

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
NICOLE M. MAFFUCCI : ORDER OF SUSPENSION
_____ : DOCKET NO: 2021-163

At its meeting of May 13, 2021, the State Board of Examiners (Board) reviewed information it received from the Rutgers Day School (Rutgers) regarding Nicole M. Maffucci (Maffucci).

Maffucci currently is the holder of a Teacher of Elementary K-6 Certificate of Eligibility with Advanced Standing, a standard Teacher of Elementary K-6 certificate, a Teacher of Students with Disabilities Certificate of Eligibility, a standard Teacher of Students with Disabilities certificate, and a Supervisor certificate. In October 2020, Maffucci submitted an application for Principal certification to the Board. On May 13, 2021, the Board voted to block Maffucci's application and notified Maffucci on June 29, 2021 of its decision. On May 13, 2021, the Board also voted to issue an Order to Show Cause to Maffucci as to why her certificates should not be revoked or suspended. The Order to Show Cause was served upon Maffucci on June 29, 2021. Maffucci answered the Order to Show Cause on July 27, 2021. The Board transmitted the matter to the Office of Administrative Law (OAL) on August 2, 2021 for hearing as a contested case. The matter was heard before Administrative Law Judge Carl V. Buck, III (ALJ) on May 4, 6, and July 18, 2022. The record closed on April 13, 2023. *In the Matter of the Certificates of Nicole M. Maffucci*, Dkt. No. EDE 06423-2021 (Initial Decision, June 29, 2023).

After reviewing the testimony and the record, the ALJ found that from 2014 to 2018, Maffucci was employed at the Rutgers Day School teaching special needs grades six to twelve. (Initial Decision, slip op. at p. 15). A substantial portion of Maffucci's schedule was dedicated to teaching a class of sixth through eighth graders social studies courses including U.S. government and world geography. *Id.* In addition, Maffucci taught basic skills and history courses to high schoolers. *Id.* Throughout her tenure, respondent has consistently received good performance reviews and has never had a negative issue with either State regulations or the school's rules. *Id.*

On February 23, 2021, Maffucci applied for social studies and principal certificates. *Id.* Included in the application was a ROPE form in which respondent listed her experience as a special education teacher from 2016 to 2020. Maffucci's application was returned to her as deficient because, although she performed the same functions from 2016 to 2020, she did not receive her teacher of students with disabilities certificate until 2018. Maffucci thereafter revised the ROPE form and submitted the same to her supervisor on March 8, 2021, noting that she taught social studies to sixth graders from 2014 to 2018. *Id. At 16.* Maffucci's supervisor refused to sign the new ROPE form and reported the changed form to the Board. *Ibid.*

The ALJ ultimately found that the lack of oversight by the administration at Rutgers Day School and its abrogation of responsibilities in preparing the forms, Maffucci's errors in those submission do not constitute a knowing and willing to misrepresent her credentials, but an inadvertent error in compilation of the information in the documentation. *Id.* The ALJ determined that Maffucci unintentionally submitted inaccurate information in her certificate application. *Id. At 19.* The ALJ concluded that a three-month suspension of Maffucci's certificates was warranted. *Id.*

The Deputy Attorney General (DAG) representing the Board filed Exceptions to the Initial Decision. The DAG argued that the facts found by the ALJ warrant a finding of unbecoming conduct and that a penalty of suspension longer than the three motions imposed by the ALJ was warranted. *DAG Exceptions at pg.1.* The DAG noted that Maffucci taught social studies to grades nine through twelve when Maffucci started at Rutgers in 2014 and was evaluated as a special education teacher for grades nine through twelve and this occurred for the 2014-2015, 2015-2016, 2016-2017, and 2017-2018 school years. *Id. At 3.* As such, Maffucci was not assigned to teach sixth grade in any of those years on a full-time basis and that Maffucci was not evaluated for teaching sixth grade social studies for 2016-2017 and 2017-2018 school years. *Ibid.* The DAG further noted that Maffucci was evaluated for grades nine through twelve and that she was not evaluated for teaching sixth grade social studies for the 2016-2017 and 2017-2018 school years and that it is not possible for an individual to be evaluated as sixth grade teacher and a ninth to twelfth grade

teacher simultaneously in the same school year. *Id. At 6*. The DAG argues that the ALJ's conclusion that it is possible for both ROPE forms to be accurate is in error because there was no evidence in the record to support the finding that Maffucci taught sixth grade for the 2014-2015 and 2015-2016 school years. *Id. At 11*. As such, the DAG argues, Maffucci's conduct at issue does in fact amount to intentional deceit and that the testimony evidence as a whole establishes that Maffucci is culpable of conduct unbecoming that warrants a suspension for longer than three months. *Ibid.*

Maffucci filed Exceptions to the Initial Decision. In the exceptions, Maffucci does not challenge the factual findings in the Initial Decision, but takes exception to the imposition of a three month suspension. Maffucci Exceptions at pg.1. Maffucci argues that the ALJ rejected the Board's charge that Maffucci had engaged in conduct unbecoming conduct and as such no penalty is warranted. *Id. At 2*. Maffucci argues that the ALJ rejected the assertion that Maffucci acted with deceit and that the Board's evaluation of the circumstances was based upon a faulty understanding of the ROPE form and Maffucci's intent. *Id. At 9*. Maffucci argues that despite this finding, the ALJ inexplicably recommended a three month suspension for what the ALJ found to be Maffucci's "honest and minor mistake." *Id. At 5*. Maffucci notes that Respondent was not found to have engaged in any unbecoming or unethical conduct and that the Initial Decision does not contain such a finding. *Ibid.* Maffucci further notes that the ALJ relied upon In re Certificate of Calvin J. Williams, Jr., EDE 3889-94, final decision, (October 5, 1995), for the imposition of the suspension. Maffucci argues that reliance upon this case was misplaced, as said case involved an allegation of negligence, while she was accused of fraud, which was not proven. *Id. At 6*. Maffucci argues that In the Matter of the Certificates of Sally Anne Mesh, OAL Dkt. No. EDE 8424-04, at *5-6 (January 30, 2006), is more applicable to the facts here and should lead to a similar result. *Ibid.*

