

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
NANCY BECKER : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-185

At its meeting of April 3, 2003, the State Board of Examiners voted to issue an Order to Show Cause to Nancy Becker. The Office of Licensure and Credentials had determined that Becker was not eligible for the certificate she had received. Becker currently holds a Teacher of Preschool Through Grade 3 Certificate of Eligibility (CE), issued in August 2001.

This case originated when, pursuant to the regulation then in effect, *N.J.A.C.* 6:11-5.1(d), the East Orange School district submitted an application for Becker to receive a provisional P-3 certificate. In reviewing that application, a staff member of the Office of Licensure and Credentials noted that Becker had received her bachelor's degree from California Coast University. California Coast University is not an accredited school and pursuant to *N.J.A.C.* 6:11-3.11, candidates for certification must hold degrees from accredited colleges. A staff member notified Becker that the Office of Licensure and Credentials would be requesting the return of her certificate, which had been issued in error. The Office asked Becker to return her certificate on July 29, 2002 and again on September 10, 2002.

Becker appealed that decision to the State Board of Examiners on November 7, 2002. Thereafter, on April 3, 2003, the State Board of Examiners issued Becker an Order to Show Cause as to why her certificate should not be suspended or revoked. The Order was predicated on Becker's ineligibility for the certificate.

The Board sent Becker the Order to Show Cause by regular and certified mail on June 26, 2003. The Order provided that Becker's Answer was due within 30 days. Becker filed an Answer on July 17, 2003. In her Answer Becker admitted that California Coast University was not accredited. (Answer, ¶2.) She also stated that the Office of Licensure and Credentials had asked her to return her certificate. (Answer, ¶¶ 2, 3). In the remainder of her Answer, Becker argued that the Board of Examiners was equitably estopped from seeking the revocation of her certificate because the Department of Education had never informed her throughout the application process that she was ineligible. (Answer, Affirmative Defenses, ¶1.) She also claimed that because she detrimentally relied upon the Department's representations and determinations in issuing her the certificate of eligibility she resigned from a position she had held for four years and changed careers. (Answer, Affirmative Defenses, ¶¶ 2, 3.)

The Board of Examiners transmitted the case to the Office of Administrative Law (OAL). After the Board of Examiners moved for summary disposition of the matter, Administrative Law Judge (ALJ) Maria Mancini La Fiandra established a briefing schedule. The record closed on October 15, 2004 and the ALJ issued an Initial Decision on November 22, 2004.

In that decision, ALJ La Fiandra found that Becker's degree from California Coast University was not from an accredited school as required pursuant to *N.J.A.C.* 6:11-3.11, the regulation in effect at the time.¹ (Initial Decision, slip op. at 2-3.) The ALJ also found that Becker's argument, that she was never made aware of the

¹ In January 2004, the regulations governing professional licensure were amended. *N.J.A.C.* 6A:9-11.1 replaced *N.J.A.C.* 6:11-3.11. Although the new regulation states that an applicant for certification must have a degree from a "regionally accredited" institution while the prior regulation only required attendance at an accredited institution. For purposes of this decision, that distinction is irrelevant.

accreditation requirement and therefore had an equitable entitlement to the certificate, was without merit. (Initial Decision, slip op. at 4.) ALJ La Fiandra held that Becker's ignorance of the accreditation requirement was no defense in failing to meet that requirement. (Initial Decision, slip op. at 4.) Moreover, the ALJ held that the regulation was clear on its face and provided no alternative to possessing a degree from an accredited institution. (Initial Decision, slip op. at 4.)

Thus, based on her review of the entire record, the ALJ concluded that Becker had failed to demonstrate any cause why she should retain her certificate. (Initial Decision, slip op. at 4.) Consequently, the ALJ ordered that Becker's teaching certificate be revoked. (Initial decision, slip op. at 4.)

