

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
ELSIE GRAHAM : ORDER OF SUSPENSION
_____ : DOCKET NO: 0405-113

At its meeting of September 23, 2004, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Elsie Graham from her tenured position with the State-Operated School District of the City of Newark (Newark) for charges of inefficiency and incompetence. *In the Matter of the Tenure Hearing of Elsie Graham*, Docket No. 101-3/04 (Commissioner's Decision, June 15, 2004). Graham currently holds a Secondary School Teacher of English certificate, issued in June 1965.

This case originated on March 12, 2004, when Newark certified tenure charges against respondent, Elsie Graham. The district charged her with incapacity and incompetence. Specifically, the district had alleged that despite providing her with a 90-day improvement period, Graham had failed to: implement lesson plans effectively and achieve educational goals; satisfactorily establish learning objectives; plan or prepare instruction consistent with individual student needs; exhibit satisfactory teaching techniques and satisfactorily use effective instructional methods and resources; implement skills which include a variety of instructional strategies and meet the varied ability levels and learning styles of all students; improve the effectiveness and delivery of her instruction despite significant assistance from administrative staff; improve her absenteeism rates; and meet acceptable standards of professional behavior. (Initial Decision, slip op. at 2). On March 16, 2004, the Commissioner sent Graham a notice by regular and certified mail to respond to the tenure charges. The notice informed her that

if she failed to answer, the charges would be deemed admitted. Graham did not respond to the tenure charges.

In a decision dated June 15, 2004, the Commissioner of Education held that the district had demonstrated that Graham's inefficiencies, as demonstrated in the tenure charges, were sufficient to warrant her dismissal. (Commissioner's Decision, slip op. at 3). The Commissioner held that since Graham did not deny the charges against her, summary decision should be granted to the district. (Commissioner's Decision, slip op. at 3). Accordingly, the Commissioner removed Graham from her tenured employment with Newark. (Commissioner's Decision, slip op. at 3). The Commissioner then transmitted the matter to the State Board of Examiners for appropriate action regarding Graham's certificate.

Thereafter, on September 23, 2004, the State Board of Examiners issued Graham an Order to Show Cause as to why her certificate should not be suspended or revoked. The Order was predicated on the charges of inefficiency and incompetence that had been proven in the tenure hearing.

The Board inadvertently sent the Order to Graham's union counsel at the time the tenure charges were filed. Her union counsel did not respond. The Board then sent the second notice to Graham on October 5, 2006. She signed for the certified copy but did not file a response. After realizing that no response had been filed on Graham's behalf and that she had not been represented by the union attorney in her tenure matter, the Board restarted the process and again sent Graham the Order to Show Cause directly by regular and certified mail on November 20, 2006. The Order provided that Graham's Answer was due within 30 days. The regular mail was not returned and the certified mail

copy was returned as unclaimed. Graham did not respond. The Board then sent her another notice on December 22, 2006 by certified and regular mail. The regular mail was not returned and the certified copy was returned undelivered. Once again, Graham did not respond to the charges.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Graham's conduct and her subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of February 22, 2007, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since Graham had not responded to the Order, the charges were deemed admitted. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. Accordingly, Graham's inefficiency and incompetence constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Graham's offenses as set forth in the Order to Show Cause, represent just cause to act against her certificate pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

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. In this case, Graham was given the opportunity to correct her teaching deficiencies and yet failed to do so. Furthermore, she disregarded her professional obligation to respond to the charges against her, both before the Commissioner and the Board. Her disinterest in safeguarding her teaching career speaks volumes about her continued fitness as a role model. However, the Board is mindful of her long, apparently successful teaching career before now. Thus, after balancing these factors, the Board's response to Graham's actions is a two-year suspension of her certificate.

Accordingly, pursuant to the Board of Examiners' vote, it is therefore ORDERED that Elsie Graham's Secondary School Teacher of English certificate be suspended for a period of two years effective this 29th day of March 2007. It is further ORDERED that Graham return her certificate to the Secretary of the State Board of Examiners, Office of Licensure, PO Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: April 2, 2007

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