

SBE #469-04/98-169  
SB # 2- 99

IN THE MATTER OF THE REVOCATION :  
OF THE TEACHING CERTIFICATES OF : STATE BOARD OF EDUCATION  
THERESA A. LUCARELLI BY THE STATE : DECISION  
BOARD OF EXAMINERS. :

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Decided by the State Board of Examiners, November 5, 1998

For the Petitioner-Respondent, Arlene G. Lutz, Deputy Attorney General  
(Peter Verniero, Attorney General of New Jersey)

For the Respondent-Appellant, Wills, O'Neill & Melk (Arnold M. Melk, Esq., of  
Counsel)

On April 28, 1997, the Commissioner of Education found that Theresa A. Lucarelli, a tenured physical education teacher with twenty-three years of service, was guilty of tenure charges involving unbecoming conduct. The Commissioner further found that the appropriate penalty for such conduct was dismissal of Ms. Lucarelli from her tenured employment with the Board of Education of the Borough of Brielle. As is the case with respect to such determinations, the Commissioner transmitted his decision to the State Board of Examiners for consideration of whether action was warranted under N.J.S.A. 18A:6-38 with respect to Ms. Lucarelli's certification.

On November 5, 1998, the Board of Examiners determined that the conduct established in the tenure proceedings represented just cause to revoke Ms. Lucarelli's teaching certificates. In making this determination, the Board of Examiners relied on

two decisions issued by the Commissioner in tenure cases to conclude that the only proper response to the lack of self-restraint demonstrated by Ms. Lucarelli was revocation of her certificates.

For the reasons that follow, we set aside that determination and remand this matter to the Board of Examiners for an independent decision as to whether the specific conduct established in the tenure proceedings warrants revocation of Ms. Lucarelli's teaching certificates.

As reflected by our decision in In the Matter of the Revocation of the Teaching Certificates of John Ahern, decided by the State Board of Education, August 5, 1987, slip op. at 3-4, it has long been established that the responsibility of the State Board of Examiners under N.J.S.A. 18:6-38 is not the same as the Commissioner's obligation to determine the appropriate penalty once tenure charges brought against a teaching staff member have been sustained. The State Board in Ahern indicated that:

dismissal from a tenured position and revocation of certification serve different purposes, and that the responsibilities of the Commissioner under N.J.S.A. 18A:6-10 are distinct from those of the Board of Examiners under N.J.S.A. 18A:6-38. [Cox v. State Board of Examiners, Docket #A-3527-81T3 (App. Div. 1983)], slip op. at 2-3. Accordingly, revocation of certification is not automatic following dismissal pursuant to N.J.S.A. 18A:6-10. See N.J.A.C. 6:11-3.7. Because the Board's decision to revoke or suspend precludes employment as a teacher in any school district in this state, and because revocation is not automatic following dismissal pursuant to N.J.S.A. 18A:6-10, the responsibility imposed on the State Board of Examiners when it makes its decision to revoke or suspend is a significant one. We conclude that this responsibility requires that the Board make an independent determination as to whether the individual should be precluded from employment in other districts, whether permanently or temporarily, based on all the evidence relating to this question. Furthermore, although under the regulatory scheme applicable to these

proceedings, the Board may adopt the findings of the Administrative Law Judge, N.J.A.C. 6:11-3.7(b)(1)(i) and (2), its decision should reflect that it gave reasonable consideration to the relevant evidence and should provide the basis upon which it reached its conclusion.

It was not inappropriate for the Board of Examiners to rely on the conduct established in the tenure proceedings and to assess the gravity of that conduct with reference to decisions rendered by the Commissioner in the context of tenure proceedings. However, since the Board of Examiners' determination is so cursory, it fails to reflect that it considered whether the specific conduct involved herein warrants precluding Ms. Lucarelli from serving as a teacher in any school district in this state. We therefore remand this matter to the State Board of Examiners for such further proceedings as are necessary for a determination under the proper standard.

May 5, 1999

Date of mailing \_\_\_\_\_