

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
DARRYL T. POWELL : ORDER OF SUSPENSION
_____ : DOCKET NO: 1213-109

At its meeting of September 21, 2012, the State Board of Examiners (Board) reviewed information it had received from Pride Academy Charter School (Pride) and Link Community School (Link) regarding Darryl T. Powell. In conjunction with his application for certification as a Supervisor and a Principal, Powell had submitted employment verification letters to the Office of Certification and Induction (Office) in the Department of Education. Pride confirmed that two employment verification letters that Powell had submitted were not authentic. Specifically, the School Business Administrator (SBA) at Pride, whose signature was on both letters Powell submitted to the Office, noted that the two letters “were neither prepared nor signed by me.” Link confirmed that an employment verification letter Powell submitted “was written by someone without the authority to do so.” Powell currently holds a Teacher of Elementary School in Grades K-5 Certificate of Eligibility, issued in January 2009, a Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 Certificate of Eligibility, issued in November 2009 and Teacher of Elementary School in Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 certificates, both issued in July 2012. Upon review of the above information, at its November 30, 2012 meeting, the Board voted to issue an Order to Show Cause to Powell as to why his certificates should not be revoked.

The Board sent Powell the Order to Show Cause by regular and certified mail on December 5, 2012. The Order provided that Powell must file an Answer within 30 days. Powell responded on January 4, 2013. In his Answer, Powell admitted submitting the letters from Pride and Link. (Answer, ¶ 2). He added that all the information contained in the letters from Pride was “true and accurate.” (Answer, ¶ 3). Powell stated that he was unaware of the statement made by the SBA and therefore, took “no position as to any such statement.” (Answer, ¶3). Powell also stated that all the information contained in the letter from Link was “true and accurate” and that it was produced by an employee of Link “who either had the

authority or the apparent authority to produce such documents.” (Answer, ¶ 4). Powell added that the letter from Link was prepared solely by Link with no wrongdoing on Powell’s part. (Answer, ¶ 4). Powell claimed that just cause did not exist to revoke his teaching certificates. (Answer, ¶ 5). In separate defenses, Powell added that he had “done nothing wrong, illegal or unethical to justify the imposition of any sanctions or penalties,” and that the information he had provided “was fully accurate and truthful.” (Answer, First and Second Separate Defenses).

Since there were material facts in dispute, on January 24, 2013, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. Administrative Law Judge (ALJ) Richard McGill heard the matter on July 19 and August 29, 2013. The record closed on November 6, 2013, and the ALJ issued an Initial Decision on June 23, 2014. *In the Matter of the Certificates of Darryl Powell*, Dkt. No. EDE 00950-13 (Initial Decision, June 23, 2014).

After reviewing the evidence and testimony, ALJ McGill found that, when submitting employment experience letters in support of his certification application, Powell had altered the employment letter from Pride. (Initial Decision, slip op. at 10). According to the ALJ’s findings, Powell had changed his employment end date at Pride from June 2010 to June 2011, effectively adding a year of experience to his employment there. *Ibid.* More significantly, Powell had signed the name of Pride’s School Business Administrator, Gyan Ray, to the letter, an act that Ray did not authorize. *Ibid.* With regard to the employment letters from Link, the ALJ found that Powell submitted two letters with different start dates, but the letters were not signed. *Ibid.* ALJ McGill found that “there is no indication that respondent knew that one or both came from an individual who was not authorized to write that type of letter.” *Ibid.* The ALJ rejected Powell’s contention that he did not actually disrupt the morale or efficiency of any public entity: “Here, it is evident that use of fraudulent documents to obtain certificates would tend to undermine morale in the education community. Further, a public belief that educators obtained their certificates by fraudulent means would tend to destroy respect in regard to the delivery of government services. Under the circumstances, I **CONCLUDE** that the charge of conduct unbecoming a public employee must be sustained.” *Id.* at 12-13. In assessing the appropriate penalty, ALJ McGill

noted several mitigating factors, including, “no indication of any other improper conduct by [Powell] during approximately ten years in the field of education...” *Id.* at 13. The ALJ also noted that there was no indication that Powell intended anything other than to obtain accurate information from Pride in support of his application and only resorted to “irregular means” after he was frustrated in his attempt due to the fact that the principal was on vacation. *Ibid.* Similarly, the ALJ acknowledged that there was no indication that Powell intended anything other than “to obtain accurate information from an authorized source” when he contacted Link. *Ibid.* Finally, ALJ McGill noted that, although it was not an issue in the case, Powell actually had the requisite experience and that his “fraudulent conduct related only to the submission of documents.” *Ibid.* In light of the mitigating factors in the case, ALJ McGill concluded that a one year suspension of Powell’s certificates was the appropriate penalty. *Ibid.* The Deputy Attorney General (DAG) representing the Board filed Exceptions to the Initial Decision. Powell filed Reply Exceptions.

