

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
DANITA WILSON : ORDER OF REVOCATION
_____ : DOCKET NO: 638-05/01-300

At its meeting of May 10, 2001, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had approved a settlement agreement removing Danita Wilson from her tenured position with the Board of Education of Elizabeth. In the Matter of the Tenure Hearing of Danita Wilson, Docket No. 168-6/99 (April 12, 2000). Wilson currently holds a Teacher of Elementary School certificate.

This case originated on June 24, 1999 when the Elizabeth Board of Education certified tenure charges against respondent, Danita Wilson. The district charged her with unbecoming conduct for chronic and excessive absenteeism, excessive tardiness and unbecoming conduct as the result of her unauthorized absences and abandonment of position. The district also charged her with incapacity and incompetence. From the 1994-95 school year until April 1999, Wilson had been absent a total of 414.5 days, many of them unauthorized absences.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). The parties settled the matter prior to hearing, but the Commissioner rejected the settlement because it did not contain a provision recognizing the Commissioner's responsibility to transmit the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6.¹ Upon remand, the parties included the appropriate provision. Wilson agreed to resign her tenured position and the district agreed to

¹ On January 20, 2004, the State Board of Education adopted a new administrative code governing professional licensure and standards. N.J.A.C. 6A:9-1 et seq. Although this decision was mailed after the effective date of the new code, the Board of Examiners' decision in this case predates the effective date of the new code and was therefore decided under the old code. All citations in this decision therefore are to the prior administrative code.

withdraw the tenure charges. The Commissioner approved the settlement and transmitted the matter to the Board of Examiners on April 12, 2000.

Thereafter, on May 10, 2001, the State Board of Examiners issued Wilson an Order to Show Cause as to why her certificate should not be suspended or revoked. The Order was predicated on the charges of chronic and excessive absenteeism, excessive tardiness and unbecoming conduct that had been alleged in the tenure hearing.

The Board sent Wilson the Order to Show Cause by regular and certified mail on March 12, 2002. The Order provided that she must file an Answer within 20 days. After seeking and receiving a reply extension, Wilson filed an Answer on May 2, 2002. In her Answer Wilson admitted that the district had brought tenure charges against her. She also stated that she was absent from her employment for the periods of time listed in the tenure charges. (Answer, ¶¶ 3-4). In the remainder of her Answer, Wilson added that she and the district settled the tenure charges amicably and that she hoped to resume her teaching career after she recovered from her anxiety and depression illness. Wilson claimed that she was a fine teacher who maintained excellent relationships with her students. She indicated that she kept the district apprised of her medical status.

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on May 20, 2002, the Board sent Wilson a hearing notice by regular and certified mail. The notice explained that, since it appeared no material facts were in dispute regarding the tenure charges, Wilson was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that, upon review of the charges against her and the legal arguments tendered in her defense, the State Board of Examiners would determine if her conduct warranted action against her certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. The certified mail copy was

signed for and returned. The regular mail copy was not returned. Wilson did not respond to the Hearing Notice.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Wilson's conduct constitutes conduct unbecoming a certificate holder. At its meeting of December 12, 2002, the State Board of Examiners reviewed the charges and papers Wilson filed in response to the Order to Show Cause. After reviewing her response, the Board of Examiners determined that no material facts related to Wilson's conduct were in dispute since she admitted to being absent on the days the district alleged. Thus, Wilson has not denied the charges in the Order to Show Cause. Accordingly, her actions regarding her chronic and excessive absenteeism constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Wilson's conduct as set forth in the Order to Show Cause, represents just cause to act against her certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

The State Board of Examiners 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. 6:11-3.4. Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), aff'd., 131 N.J.L. 326 (E & A 1944). "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. In this instance, Wilson's chronic and excessive absenteeism greatly affected the students in her charge by eliminating any continuity of instruction to which the students were entitled. This excessive absenteeism provides the Board a sufficient predicate to take action against her teaching certificate.

In determining the appropriate sanction in this case, the Board of Examiners is mindful that Wilson's chronic and excessive absenteeism from her duty as a teacher has negatively impacted the education provided to the children of Elizabeth. Moreover, Wilson could not respond, other than in a general way, as to when she would be ready to resume teaching. Consequently, the Board of Examiners believes that the appropriate sanction in this case is the revocation of Wilson's teaching certificate.

Accordingly, it is therefore ORDERED that Danita Wilson's Teacher of Elementary School certificate be revoked on this 12th day of December 2002. It is further ORDERED that Wilson return her certificate to the Secretary of the State Board of Examiners, Office of Licensing, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: January 31, 2005

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.