

SBE #0405-103  
SB # 47-05

IN THE MATTER OF THE SUSPENSION :  
OF THE TEACHING CERTIFICATES OF : STATE BOARD OF EDUCATION  
CARMELLA CONFESSORE BY THE : DECISION  
STATE BOARD OF EXAMINERS. :

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Action by the State Board of Examiners taken on November 3, 2005

Decision on motion on behalf of the State Board of Education,  
November 11, 2005

Remanded by the State Board of Education, January 4, 2006

Decided by the State Board of Examiners, January 19, 2006

For the Respondent-Appellant, Szaferman, Lakind, Blumstein, Blader &  
Lehmann, P.C. (Robert E. Lytle, Esq., of Counsel)

For the Petitioner-Respondent, Carolyn Labin, Deputy Attorney General  
(Zulima V. Farber, Attorney General of New Jersey)

On January 4, 2006, the State Board of Education stayed the action taken by the State Board of Examiners suspending appellant's teaching certification. We did so, in part, because the State Board of Examiners had not issued a written decision adopted by the Board of Examiners setting forth the reasons for its action when it voted to suspend appellant's certification on November 3, 2005. We therefore stayed the action and remanded the matter to the Board of Examiners with the direction that it issue and certify to us a written decision that had been properly adopted by a formal vote of the Board of Examiners at its next public meeting. We retained jurisdiction over the matter,

but stayed the briefing schedule on the merits of the appeal pending our receipt of a written decision adopted by the Board of Examiners.

On February 1, 2006, the Acting Secretary of the State Board of Examiners transmitted to us a written decision adopted by the Board of Examiners on January 19, 2006. By letter of the same date, appellant's counsel inquired whether the stay imposed by the State Board of Education was to remain in effect until a decision is made on the underlying appeal. In addition, appellant's counsel indicated that the decisions rendered by the State Board of Examiners over the past few years are not posted on the Department of Education's website and are not otherwise available. He submitted that the failure to provide him with an opportunity to review those decisions constituted a denial of appellant's right to due process.

By letter of February 2, 2006, appellant's counsel communicated his understanding that the stay imposed by the State Board of Education would remain in effect until the State Board of Education took further action.

By letter of February 3, 2006, the Deputy Attorney General representing the Board of Examiners stated that it was unclear why the stay would remain in effect and inquired as to the State Board of Education's reasons for continuing to stay the Board of Examiners' action.

Initially, we clarify that the stay we imposed on the action taken by the State Board of Examiners was not conditional and did not expire upon the adoption of a written decision by the Board of Examiners. Rather, the stay remains in effect unless vacated by formal action by the State Board of Education. As follows, we decline to take such action.

As appellant has pointed out, the decisions rendered by the Board of Examiners in recent years are not generally available. This affects not only the ability of appellant's counsel to effectively represent his client, but also limits the ability of the State Board of Education to review the action taken by the Board of Examiners. We therefore direct that the Board of Examiners make its decisions available to appellant's counsel and to the State Board of Education by April 5, 2006. The briefing schedule will remain in abeyance until the Board of Examiners' decisions have been made available.<sup>1</sup> The stay of the Board of Examiners' action remains in effect until such time as the State Board of Education determines otherwise.

We have found that oral argument is not necessary to fairly resolve the issue before us, and therefore we deny appellant's request for oral argument. N.J.A.C. 6A:4-3.2.

March 1, 2006

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

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<sup>1</sup> We note that the decisions rendered by the State Board of Examiners from September 2005 to the present now are available on the Department of Education's website. In addition, we have been advised that the Board of Examiners is in the process of posting its decisions from September 1, 1997 to September 2005 on the site.