

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
DANIEL H. LAVELLE : ORDER OF REVOCATION
_____ : DOCKET NO: 1718-182

At its meeting of March 1, 2018, the State Board of Examiners (Board) reviewed information the National Association of State Directors of Teacher Education and Certification (NASDTEC) had forwarded regarding Daniel H. Lavelle. NASDTEC provided notice that, in November 2017, Lavelle surrendered his New York teaching licenses following allegations that he had inappropriate contact/communication(s) with a student. Lavelle allegedly texted a former student and told her he had a joint they could smoke and asked her to hang out.

In New Jersey, Lavelle currently holds a Teacher of Social Studies Certificate of Eligibility with Advanced Standing. Upon review of the above information, at its April 13, 2018 meeting, the Board voted to issue Lavelle an Order to Show Cause as to why his certificate should not be revoked.

The Board sent Lavelle the Order to Show Cause by regular and certified mail on April 18, 2018. The Order provided that Lavelle had 30 days to respond. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Lavelle did not respond. On June 1, 2018, the Board sent Lavelle another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail receipt was signed and returned and the regular mail copy was not returned. Lavelle did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on June 25, 2018, the Board sent Lavelle 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 his failure to file an Answer. Thus, Lavelle 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 his certificate. It also explained that, upon review of the charges against him and the legal arguments tendered in his

defense, the Board would determine if Lavelle's offense warranted action against his certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Lavelle was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned and the regular mail copy was not returned. Once again, Lavelle did not file a response.

The threshold issue before the Board in this matter is whether Lavelle's conduct constitutes conduct unbecoming a certificate holder or other just cause. Since Lavelle 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 November 1, 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 Lavelle's offense were in dispute since he never denied that he had 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 Lavelle had engaged in unbecoming conduct.

The Board must now determine whether Lavelle's conduct, as set forth in the Order to Show Cause, provides just cause to act against his 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). Lavelle's actions in contacting a former student and offering to smoke marijuana with her and hang out is clearly conduct that is unacceptable for a role model. The Board therefore concludes that the appropriate response to his breach is the revocation of his certificate.

Accordingly, on November 1, 2018, the Board voted to revoke Daniel H. Lavelle's Teacher of Social Studies Certificate of Eligibility with Advanced Standing. On this 17th day of December 2018 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Lavelle's certificate be effective immediately. It is further ORDERED that Lavelle return his 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:
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.