On December 1, 2004, Becker filed exceptions to the ALJ's decision. In her exceptions, Becker outlined a lengthy procedural history of receiving her degree and applying for her certificate of eligibility. She also detailed the correspondence between herself and the Office of Licensure and Credentials once it discovered that her certificate had been issued in error.² Becker also objected to the ALJ's decision by summary disposition. She disagreed with the ALJ's conclusion that there were no disputed material facts in the case. Becker argued that, since the Board of Examiners had transmitted the matter to the OAL because it had found disputed facts, then that conclusion was binding upon the ALJ. She also claimed that the ALJ should have denied the Board's application for summary disposition because it was untimely. Finally,

² Although Becker devotes many pages of her exceptions to recounting the exchange of letters between her and the Department with an intent to argue that the ALJ ignored or omitted relevant facts, the Board of Examiners agrees with the ALJ's assessment that "the conflict in these dates is of little moment; the matter before me has been transmitted as the result of the Examiners issuing an Order to Show Cause to compel respondent why her P-3 certificate of Eligibility should not be revoked or suspended on June 26, 2003." (Initial Decision, slip op. at 3, fn. 1.)

Becker excepted to the ALJ's conclusion that equitable estoppel did not apply in this case and that the controlling issue was Becker's failure to meet the certification requirements.

In reply exceptions, the Board of Examiners argued that the ALJ had considered the facts raised in Becker's exceptions. The Board submitted that the ALJ's decision only recounted those facts that were undisputed, relevant and material. As the Board argued, the only relevant fact in the case was that Becker did not and does not qualify for a CE because she did not attend an accredited college. Moreover, the Board added that, pursuant to *N.J.A.C. 6A:17.5*, it had the right to revoke or suspend Becker's certificate since she did not "meet the qualifications of the certificate at the time of issuance." The Board also disputed Becker's claim that the ALJ should not have decided the case by summary disposition. The Board argued that any party may move for summary disposition at any time after the case is determined to be contested. The fact that the Board had transmitted the case to the OAL as a contested matter did not forever preclude it from making a motion to have the case decided on a summary basis. The Board also argued that its motion was timely and in accord with the new briefing schedule that the ALJ had established. Finally, the Board refuted Becker's argument that equitable estoppel was applicable here. Rather, the Board argued that equitable estoppel rarely is applied against the State. In this case, the Board argued that the State did not intentionally mislead Becker about the accreditation requirement nor did it withhold information. Therefore, her ignorance of the requirement was not excusable.

At its meeting of January 20, 2005, the State Board of Examiners reviewed the Initial Decision, exceptions and reply exceptions. After full and fair consideration of all the submissions, the Board voted to adopt the Initial Decision. Despite the extensive

arguments submitted by the parties in their exceptions, distilled to its essence, the issue in this matter is simple: Becker's qualification to hold the CE she received. As noted above, the regulation governing this case has at all times required an applicant for a CE to hold a bachelor's degree from an accredited institution. *N.J.A.C.* 6:11-3.11; 6A:9-11.1. By her own admission and every objective indicator, Becker's alma mater, California Coast University, does not satisfy that criterion.

Moreover, despite Becker's supposed reliance on information disseminated by the Department of Education, the principles of equitable estoppel do not apply here. As the Commissioner has held in an analogous situation, there can be no compromise on the standards for teachers even if an individual applicant relied on misinformation. *See, Larosa v. Ellis*, 93 N.J.A.R. 2d (EDU) 459 (applicant for Teacher of English certificate not entitled to certification where he did not satisfy the credit requirement even though he relied upon outdated information the County Office of Education had provided him.) In this case, however, Becker does not even argue that the Department gave her wrong information, but rather, that it did not provide her with adequate information in its recruiting materials for preschool teachers. The Board of Examiners must reiterate the ALJ's finding that Becker's professed ignorance of the specific accreditation requirement is not an excuse for her noncompliance. It is incumbent upon every applicant for certification to be fully conversant in the requirements they must satisfy. To hold otherwise would wreak havoc on the certification system in this State as well as undermine the confidence parents and students have that all public school teachers in New Jersey are held to the same exacting standards.

Accordingly, it is therefore ORDERED that the Initial Decision in this matter is adopted in its entirety and that Nancy Becker's Teacher of Preschool Through Grade 3 Certificate of Eligibility is revoked on this 20th day of January 2005. It is further ORDERED that Becker return her certificate to the Secretary of the State Board of Examiners, Office of Licensure, PO Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: FEBRUARY 18, 2005

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