

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
AREANA RESTO : ORDER OF SUSPENSION
_____ : DOCKET NO: 0304-122

At its meeting of September 25, 2003, the State Board of Examiners (Examiners) reviewed information the Woodbridge Board of Education had submitted regarding a tenured teacher, Areana Resto. Resto had resigned from her tenured position after the district had investigated allegations of unbecoming conduct. The Woodbridge Board of Education and the Woodbridge Police Department had investigated Resto on allegations that she was having sexual relations with several male students at Woodbridge High School. Resto denied the allegations although she admitted having text messaged several students and having phone conversations with them. Resto resigned from her tenured position effective June 12, 2003. Resto currently holds a Teacher of English Certificate of Eligibility With Advanced Standing, issued in August 2000 and a Teacher of English certificate, issued in July 2001.

At its September 25, 2003, meeting, the Examiners voted to issue Resto an Order to Show Cause as to why her certificates should not be suspended or revoked. The Examiners mailed the Order to Resto by regular and certified mail on February 9, 2004. The Order provided that Resto had 30 days to respond. Resto responded to the Order on March 5, 2004. In that Answer, she denied the allegations that she had engaged in an inappropriate relationship with her students. (Answer, ¶ 3). Notwithstanding Resto's denials, the Examiners found probable cause to consider the suspension or revocation of her certificates.

The Examiners transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Maria Mancini La Fiandra heard testimony on April 5, 2005. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial

Decision on August 10, 2005. *In the Matter of the Certificate of Areana Resto*, Dkt No. EDE 3869-04 (August 10, 2005).

In that decision, ALJ Mancini La Fiandra found that Resto had given her cell phone number to one of her students, C.H. (Initial Decision, slip op. at 2). Resto and C.H. exchanged personal text messages over the course of a month and a half. (Initial Decision, slip op. at 2). Resto also passed notes to C.H. during class. (Initial Decision, slip op. at 3). Resto also text messaged another student during class. (Initial Decision, slip op. at 3). She also communicated with a third student via cell phone during the 2002-2003 school year. (Initial Decision, slip op. at 3). Although two of the students testified that Resto had initiated conversations with them about kissing each of them, the ALJ could not find as a matter of fact that those conversations had occurred. (Initial Decision, slip op. at 4-5). The ALJ found that neither the students nor Resto were more credible than the other. (Initial Decision, slip op. at 5). The ALJ did find, however, that Resto's conduct in giving out her cell number, carrying out prolonged periods of communication with students and failing to report a troubled student to school authorities were undisputed. (Initial Decision, slip op. at 5).

ALJ Mancini La Fiandra found that Resto had ignored district policy against the use of cell phones in school, which set a poor example for students. (Initial Decision, slip op. at 6). She also failed to report a conversation where a troubled student said he wanted to kiss her. (Initial Decision, slip op. at 6.) Further, ALJ Mancini La Fiandra found that Resto used her cell phone in class to enforce discipline by sending a text message to a student telling him to do his work. (Initial Decision, slip op. at 6). She determined that Resto's actions reflect "a disregard for the appropriate role of a teacher, which, in turn lowers students' respect for authority." (Initial Decision, slip op. at 6). The ALJ noted that based on all of these incidents, Resto had engaged in conduct unbecoming a teacher and that her behavior warranted discipline. (Initial Decision, slip op. at 6-7).

In considering the appropriate penalty, ALJ Mancini La Fiandra considered testimony regarding Resto's serious health problems during the time these incidents occurred. (Initial Decision, slip op. at 7). The ALJ found that the "nature and severity of the health issues she was facing at the time may well have been a factor in the circumstances giving rise to these proceedings...." (Initial Decision, slip op. at 7). She also noted that Resto's failure to take a leave of absence "may be another indication of her failure to exercise sound judgment when it came to the welfare of her students." (Initial Decision, slip op. at 7). On balance, the ALJ concluded that a suspension was the appropriate penalty in this matter. (Initial Decision, slip op. at 7). Consequently, the ALJ ordered a two-year suspension of Resto's certificates. (Initial Decision, slip op. at 7).

Resto submitted exceptions to the Initial Decision. Although she did not contest the ALJ's findings or the penalty proposed, Resto requested that the suspension be imposed retroactively, rather than prospectively. (Exceptions, p. 1).

The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. At its meeting of September 22, 2005, the State Board of Examiners reviewed the Initial Decision and exceptions. After full and fair consideration of all the submissions, the Board voted to adopt the Initial Decision. There is no doubt that the ALJ is in the best position to render credibility determinations in this matter. Accordingly, the Board will defer to those findings. Resto's disregard of the district's cell phone policy, as well as her lack of judgment in her relationships with students, leaves no doubt that she clearly has engaged in conduct unbecoming a teacher, one of the grounds for revocation or suspension of a teaching certificate. *N.J.A.C. 6A:9-17.5*. Accordingly, the remaining decision for this Board is one of penalty.

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. 6A:9-17.5*. Furthermore, unfitness to hold a position in a school

system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (Sup. 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. The Board of Examiners agrees with the ALJ that Resto’s behavior evinces a lack of judgment on her part. She ignored district policy and the instructions of her supervisors. However, the Examiners do not find that Resto’s behavior warrants a revocation of her certificates, thus the Board concludes that a two-year suspension is an appropriate response to Resto’s breach.

Accordingly, it is therefore ORDERED that Areana Resto’s Teacher of English Certificate of Eligibility With Advanced Standing and Teacher of English certificate be suspended for a period of two years beginning on this 22nd day of September 2005. It is further ORDERED that Areana Resto return her certificates 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.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: OCTOBER , 2005

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