credible evidence in the record.¹ The appellant maintains that there was no evidence presented at the OAL hearing to prove that the appellant changed the course description or intended to do anything to knowingly mislead the Office of Certification and Induction. Additionally, appellant asserts that the ALJ's credibility findings, which the Board relied upon in reaching its decision, were erroneous and unjustified. The ALJ had no reason whatsoever to give "much weight" to the testimony of the Board's witnesses; in fact, not one witness testified that the appellant altered any course descriptions or knowingly submitted falsified course descriptions.

Finally, she argues, the Board's decision to revoke the appellant's certificates was arbitrary, capricious and contrary to law. The penalty imposed by the Board was excessive and unwarranted given the fact that there was no definitive showing that the appellant engaged in fraud; her actions did not result in any negative consequences to the students; and she was not granted the Supervisor Certificate. As a result, the appellant maintains that the Commissioner should reject the Board's decision revoking her certificates.

In reviewing appeals from decisions of the State Board of Examiners, the Commissioner may not substitute her 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 the revocation of the appellant's certificates was the appropriate penalty. Despite the appellant's contentions to the contrary, the Board revoked the appellant's

¹ The arguments advanced by the appellant on appeal generally reiterate the exceptions that the appellee submitted to the Board that were fully considered and comprehensively addressed in the Board's decision.

certificates based on the fact that the ALJ found that the appellant knowingly committed fraud in support of her application for a Supervisor Certificate. In so doing, the ALJ rejected the appellant's "position that she received an incorrect copy of the Hampton University course catalogue with errors therein by pure happenstance, coincidentally supporting the requirements she needed for her Supervisor [C]ertificate." The ALJ further found that the appellant's "position is not credible and is not supported by the clear testimony of [the Board's witnesses], to which I give much weight." (Initial Decision at 10) In adopting the decision of the ALJ, the Board deferred to the ALJ's credibility determinations, noting that he was in the best position to assess witness credibility. The Commissioner likewise finds no basis in the record to reject the ALJ's determinations of witness credibility as he had the opportunity to assess the credibility of the various witnesses who appeared before him and make findings based upon their testimony.

There is also nothing in the record to suggest that the Board's decision to revoke the appellant's certificates – based on the nature and extent of the unbecoming conduct proven during the hearing at the OAL – was arbitrary, capricious or unreasonable. Accordingly the decision of the State Board of Examiners is affirmed for the reasons expressed therein.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 14, 2018

Date of Mailing: February 15, 2018

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.