

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS  
BENJAMIN NORTON : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 1011-141

At its meeting of July 28, 2011, the State Board of Examiners (Board) reviewed information it had received from the Commissioner's office regarding Benjamin Norton. The information indicated that Norton had allegedly engaged in inappropriate conduct while chaperoning several student trips, two to Cape Cod and one to Florida. Norton's alleged conduct included drinking alcohol with students, purchasing beer for students and ignoring the fact that students were drinking alcohol and smoking marijuana. Norton also allegedly told sexually explicit jokes in class and whispered answers to test questions to one student. On one school sponsored trip, Norton allegedly tried to convince two female students, MF and NR, to take their tops off and told them a story about receiving oral sex under water. One female student alleged that while on a trip to Cape Cod, Norton drank alcohol with her and then sexually assaulted her. On all of the school trips Norton chaperoned, he did not have any female chaperones and allegedly misrepresented that a female chaperone scheduled for a trip had cancelled at the last minute. Norton used male college students to help him chaperone the trips. Norton currently holds a Teacher of Comprehensive Science certificate, issued in August 1993. Upon review of the above information, at its September 22, 2011 meeting, the Board voted to issue an Order to Show Cause to Norton as to why his certificate should not be revoked.

The Board sent Norton the Order to Show Cause by regular and certified mail on September 30, 2011. The Order provided that Norton must file an Answer within 30 days. Norton responded on October 24, 2011. In his Answer, Norton denied the allegations regarding his conduct and asserted that the false allegations came to the attention of law enforcement while a student was in therapy several years after the conduct had allegedly occurred. (Answer, ¶ 3). He noted that as a result of the sexual assault allegations, he was indicted in Massachusetts for rape, indecent assault and battery, and purchasing and delivering alcohol to minors. (Answer, ¶ 3). Norton stated that he was found not guilty of all charges and

added that “the charges as alleged in the Order to Show Cause are the result of either faulty memories or lies.” (Answer, ¶ 3). Norton also admitted that one trip had only male chaperones and noted that the trips were arranged by a travel company. (Answer, ¶ 4). In the remainder of his Answer, Norton again denied the allegations in the Order to Show Cause and asked that it be dismissed or referred to the Office of Administrative Law for a hearing. (Answer, ¶ 5).

Since there were material facts in dispute, on December 5, 2011, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. Administrative Law Judge (ALJ) Carol I. Cohen heard the matter on November 14, 16, and 19, 2012 and February 28, 2013. The record closed on April 17, 2013, and the ALJ issued an Initial Decision on May 31, 2013. *In the Matter of the Certificate of Benjamin Norton*, Dkt. No. EDE 14576-11 (Initial Decision, May 31, 2013).

After assessing the witnesses’ credibility and their direct knowledge of the events, ALJ Cohen concluded that Norton inappropriately fed test answers to certain students, including MF and NR. (Initial Decision, slip op. at 36-38). Although Norton testified that he merely asked the students guided questions to help them figure out the correct answer, the ALJ doubted his version, instead opining, “I got the impression that Norton wanted to be ‘friends’ with certain of his students, and the boundary between teacher and student was blurred.” *Id.* at 38. ALJ Cohen also concluded that Norton behaved inappropriately by “choosing an untrained and inexperienced college student as the chaperone on the field trips and leaving the students in that individual’s care while Mr. Norton went out drinking.” *Id.* at 44. While the ALJ recognized that there was no policy requiring a certain type of chaperone, she noted that Norton’s choice of a chaperone “who was barely an adult himself and who had no formal experience in dealing with children” demonstrated Norton’s lack of good judgment. *Ibid.* This failure was compounded after Norton was aware that students had smoked marijuana on the field trip to Florida and still chose the college student to be the only other chaperone on the field trip to Cape Cod. *Ibid.* ALJ Cohen also found it “outrageous” that Norton expected the college student to notify the parents of students who had been drinking after the second Cape Cod trip. *Ibid.* As the ALJ noted: “The parents who allowed their children to take part in these trips had a right to expect that the children would be

