

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE LICENSE OF : STATE BOARD OF EXAMINERS  
KEITH GUNNER : ORDER OF SUSPENSION  
\_\_\_\_\_ : DOCKET NO. 234 - 01/94 - 93

At its meeting of January 13, 1994, the State Board of Examiners reviewed information received from the New York State Department of Education concerning Keith Gunner, who holds a Teacher of Science license in the State of New Jersey. New York State indicated that Keith Gunner's New York certificate had been suspended for one (1) year due to an inappropriate relationship with a student.

At that meeting, the State Board of Examiners voted that said suspension constituted sufficient grounds for issuing an Order to Show Cause. The Order to Show Cause was mailed to Mr. Gunner by regular and certified mail on February 28, 1994. On March 31, 1994, an Answer to the Order to Show Cause was received from Harold G. Beyer, Jr., Esq., on behalf of his client Keith Gunner.

On May 13, 1994, a hearing notice was mailed by regular and certified mail to Keith Gunner. On June 17, 1994, a response to the hearing notice was received from Mr. Beyer.

Thereafter, the State Board of Education decided two cases which impacted on the hearing process conducted by the State Board of Examiners. The first case is captioned, In the Matter of the Certificates of Sheridan. The other is captioned, In the Matter of the Certificates of Vitola. Within these two cases, the State Board of Education determined that the State Board of Examiners was required to amend its regulations in order to permit it to hear directly legal matters in which material facts are not in dispute. During the pendency of the revisions to the

State Board of Examiner' regulations regarding its hearing process, all such hearings were held in abeyance. Said regulatory amendments were finally codified in May of 1997.

On July 9, 1997 a second hearing notice was mailed by certified mail to Mr. Beyer. A regular mail copy was forwarded to Mr. Gunner. Said notice explained that, it appearing that no material facts were in dispute, Mr. Gunner was provided an opportunity to offer legal argument on the issue of whether the suspension of his New York teaching certificate constituted conduct unbecoming a teacher. A reply extension was granted Mr. Beyer on July 16, 1997. On August 14, 1997, a response to the hearing notice was received from Mr. Beyer on behalf of Keith Gunner.

Mr. Gunner's response to the original hearing notice raises the following points:

On June 19, 1992 the New York Commissioner of Education issued a Notice of Substantial Question as to Moral Character against Mr. Gunner, alleging that in the spring of 1990 Mr. Gunner became involved in a romantic relationship with a student, which escalated to include visits by the student to the teacher's home, alone and without parental permission, and which further included sexual contact between the teacher and the student.

Hearing were held on three separate dates in 1992 and 1993 in New York, and on April 19, 1993, a decision of the hearing officer in the matter was rendered, finding a romantic relationship between the student and Mr. Gunner that had been initiated by the student. The hearing officer concluded that the record established "irresponsibility by Respondent by his failure to make the strict privy to [the student's] conduct and his tolerance of [her] conduct." All of this conduct, it concluded, adds up to impropriety, as well as the appearance of impropriety, thereby requiring the imposition of sanctions by the New York State Department of Education. Mr. Gunner's teaching certificate was therefore suspended for one year.

In his response to the charges in New Jersey, Mr. Gunner submits that while he knew the student as one of his chemistry class students during the 1989-90 academic year, she was a troubled child with a severe lack of self-esteem in a difficult family situation. He alleges the student became infatuated with him, and that during the 1990 school year he told the student to stay away from him, which she did for part of the fall of 1990. Following two incidents which the student breached his directive by appearing at his home, the teacher reported the matter to the Bethlehem School authorities.

Mr. Gunner summarizes the facts by suggesting that the student developed a crush on him and either exaggerated or concocted stories about him in her anger over his pending marital engagement. He contends he was exonerated by the conclusion of the hearing conducted by the hearing officer for the State of New York Education Department, the State Police, the Bethlehem School District, and by the polygraph test both he and the student submitted to. He submits the results of the polygraph tests demonstrate he passed but that the student was not telling the truth.

Mr. Gunner's legal arguments aver that New Jersey should not take any action in this matter because the school district kept his position open for him during the suspension. He submits he was guilty of naiveté, but that his motivation was only to help a student he believed to be very troubled. His reply to the original hearing notice references all the information submitted with his Answer to the Order to Show Cause, including a copy of the proceeding before the New York State Education Department, and the entire file of submissions made on his behalf before the New York Department of Education hearing officer.

Mr. Gunner's Reply to the Second hearing notice relies on those submissions and arguments prepared as a response to the original hearing notice and the Order to Show Cause.

At its meeting of October 9, 1997, the State Board of Examiners reviewed the charges against Mr. Gunner as well as his responses to the Order to Show Cause and hearing notices. The State Board of Examiners determined that no material facts related to the narrow issue before it, to wit, whether the finding by the New York Department of Education that Mr. Gunner had engaged in an improper relationship with a student, and its sanction therefore, constituted unbecoming conduct for a teacher who also holds a New Jersey license. The State Board of Examiners is compelled to accept the findings of the New York hearing officer. Mr. Gunner is not permitted to relitigate nor challenge the findings of the three day hearing. He had a full and fair opportunity to present his case in that matter. The principles of collateral estoppel preclude his renewed attack on his accuser. T.W. v. A.W., 224 N.J. Super. 675 (App. Div. 1988) (Collateral estoppel applies when either party attempts to relitigate facts necessary to a prior judgment). The State Board of Examiners therefore accepts the findings of the New York Department of Education that he engaged in an improper relationship with a student.

The State Board of Examiners finds that Mr. Gunner is guilty of failing to demonstrate the requisite judgment in his relationship with a student. The determination of the New York Department of Education to take action on his certificate in that state brings dishonor to the teaching profession. His poor judgment brings dishonor to the teaching profession and the sanctions therefor imposed by a sister state constitute conduct unbecoming a license holder. The penalty assessed against him by the New York State Department of Education benefits the evidence proved against him in that state.

Accordingly, the State Board of Examiners was provided no reasons that would require it to reject the findings in the hearing officer's report from the New York State Department of Education. It is therefore, ORDERED that the behavior that formed the conclusions of the report

concerning Keith Gunner's New York teaching certification issued by the New York Department of Education constitutes conduct unbecoming a teaching staff member warranting suspension of Keith Gunner's New Jersey Teacher of Science license for one year, commencing on the date of this decision, October 9, 1997.

It is further ordered that Keith Gunner return his license to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter for the period of the suspension.

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Secretary  
State Board of Examiners

Date of Mailing: November 19, 1997

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

IBG:EAH:br:Gunnerrv