

New Jersey Commissioner of Education

Final Decision

In the Matter of the Certificates of
Sherry Frazier, State Board of Examiners,
New Jersey Department of Education.

Order of Revocation by the State Board of Examiners, September 21, 2018

Respondent-Appellant, *pro se*

For the Petitioner-Respondent State Board of Examiners, Colin
Klika, Deputy Attorney General (Matthew J. Platkin, Attorney General of
New Jersey)

The Commissioner has reviewed the record and the papers filed in connection with appellant Sherry Frazier's appeal of the Order of the State Board of Examiners (Board), dated September 21, 2018, revoking her Teacher of the Handicapped certificate. In October 2017, the Florida Education Practices Commission issued a formal reprimand to appellant, following allegations that appellant inappropriately disciplined students and made insulting comments about students and their families. In January 2018, the Board found that the level and nature of appellant's conduct provided just cause for the consideration of the revocation of her New Jersey certificate and issued an Order to Show Cause (OTSC). Petitioner failed to respond, and a second notice was sent by the Board in March 2018. Petitioner again failed to respond and, pursuant to *N.J.A.C. 6A:9B-4.6(c)*, the allegations set forth in the OTSC were deemed to be admitted. The Board concluded that appellant had engaged in unbecoming conduct and that the appropriate penalty was revocation of her certificate.

On appeal, appellant argues that she did not receive the letters that the Board sent to her in 2018 and did not find out that her New Jersey certificate had been revoked until October 2021. Appellant contends that she did not engage in any unbecoming conduct in Florida.

After a comprehensive review of the record, the Commissioner concludes that appellant's appeal is untimely. Pursuant to *N.J.A.C. 6A:4-2.2*, a party is required to appeal a final decision issued by the Board within 30 days. Even accepting that appellant did not receive any of the communications from the Board in 2018,¹ and only found out about the Board's actions in October 2021, the notice of appeal was not filed until June 28, 2022, well beyond the 30-day limitation period.

Accordingly, the decision of the State Board of Examiners is affirmed. Appellant's Teacher of the Handicapped certificate is hereby revoked.² The Commissioner notes that appellant may reapply for certification pursuant to *N.J.A.C. 6A:9B-4.9*, as more than four years have passed since the revocation.³


ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 4, 2022
Date of Mailing: October 4, 2022

¹ The Commissioner notes that while the certified mail copies of some documents were returned to the Board, the regular mail copies were not returned. Additionally, the certified mail containing the Board's September 21, 2018 decision was claimed and signed for on October 1, 2018.

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

³ Should appellant choose to reapply for certification, the Board will review the application and make a determination consistent with the applicable law. There is no guarantee that a reapplication for a certificate following revocation will be granted.

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
SHERRY D. FRAZIER : ORDER OF REVOCATION
_____ : DOCKET NO: 1718-164

At its meeting of December 8, 2017, the State Board of Examiners (Board) reviewed information the National Association of State Directors of Teacher Education and Certification (NASDTEC) had forwarded regarding Sherry D. Frazier. NASDTEC provided notice that on October 24, 2017, the Education Practices Commission of the State of Florida issued a formal reprimand to Frazier. The notice followed allegations that Frazier inappropriately disciplined students by pushing and grabbing them. She also allegedly called students “dumb” and “stupid” and commented on their parents’ education level or their families’ ability to afford supplies.

Frazier currently holds a Teacher of the Handicapped certificate. Upon review of the above information, at its January 19, 2018 meeting, the Board voted to issue Frazier an Order to Show Cause as to why her certificate should not be revoked.

The Board sent Frazier the Order to Show Cause by regular and certified mail on January 23, 2018. The Order provided that Frazier had 30 days to respond. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Frazier did not respond. On March 6, 2018, the Board sent Frazier another notice by certified and regular mail providing her an additional 15 days to respond to the Order to Show Cause. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Frazier did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on April 13, 2018, the Board sent Frazier a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted as a result of her failure to file an Answer. Thus, Frazier was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against her

certificate. It also explained that, upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if Frazier's offense warranted action against her certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Frazier was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as "Unclaimed" and the regular mail copy was not returned. Once again, Frazier did not file a response.

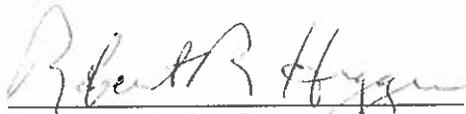
The threshold issue before the Board in this matter is whether Frazier's conduct constitutes conduct unbecoming a certificate holder or other just cause. Since Frazier failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, at its meeting of June 29, 2018, the Board considered only the allegations in the Order to Show Cause and the information received from NASDTEC. The Board concluded that no material facts related to Frazier's offense were in dispute since she never denied that she engaged in the conduct alleged. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*. After reviewing the allegations, the Board found that Frazier had engaged in unbecoming conduct.

The Board must now determine whether Frazier's conduct, as set forth in the Order to Show Cause, provides just cause to act against her certificate pursuant to *N.J.A.C. 6A:9B-4.4*. The Board finds that it does.

The Board 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:9B-4.4*. "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. Moreover, 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 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). Frazier's actions in pushing and grabbing students to discipline them, calling students "dumb" and "stupid" and commenting on their parents' education level or their families' ability to afford supplies is clearly conduct

that is unacceptable for a role model. The Board therefore concludes that the appropriate response to her breach is the revocation of her certificate.

Accordingly, on June 29, 2018, the Board voted to revoke Sherry D. Frazier's Teacher of the Handicapped certificate. On this 21st day of September 2018 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Frazier's certificate be effective immediately. It is further ORDERED that Frazier return her certificate to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.


Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing: 9/25/18
Via certified and regular mail

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.