Maffucci submitted a response to the DAG's Exceptions. As an initial matter, Maffucci argues that the DAG's exceptions exceeded the brief length as set forth in N.J.A.C. 6A:9B-4.17(b). Maffucci Reply to DAG's Exceptions at pg.1. Maffucci notes that the record does not reflect that the DAG did not obtain or request written permission to file the overlength brief and as such it should be stricken. *Id. at 1-2*. As to the merits, Maffucci argues that the DAG's exceptions do not attack any of the ALJ's material factual findings,

but rather utilizes irrelevant issues to attack the ALJ's conclusion that Maffucci testified credibly and that Maffucci's errors on the ROPE form did not arise out of a motivation to deceive anyone. *Id. at 2*. Further, Maffucci argues that the ALJ's determination is premised on the finding that Maffucci only completed the ROPE forms because the District "abrogated their responsibility" to her as the employer and that this finding was wholly supported by the record and that Maffucci was neither trained or responsible for knowing how to complete a ROPE form. *Id. at 3-4*. Maffucci argues that a review of the record and the caselaw dealing with certificate holders who simply made documentation errors that were found to be reasonable under the circumstances, and under the principals of fairness, the Board should reject the ALJ's recommended sanction of a three-month suspension and dismiss the Order to Show Cause with prejudice. *Id. at 7*.

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of September 21, 2023, the Board reviewed the Initial Decision, Exceptions and Reply Exceptions. After full and fair consideration of the Decision and the other submissions, the Board voted to adopt the findings of fact contained in the Initial Decision, find unbecoming conduct based on the facts determined by the ALJ and modify the decision to impose a one year suspension of Maffucci's certificates. The Board denies to Maffucci's request that the DAG's exceptions brief be stricken for failure to comply with N.J.A.C. 6A:9B-4.7(b) and (c). The failure to conform with the procedural requirement was (1) de minimis; and (2) Maffucci had the opportunity to reply to the DAG's exceptions and the Board finds that Maffucci did not allege that she any prejudice due to the overlength exceptions brief and as such, the Board finds that Maffucci suffers no prejudice by the Board's consideration of the overlength exceptions brief.

Educators must be held to a particularly "high standard of conduct because of the influence they exercise over the students." *State Bd. of Exam'rs v. Charlton*, 96 N.J.A.R. 2d (EDE) 18, 21; see also *In re Tyler*, 13 N.J.A.R. 297, 308. 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. “That school authorities have the right and the duty to screen the officials, teachers, and employees as to their fitness to maintain the integrity of the schools as part of ordered society, cannot be doubted.” *In re Grossman*, 127 N.J. Super. 13, 30 (App. Div. 1974) (citation omitted).

There is no doubt that the ALJ is in the best position to render credibility determinations in this matter. Accordingly, the Board will defer to those credibility findings. Furthermore, the Board agrees with the ALJ that Maffucci’s conduct warrants action against her certificates. The ALJ found the case *In re Certificate of Calvin J. Williams, Jr.*, EDE 3889-94, Final Decision (October 5, 1995) to be instructive in determining the appropriate sanction, but decided that the two-year suspension given to Williams for unintentionally submitting inaccurate information was too harsh in this instance. *Id.* at 19. In concluding that Maffucci’s suspension should be for three months, the ALJ noted that Williams was a “seasoned” teacher of 25 years and submitted documents implying he held a certificate he did not have while Maffucci was a much less “seasoned” teacher and her misrepresentation was more ambiguous. *Id.* However, the Board disagrees with the ALJ’s reasoning regarding an appropriate sanction because Maffucci, who has been teaching since 2014, is arguably no less of a “seasoned” teacher than Williams. Furthermore, though the ALJ characterizes Maffucci’s misrepresentation as more ambiguous than Williams’, it does not negate that Maffucci misrepresented her experience with regard to the capacity her certifications authorized her to teach.

Accordingly, on September 21, 2023, the Board voted to adopt the adopt the factual findings in the Initial Decision, find unbecoming conduct and modify the penalty to a one-year suspension of Maffucci’s certificates. On this 27th day of October 2023, the Board formally adopts the factual findings in the initial decision, finds unbecoming conduct, and modifies as to the penalty. It is therefore ORDERED that Nicole M. Maffucci’s Teacher of Elementary K-6 Certificate of Eligibility with Advanced Standing, standard Teacher of Elementary K-6 certificate, Teacher of Students with Disabilities Certificate of Eligibility, standard Teacher of Students with Disabilities certificate, and Supervisor certificate are hereby suspended for one year, effective immediately. It is further ORDERED that Maffucci return her certificates to the

Secretary of the State Board of Examiners, Office of Recruitment, Certification and Preparation, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Rani Singh, Secretary
State Board of Examiners

RS/SMN

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.