properly supervised....The parents put their children's care in the hands of a teacher who did not provide proper supervision, which resulted in the children's safety and security being put in jeopardy. *Ibid.* ALJ Cohen also found that MF and NR's credible testimony, buttressed by exhibit pictures, proved that Norton allowed students to drink on the first trip to Cape Cod. *Id.* at 45-46. The ALJ further concluded that "Norton was involved in the purchase of alcohol and knew that students were drinking while in Key West." *Id.* at 47. As to the issue of discovering students smoking marijuana, the ALJ deemed Norton's testimony "particularly disturbing." *Id.* at 49. As ALJ Cohen observed, Norton "did not confiscate the drug, nor did he call the students' parents and tell them what had occurred and/or ask them to pick up their children....Further, even though he knew that these students had smoked marijuana, he sought them out to go on another filed trip to Cape Cod." *Ibid.* Moreover, when Norton discovered that some female students had gone to another hotel and gotten drunk on one of the Cape Cod trips, he picked them up and brought them back to their own hotel, but did not check on them the rest of the night. *Id.* at 49-50. When asked if he contacted the parents regarding the incident, Norton testified that he just "washed his hands of them." *Id.* at 50. ALJ Cohen found that "As their teacher, [Norton] was acting in *loco parentis*, and he had an obligation to provide for the children's safety and to inform their parents of what had occurred." *Ibid.* Accordingly, the ALJ found that the Board had proven that "Norton acted in an inappropriate manner by not reporting the drug and alcohol use and not properly supervising and disciplining the students." *Ibid.* Finally, "[a]fter observing the demeanor of the witnesses and developing a sense of the witnesses' candor," ALJ Cohen concluded that Norton had tried to convince MF and NR to take their tops off on the Florida trip, told them a story about having oral sex under water and had sexually explicit conversations with them. *Id.* at 51-53. As for the other allegations, ALJ Cohen determined that the Board failed to prove that: Norton sexually assaulted MF, misrepresented that a female chaperone scheduled for a trip had cancelled at the last minute, provided tequila to MF and her roommates, and made sexually explicit remarks in class. *Id.* at 38-43, 43, 47-48, 50-51. The ALJ also determined that, if Norton did tell students that Sandy Hook was New Jersey's only nude beach, the remark was a statement of fact and not inappropriate. *Id.* at 53. In assessing the appropriate penalty, ALJ Cohen noted that the Board "has

proved a number of charges of inappropriate conduct against” Norton and that “based on the severity of the charges that have been proved” the proper penalty was the revocation of Norton’s teaching license. *Ibid.* Norton filed Exceptions to the Initial Decision.<sup>1</sup>

In his Exceptions, Norton argued that the ALJ’s decision was arbitrary and capricious because she ignored inconsistencies in MF’s testimony and obvious collaboration in the accounts given by MF and NR. (Exceptions, pp. 2-16). Norton also alleged that much of MF’s testimony was fabricated, including her claims that another student told her Norton had had sex with a student from Lodi and that Norton had entered a hotel room where she was partying with other students. (Exceptions, pp. 13-17). Norton also disputed many of the ALJ’s findings of fact, which he said “were completely refuted by the evidence,” including Norton’s reaction to students’ marijuana use, Norton’s purchase of alcohol for students and his knowledge of their alcohol use, Norton’s comments asking MF and NR to take their tops off, Norton’s improper sexual statements, and Norton’s providing certain students with test answers. (Exceptions, pp. 18-27). Additionally, Norton argued that ALJ Cohen “erroneously excluded evidence of Norton’s teaching abilities, character and relations with students, parents and colleagues.” (Exceptions, pp. 31-33). Finally, Norton claimed that, since all findings regarding his alleged involvement with alcohol, explicit sexual comments and the claim that he whispered test question answers should be dropped as unproven, the revocation of his teaching certificate was far too severe a penalty and not warranted by the evidence. (Exceptions, p. 33).

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of July 25, 2013, the Board reviewed the Initial Decision and Norton’s Exceptions. After full and fair consideration of the Decision and Exceptions, the Board voted to adopt the Initial Decision.

As noted above, the ALJ concluded that Norton’s inappropriate conduct warranted the revocation of his teaching certificate. (Initial Decision, slip op. at 53). The Board agrees. “Teachers ... are

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<sup>1</sup> The Deputy Attorney General representing the Board made a motion to file Reply Exceptions that were out of time. At its meeting of July 25, 2013, the Board voted to reject the Reply Exceptions. Accordingly, they were not reviewed as part of this decision.

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, the Commissioner has long held that teachers serve as role models for their students. Norton’s conduct amply demonstrates that he misunderstands his position as a role model. The record was replete with instances of behavior in which no teacher or any adult supervising children should engage. Even at a minimum, Norton’s choice not to report students smoking marijuana or drinking proves his lack of judgment. Moreover, his sexually explicit conversations with female students and his feeding of test question answers to certain students is further evidence that he crossed the fundamental boundaries that should exist between teacher and student. The Board believes that the only appropriate response to Norton’s breach is the revocation of his certificate. The Board therefore adopts the Initial Decision.

Accordingly, on July 25, 2013, the Board voted to adopt the Initial Decision and ordered to revoke Norton’s certificate. On this 20th day of September 2013, the Board formally adopted its written decision to adopt the Initial Decision in this matter, and it is therefore ORDERED that Benjamin Norton’s Teacher of Comprehensive Science certificate be hereby revoked effective immediately. It is further ORDERED that Norton return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

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Robert R. Higgins, Secretary  
State Board of Examiners

Date of Mailing:

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