

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
FREDERICK COSTALES : ORDER OF REVOCATION
_____ : DOCKET NO: 0506-163

At its meeting of November 5, 2005, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on June 6, 2005, Frederick Costales had pled guilty to charges of official misconduct. On September 2, 2005, Costales was sentenced to three years' incarceration in state prison, ordered to forfeit his public employment and ordered to pay restitution. Costales currently holds a Teacher of the Handicapped certificate, issued in September 1995. Upon review of the above information, at its November 5, 2005 meeting, the State Board of Examiners voted to issue Costales an Order to Show Cause.

The Board sent Costales the Order to Show Cause by regular and certified mail on November 16, 2005. The Order provided that Costales's Answer was due within 30 days. Costales filed his response on December 1, 2005. In that Answer, he admitted to all of the allegations in the Order to Show Cause. (Answer, ¶¶ 1-6). He further stated that he had been an exemplary teacher and added that he had served as a lead teacher and as a mentor during his tenure with Atlantic County Services. (Answer, ¶ 7). Costales added that he had started a Student of the Week program and had paid for it out of his own funds. (Answer, ¶ 7). He discussed how much he loved teaching and had been a tutor for the Egg Harbor City district for 10 years. (Answer, ¶ 7). He explained that in his capacity as a tutor for Egg Harbor, he worked with several students at once. (Answer, ¶ 7). He would round up the amount of hours of tutoring he performed to the nearest hour. (Answer, ¶ 7). Costales explained that he believed he was helping more students as well as making more money for his family. (Answer, ¶ 7). Costales added that he wrongly turned in copies of his vouchers for the last two years he worked

for Egg Harbor because of a disagreement with “the people who ran the place.” (Answer, ¶ 7). Costales indicated that he had never been in trouble with the law before and that he had made a mistake and was paying for it. (Answer, ¶ 7). He asked the Board of Examiners not to revoke or suspend his certificate as he had a chance to work at a private school when he was released from prison. (Answer, ¶ 7).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on January 6, 2006, the Board of Examiners sent Costales a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, Costales 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. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if Costales’ offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. On January 18, 2006, Costales submitted his reply.

In that response, Costales again told the Board of Examiners that he always received excellent evaluations as a teacher. (Hearing Response, p. 1). He admitted to making a mistake in billing for the last two years of his tutoring time in Egg Harbor City. (Hearing Response, pp. 1-2). Finally, Costales vowed to fight any attempt to suspend or revoke his certificate. (Hearing Response, p. 2).

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Costales’ guilty plea to official misconduct constitutes conduct unbecoming a certificate holder. At its meeting of March 30, 2006, the State Board of Examiners reviewed the charges and papers Costales filed in response to the Order to Show Cause. After review of Costales’

submissions, the Board of Examiners determined that no material facts related to his offense were in dispute since he admitted that he had pled guilty to the offenses charged and had been sentenced accordingly. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C.* 6A:9-17.7(h).

The State Board of Examiners must now determine whether Costales' offense as set forth in the Order to Show Cause, provides just cause to act against his certificate pursuant to *N.J.A.C.* 6A:9-17.5. The Board finds that it does.

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. "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. Costales' acts of official misconduct by submitting inaccurate tutoring vouchers are inexcusable for any individual, teacher or not. While Costales may have been an exceptional teacher in the classroom, he has not demonstrated like behavior outside that arena.

Costales argues that he should retain his certificate since he had an otherwise unblemished record and is paying for his mistake. However, if unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant, how much more was it demonstrated here where Costales' repeated submission of inaccurate vouchers caused the Egg Harbor City school district to overpay him in the amount of \$45,670? *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).

Accordingly, pursuant to the Board of Examiners' vote, it is therefore ORDERED that Frederick Costales' Teacher of the Handicapped certificate be revoked effective this 4th day of May 2006. It is further ORDERED that Costales return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, PO Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: MAY 10, 2006

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