

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
STEVEN KRAMER : ORDER OF REVOCATION
_____ : DOCKET NO: 0607-148

At its meeting of December 7, 2006, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had approved a settlement between the Montville Board of Education (Montville) and Steven Kramer, a tenured principal in the district. *In the Matter of the Tenure Hearing of Steven Kramer*, Docket No. 178-5/06 (Commissioner's Decision, September 7, 2006). Montville had certified tenure charges against Kramer alleging conduct unbecoming a teaching staff member. Montville asserted that Kramer had improperly directed that the fire alarm in the high school be turned off. In the settlement, Kramer resigned his tenured position and the district withdrew the tenure charges. Although the Commissioner approved the settlement, pursuant to *N.J.A.C. 6A:9-17.6(a)1*, he transmitted the matter to the Board of Examiners for its review. Kramer currently holds a Teacher of Social Studies and Teacher of reading certificates, both issued in September 1976, a Principal/Supervisor certificate, issued in June 1977, a Reading Specialist certificate, issued in May 1979 and a School Administrator certificate, issued in April 1982.

Thereafter, on January 18, 2007, the State Board of Examiners issued Kramer an Order to Show Cause as to why his certificates should not be suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been alleged in the tenure hearing.

The Board sent Kramer the Order to Show Cause by regular and certified mail on January 25, 2007. The Order provided that Kramer's Answer was due within 30 days. Kramer filed an Answer on February 7, 2007. In his Answer Kramer admitted that the district had brought tenure charges against him. (Answer, ¶ 3). He also admitted that the Commissioner approved a

settlement between him and Montville. (Answer, ¶ 5). Kramer denied that he engaged in any conduct requiring suspension or revocation of his certificates. (Answer, Affirmative Defenses). Notwithstanding Kramer's denials, the Examiners found probable cause to consider the suspension or revocation of his certificates.

The Examiners transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Joseph Martone heard testimony on July 6 and 23, 2007. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on October 29, 2007. *In the Matter of the Certificates of Steven Kramer*, Dkt No. EDE 2085-07 (Initial Decision, October 29, 2007).

In that decision, ALJ Martone noted that Montville High School had undergone major renovations including the installation of a new alarm system that was to be integrated into the old system. (Initial Decision, slip op. at 3.) After the construction project was completed the alarm system would sound at least six times per month, sometimes during nights. (Initial Decision, slip op. at 3.) When the alarm sounded during school hours, all of the students would have to be evacuated from the building. (Initial Decision, slip op. at 3.) In October 2004, the Montville Fire Chief sent a letter to the Superintendent complaining about the number of fire alarm malfunctions at the High School within the beginning of the school year. (Initial Decision, slip op. at 4.) The Chief urged the district to correct the malfunction quickly, otherwise fines would be issued. (Initial Decision, slip op. at 4.) Dr. Kramer testified that he had complained about the fire alarm system repeatedly, but that nothing was done. (Initial Decision, slip op. at 4-5.) The hearing testimony confirmed that false fire alarms continued unabated. (Initial Decision, slip op. at 5.) Evacuation of the high school caused disruptions from 30 to 60 minutes or more each time the alarm sounded. (Initial Decision, slip op. at 5.)

In mid-October 2005, Dr. Kramer ordered that the system be put on test mode during the school day, which meant that the fire department would not be notified in the event of an alarm trigger. (Initial Decision, slip op. at 5-6.) Dr. Kramer developed a system whereby administrators and custodians were assigned zones in the building and reported in by walkie-talkies in the event of an emergency. (Initial Decision, slip op. at 6.) The fire alarm system was still in test mode on March 24, 2006, when a fire broke out in a trash receptacle in the boys' bathroom. (Initial Decision, slip op. at 6-7.) Although the fire was quickly extinguished by the Custodial supervisor, the smell of smoke lingered in the hallway. (Initial Decision, slip op. at 7.) A police officer at the school for another incident, told Dr. Kramer to notify the fire department. (Initial Decision, slip op. at 7.) When the fire chief learned about the fire through a phone call from his daughter, a student at the school, he went to the alarm company where he discovered the system had been on test mode. (Initial Decision, slip op. at 7-8.) When he arrived at the high school, the fire chief met with Dr. Kramer and the Custodial supervisor. (Initial Decision, slip op. at 8.) Dr. Kramer told the chief that the fire alarm was in test mode. (Initial Decision, slip op. at 8.) On March 28, 2006, a Notice of Violation and Order to Correct was served upon Dr. Kramer based upon the events of March 24, 2006. (Initial Decision, slip op. at 8.) Dr. Kramer did not inform the Superintendent about the fire until March 29, 2006. (Initial Decision, slip op. at 8.)

