

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOSE ARCE : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-127

At its meeting of November 1, 2013, the State Board of Examiners (Board) reviewed information the Passaic County Technical Institute (PCTI) had forwarded pursuant to *N.J.A.C. 6A:9-17.4* regarding Jose Arce. PCTI reported that Arce had resigned from his tenured position with the school following allegations of an inappropriate relationship with a student. Specifically, the school forwarded an investigation report which claimed that Arce had engaged in a sexual relationship with a student. Arce allegedly gave the student a cell phone, drove her to and from school and went with her to restaurants and the movies. The student introduced Arce to her mother and stepfather as her “boyfriend” and admitted to having a sexual relationship with Arce. Arce admitted to having a “dating” relationship with the student. Arce currently holds a Teacher of Graphic Design Certificate of Eligibility, issued in January 2009 and a Teacher of Graphic Design certificate, issued in July 2010. Upon review of the above information, at its December 6, 2013 meeting, the Board voted to issue Arce an Order to Show Cause.

The Board sent Arce the Order to Show Cause by regular and certified mail on December 11, 2013. The Order provided that Arce had 30 days to respond. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Arce did not respond. Thereafter, on January 27, 2014, the Board sent Arce another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail copy was returned as “Unclaimed” and the regular copy was not returned. Arce did not respond.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on February 24, 2014, the Board sent Arce a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Arce 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 determined

to take action against his certificates. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if Arce's offenses warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Arce 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, Arce did not respond.

The threshold issue before the Board in this matter is whether Arce's conduct constitutes conduct unbecoming a certificate holder. Since Arce failed to respond to the Order to Show Cause or the hearing notice, at its meeting of May 22, 2014, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Arce's offense were in dispute since he never denied that he had engaged in the alleged behavior. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The Board must now determine whether Arce's conduct, as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. 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:9-17.5*. "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 matter, Arce's engaging in a sexual relationship with a student is not merely inappropriate, it is egregious. His conduct demonstrates behavior that falls so far short of a role model that the Board believes that the only appropriate sanction in this case is the revocation of Arce's certificates.

Accordingly, on May 22, 2014, the Board voted to revoke Arce's Teacher of Graphic Design Certificate of Eligibility and Teacher of Graphic Design certificate. On this 15th day of July 2014 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Jose Arce's certificates be effective immediately. It is further ORDERED that Arce return his 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:

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

RRH:MZ:th