

N THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
KIMBERLYNN JURKOWSKI : ORDER OF SUSPENSION
_____ : DOCKET NO: 1314-126

At its meeting of May 21, 2015, the State Board of Examiners (Board) reviewed information the Atlantic County Prosecutor's Office and the Atlantic City School District had forwarded regarding Kimberlynn Jurkowski.¹ In October 2013, an Atlantic County jury found Jurkowski guilty of Theft by Deception and Falsifying or Tampering with Records, which allegedly involved falsifying Hamilton Township School District time sheets for tutoring services that were not provided. Jurkowski had employed a tutor to provide at home instruction to her two children. Amid a legal dispute with the district, Jurkowski had the tutor still submit time sheets although instruction had not been provided for a period of time. In December 2013, post-verdict, Jurkowski was accepted into a Pretrial Intervention program for a period of six months. As a condition of entry into PTI, Jurkowski was ordered to forfeit her "current employment" and to have no contact with the Hamilton Township School District. Jurkowski was also ordered to perform 25 hours of community service. Jurkowski currently holds a Teacher of Elementary School in Grades K-5 Certificate of Eligibility, issued in September 2004, a Professional Librarian certificate, issued in September 2004, a Teacher of Elementary School in Grades K-5 certificate, issued in November 2007, a School Library Media Specialist Certificate of Eligibility With Advanced Standing, issued in August 2010 and a School Library Media Specialist certificate, issued in October 2011. Upon review of the above information, at

¹ The Board had initially reviewed Jurkowski's case in July 2014 and issued an Order to Show Cause to her in September 2014. However, due to some technical issues that needed amending, the Board decided to review the matter again. The procedural history in this decision starts from that second review as it resulted in the Amended Order to Show Cause that forms the basis of this certification proceeding.

its June 26, 2015 meeting, the Board voted to issue Jurkowski an Order to Show Cause as to why her certificates should not be revoked.

The Board sent Jurkowski the Order to Show Cause by regular and certified mail on July 2, 2015. The Order provided that Jurkowski had 30 days to respond. Jurkowski responded on July 28, 2015.

In that Answer, Jurkowski admitted that the jury found her guilty and denied that she was ever convicted. (Answer, ¶ 3). She also admitted that she was admitted into PTI, was ordered to forfeit her current employment, perform 25 hours of community service and have no contact with the Hamilton Township School District. (Answer, ¶ 3). Jurkowski also denied that there was just cause to consider the revocation of her certificates. (Answer, ¶ 4).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on December 28, 2016, the Board sent Jurkowski a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute. Thus, Jurkowski was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause provided just cause to take action against her certificates as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against her certificates. It also explained that upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if Jurkowski's offense warranted action against her certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Jurkowski was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. On February 15, 2017, Jurkowski filed a Hearing Response. She also asked to appear before the Board.

In her Hearing Response, Jurkowski claimed that she signed inaccurate invoices presented to her for the home instruction her children supposedly had received. (Hearing Response, pp. 1-2). She argued that the Board did not have just cause to take action against her certificates because her conduct did not affect her students or the teaching environment. (Hearing Response, pp. 5-6). Jurkowski noted that all charges against her had been dropped and that she had not engaged in conduct unbecoming a teacher, but merely made an honest mistake. (Hearing Response, p. 6). She added that signing tutoring verifications that contained inaccuracies was an error in judgment and did not impact her fitness as a teacher or demonstrate her inability to be an educator. (Hearing Response, p. 7). Jurkowski further argued that if the Board found that her actions did warrant disciplinary action, then suspension was the appropriate response. (Hearing Response, pp. 7-8).

In testimony before the Board, Jurkowski's counsel, Wesley Fenza, argued that no sanction should be imposed against her certificates, but that if one must be imposed, suspension was more appropriate than revocation. Fenza argued that the indictment against Jurkowski merely represented allegations and that the indictment had been dismissed. He insisted that Jurkowski committed an error in judgment by signing the tutoring verifications without checking them for accuracy. He noted that Jurkowski's oversight did not indicate an unfitness to discharge the duties and functions of her position and added that there had been no allegation that her actions made her an ineffective teacher. Fenza suggested that since Jurkowski had not used her certificates since 2012, she should receive a suspension for "time served."

The threshold issue before the Board in this matter is whether Jurkowski's conduct constitutes conduct unbecoming a certificate holder. At its meeting of April 6, 2017, the Board considered the allegations in the Order to Show Cause as well as Jurkowski's Answer, Hearing

Response and testimony. The Board determined that no material facts related to Jurkowski's offense were in dispute since she admitted that a jury had found her guilty of the offenses alleged in the Order to Show Cause. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*.

The Board must now determine whether Jurkowski's conduct, as set forth in the Order to Show Cause, represents just cause to act against her certificates 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). In this case, the record established and Jurkowski admitted that a jury had found her guilty of Theft by Deception and Falsifying or Tampering with Records. This conduct indicates a serious lapse in judgment. Although Jurkowski has successfully completed PTI and the charges have been dropped, nevertheless the Board believes that her breach of conduct warrants some action against her certificates. The Board therefore concludes that the appropriate response is a three-year suspension of her teaching certificates.

Accordingly, on May 12, 2017, the Board voted to suspend Kimberlynn Jurkowski's Teacher of Elementary School in Grades K-5 Certificate of Eligibility, School Library Media

Specialist Certificate of Eligibility With Advanced Standing, and her Professional Librarian, Teacher of Elementary School in Grades K-5 and School Library Media Specialist certificates for a period of three years. On this 15th day of June 2017 the Board voted to adopt its formal written decision and it is therefore ORDERED that the suspension of Jurkowski's certificates be effective immediately. It is further ORDERED that Jurkowski return her certificates 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

RRH/MZ/th

Date of Mailing:
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.