In his Exceptions, the DAG noted that he agreed with the factual findings and credibility assessments of the ALJ. (Exceptions, p. 2). The DAG argued, however, that a one-year suspension might be too lenient a penalty in light of prior case law and left it to the Board’s discretion whether or not to modify the penalty. (Exceptions, pp. 2-6).

In his Reply Exceptions, Powell argued that he was eminently qualified for the certificates that he was seeking and never intended to deceive anyone. (Reply Exceptions, p. 2). According to Powell, ALJ McGill found that Powell “used ‘irregular means’ to impart what was accurate information.” (Reply Exceptions, p. 2). Powell also argued that in almost all of the cases cited by the DAG in support of a harsher penalty, had the respondents there succeeded in obtaining their certificates through fraudulent means, their students would have been subjected to unqualified teachers. (Reply Exceptions, pp. 2-6). By contrast, Powell was qualified for the certificates he sought and argued that his case warranted a different and more lenient penalty than even the one year suspension. (Reply Exceptions, pp. 2-6). Powell also argued that the information he submitted for Link was accurate and the issue of who had the authority to write the employment letter was one that had nothing to do with Powell and should not be

held against him. (Reply Exceptions, pp. 6-7). Powell argued that, “under the circumstances, a reprimand together with the finding of unbecoming conduct is more than sufficient penalty.” (Reply Exceptions, pp. 7-8).

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of October 23, 2014, the Board reviewed the Initial Decision, Exceptions and Reply Exceptions. After full and fair consideration of the Decision, Exceptions and Reply Exceptions, the Board voted to adopt the Initial Decision with modification as to the penalty.

As noted above, the ALJ concluded that, when applying for certification, Powell had altered an employment experience letter to increase the length of his employment and signed an individual’s name to the letter on two occasions without authorization. (Initial Decision, slip op. at 10). When weighing that unbecoming conduct against several mitigating factors, the ALJ concluded that a one-year suspension of Powell’s certificates was appropriate in this case. The Commissioner has long held that teachers serve as role models for their students. The Board does agree with the ALJ that, although Powell’s fraud does not comport with “role model” behavior, the mitigating factors in this case militate against the harsher penalty of revocation, which this Board has imposed when an individual has submitted a fraudulent certificate to gain employment. *See, e.g., In the Matter of the Certificate of Michael Bonsu*, Dkt. No. 1112-225 (Examiners, January 17, 2014) (Individual who held only Teacher of the Handicapped certification fabricated Supervisor certificate for a promotion within his district); *In the Matter of the Certificate of Deborah Cantz*, Dkt. No. 1213-109 (Examiners, February 28, 2013) (Elementary school teacher fabricated Teacher of Mathematics certificate to obtain employment); *In the Matter of the Certificates of Karen Ledden*, Dkt. No. 0910-174 (Examiners, March 31, 2011) (Elementary school teacher fabricated two Teacher of the Handicapped certificates and submitted them to various districts). The Board diverges from the ALJ’s decision, though, as to the penalty to be imposed. “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. In this case, the initial unsigned

employment verification letter from Pride that Powell submitted was legitimately sent to him by Pride. However, Powell's acts of forging his former employer's name on his employment verification letter on two occasions and altering his employment end date at Pride in order to gain an additional year of experience, call for something more than a one-year suspension of his certificates. Powell's conduct was not de minimis in nature and should not be treated as such. The Board believes that the appropriate response to Powell's breach is a two-year suspension of his certificates. The Board therefore adopts the Initial Decision with modification as to the penalty.

Accordingly, on October 23, 2014, the Board voted to adopt the Initial Decision with modification as to penalty and ordered to suspend Powell's certificates for a period of two years. On this 23rd day of October 2014, the Board formally adopted its written decision to adopt the Initial Decision with modification in this matter, and it is therefore ORDERED that Darryl T. Powell's Teacher of Elementary School in Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 Certificates of Eligibility, and his Teacher of Elementary School in Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Mathematics in Grades 5-8 certificates be hereby suspended for two years, effective immediately. It is further ORDERED that Powell 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 *N.J.S.A.* 18A:6-38.4.