After considering all the testimony and the case law, ALJ Martone determined that Dr. Kramer's failure to notify fire officials immediately did not constitute unbecoming conduct. (Initial Decision, slip op. at 12-14.) The ALJ also found that "Dr. Kramer's placing the fire alarm system on test mode was clearly an error in judgment." (Initial Decision, slip op. at 21.) The ALJ stated that Dr. Kramer instituted the "human system" for reporting fires as a last resort when repeated complaints to the administration about the false alarms went uncorrected and

student education was continually disrupted. (Initial Decision, slip op. at 21.) ALJ Martone therefore concluded that since the students were not at risk on March 24, 2006, and Dr. Kramer had acted from the best of intentions, he had not engaged in unbecoming conduct. (Initial Decision, slip op. at 21-22.) The ALJ therefore concluded that no sanction needed to be imposed on Dr. Kramer's certificates and he dismissed the Order to Show Cause. (Initial Decision, slip op. at 22.)

The Deputy Attorney General (DAG) representing the Board of Examiners filed Exceptions to the Initial Decision and Dr. Kramer filed Reply Exceptions. In her Exceptions, the DAG argued that the ALJ acknowledged that Dr. Kramer had put the alarm system on test mode for a prolonged period of time and that the bathroom fire was not reported to the fire department upon its detection. (Exceptions, pp. 1-2.) The DAG further argued that Dr. Kramer's conduct, as found by the ALJ, warranted action against his certificates. (Exceptions, p. 2.) The DAG claimed that Dr. Kramer's actions put the students at risk of harm, even though Dr. Kramer's "human" alarm system happened to work on the day of the March 24, 2006 fire. (Exceptions, p. 3.) Accordingly, the DAG argued that the Board of Examiners should act against Dr. Kramer's certificates. (Exceptions, p. 4.) In his Reply Exceptions, Dr. Kramer argued that the ALJ found that he did not commit an act of unbecoming conduct because even if there was an error in judgment he had acted out of the best of intentions. (Reply Exceptions, p. 5.) Dr. Kramer stated that ALJ Martone found that he always had the safety of the students as a concern and that if there was a fault with safety, it should be directed toward the district "for allowing this situation to have continued unabated for so long...." (Reply Exceptions, p. 6.) Moreover, Dr. Kramer claimed that he acted in good faith and "took all the precautions he could to ensure the safety of students and staff." (Reply Exceptions, p. 7.) Thus, according to Dr. Kramer, since his actions

were necessary and ALJ Martone determined they did not rise to the level of unbecoming conduct, the ALJ was correct in dismissing the Order to Show Cause. (Reply Exceptions, p. 7.)

The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. At its meeting of January 17, 2008, the State Board of Examiners reviewed the Initial Decision, Exceptions and Reply Exceptions. After full and fair consideration of all the submissions, the Board voted to reject the Initial Decision. 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 findings. However, credibility is not at issue in this matter. Dr. Kramer has not denied that he ordered that the fire alarm system be put on test mode. Although Dr. Kramer and the students at Montville High School were fortunate that no harm befell them on March 24, 2006, that is not the determinant of the propriety of Dr. Kramer's conduct. Although there were disruptions to the educational system with ongoing false alarms, Dr. Kramer's actions put the entire school at risk, especially because having the alarm in test mode eliminates the immediate notification of fire officials. Moreover, since Dr. Kramer did not put the fire department on notice regarding the "test mode" status, they had to rely on him or other school officials to impart information, something that was only done belatedly. Dr. Kramer's actions here leave no doubt that he clearly has engaged in conduct unbecoming a teacher, one of the grounds for revocation or suspension of a teaching certificate. *N.J.A.C.* 6A:9-17.5. Accordingly, the remaining decision for this Board is one of penalty.

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. Furthermore, 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 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). "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. The Board of Examiners agrees with the ALJ that Dr. Kramer’s conduct represents, at a minimum, an error in judgment. Where the Board and the ALJ part company is the decision of the appropriate response to Dr. Kramer’s breach. This Board cannot countenance such a severe departure from safety rules. However, the Board is also mindful of Dr. Kramer’s long and distinguished career and the fact that he was acting in his capacity as an administrator when he made these decisions. Therefore, the Board believes the appropriate response to Dr. Kramer’s breach is the suspension of his two administrative certificates for a period of two years from the effective date of this decision.

Accordingly, on January 17, 2008 the Board of Examiners voted to suspend Dr. Kramer’s Principal/Supervisor and School Administrator certificates. On this 21st day of February 2008 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the suspension of Steven Kramer’s administrative certificates for a period of two years be effective immediately. It is further ORDERED that Dr. Kramer return his administrative certificates 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.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing: FEBRUARY 28, 2008

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