

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
LORI COOPER : ORDER OF SUSPENSION
_____ : DOCKET NO: 1213-144

At its meeting of January 25, 2013, the State Board of Examiners (Board) reviewed a report it had received from the Office of Fiscal Accountability and Compliance (OFAC) regarding Lori Cooper. The report, titled “Mansfield Township School District, APA Security Breach,” concluded that Cooper had breached the 2011-2012 Alternate Proficiency Assessment (APA) security procedures. OFAC reported that Cooper breached security protocol by fabricating a student’s APA portfolio. During the APA’s collection period, a teacher gathers samples of a student’s work, which is then given percentage scores for accuracy and for the degree in which the work was created independently. When a student of Cooper’s was transferred to another district, a teacher in the student’s new district noticed discrepancies with some of the information in the student’s APA portfolio. Upon further inspection, some of the documents were discovered to be photocopies of another student’s APA portfolio with identifying information “whited out.” Cooper later admitted to the breach, citing anxiety stemming from personal issues, including the death of her father and ongoing litigation with her ex-husband. Cooper currently holds a Teacher of the Handicapped certificate, issued in June 2001. Upon review of the above information, at its February 28, 2013 meeting, the Board voted to issue an Order to Show Cause to Cooper as to why her certificate should not be suspended for one year.

The Board sent Cooper the Order to Show Cause by regular and certified mail on March 4, 2013. The Order provided that Cooper must file an Answer within 30 days. Cooper responded on April 3, 2013.

In her Answer, Cooper stated that the OFAC report spoke for itself but she denied the factual and legal conclusions in the Order to Show Cause. (Answer, ¶ 3). Cooper also denied that there was just cause to consider the one-year suspension of her certificate since she admitted that there were mitigating circumstances which caused her conduct. (Answer, ¶ 4).

Since there were material facts in dispute, on May 9, 2013, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. Subsequent to that transmittal, the Board discovered that the Order to Show Cause called for the suspension of Cooper's certificate when, in fact, the Board had voted to issue an Order seeking revocation. Accordingly, on December 5, 2013 Cooper was issued an Amended Order to Show Cause to which she submitted an Answer, again arguing that there was no justification for the possible suspension or revocation of her certificate.¹ (Answer to 2nd Amended Order to Show Cause, ¶ 4). The case proceeded at OAL where the record closed on December 1, 2014 and Chief Administrative Law Judge (ALJ) Laura Sanders issued an Initial Decision on December 29, 2014. *In the Matter of the Certificate(s) of Lori Cooper*, Dkt. No. EDE 06784-13 (Initial Decision, December 29, 2014).

ALJ Sanders found that Cooper was a victim of domestic violence, both emotional and physical. (Initial Decision, slip op. at 6). Cooper testified as to the ongoing domestic violence and her divorce attorney testified as to Cooper's "hellish marriage with a brutish husband who inflicted both physical and emotional harm upon her." *Id.* at 3. ALJ Sanders noted that, according to the attorney, "despite various court orders, the husband dissipated marital assets, failed to disclose assets, ceased to honor parenting-time strictures, and stopped paying bills as a means to pressure his separated spouse, who had primary responsibility for their two children."

¹ The Board had issued Cooper an Amended Order to Show Cause on November 4, 2013, but that Order also contained an error, so the Board re-sent Cooper a corrected Amended Order to Show Cause on December 5, 2013.

Id. at 3-4. Cooper's father was diagnosed with terminal cancer in 2009 and moved into her home in late February of that year so she could care for him. *Id.* at 4. Cooper's estranged husband continued to harass her and her father died in April 2009. *Ibid.* Her divorce became final in September 2009, but her ex-husband's harassment continued until February 2012 when "Cooper settled for less than she was entitled to have, just to put an end to the acrimony." *Ibid.* It was during that period of late 2011 and early 2012 that Cooper failed to conduct the APA evaluation for her student and then provided the false documentation. *Ibid.* The ALJ found that aside from the single instance of conduct at issue in the case, Cooper was an excellent teacher. *Id.* at 6. ALJ Sanders found that the supervisor of student services did not review Cooper's student's portfolio before submitting it to the new school because, according to the supervisor, Cooper was "generally very competent" and a "meticulous record keeper." *Id.* at 6-7. The ALJ found that Cooper's behavior "was an isolated incident occasioned by the three-year financial and emotional toll of her divorce." *Id.* at 7. Although the ALJ found that Cooper had engaged in conduct unbecoming and committed a serious transgression, she noted that "the mitigating factors include provocation, her otherwise excellent ten-year history in the district, and the limitation of the problem to a single student, as opposed to an entire class of students." *Id.* at 9. ALJ Sanders was "persuaded that Cooper made a single, serious, error of judgment, which grew out of her attempts to cope virtually alone with a financial morass of overwhelming proportions that literally threatened her children's happy home." *Id.* at 10. Accordingly, the ALJ ordered that Cooper's certificate should be suspended for three months. *Ibid.* The Deputy Attorney General (DAG) representing the Board filed Exceptions and Cooper submitted Reply Exceptions in the case.

In her Exceptions, the DAG argued that "because of the responsibility required of teachers that administer the [APA], the connection between her conduct and her instruction of

students, and the fraudulent nature of the breach, Ms. Cooper's certificate should be revoked. (Exceptions, p. 1). The DAG claimed that revocation, rather than suspension, was appropriate here because of "the level of fraudulent conduct exhibited by Ms. Cooper in this case..." (Exceptions, pp. 7-8, 10-12). She further argued that "Ms. Cooper's distress should not be a factor in determining whether her certificates should be revoked, especially in light of such egregious conduct." (Exceptions, p. 12). Finally, the DAG also noted that the administration of the APA required a heightened level of trust and responsibility from teachers because it is the teacher who selects from the student's work over the assessment period to include in the APA portfolio. Moreover, the falsification of APA documents means there is no way to monitor what instruction is given to the individual student. (Exceptions, pp. 15-17).

In her Reply Exceptions, Cooper argued that ALJ Sanders' "well-reasoned Initial Decision" should be adopted by the Board because "the underlying case entirely rests upon Judge Sanders's credibility findings and resolutions." (Reply Exceptions, p. 1). Cooper also stressed that a three-month suspension, as imposed by the ALJ, was reasonable given the totality of the circumstances presented. (Reply Exceptions, pp. 4-6). She argued that but for the extreme circumstances she faced in the fall of 2011, she would have never fabricated her student's portfolio and that there was "a direct correlation between the then-existing stressors in [my] personal life and [my] conduct." (Reply Exceptions, p. 6).

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of January 23, 2015, the Board reviewed the Initial Decision, Exceptions and Reply Exceptions. After full and fair consideration of the Decision, the Board voted to adopt the Initial Decision with modification as to penalty.

As noted above, Cooper did not dispute that she breached APA security protocol as alleged. (Initial Decision, slip op. at 2.) The Board agrees with the ALJ's conclusion that

Cooper's actions, as deemed admitted, constitute conduct unbecoming a teaching staff member warranting sanction. Where the Board differs from the ALJ, however, is in the appropriateness of the sanction levied. The Board recognizes the seriousness of Cooper's conduct and the detrimental effect it had on her student in assessing his educational needs. Nonetheless, it also notes Cooper's long, unblemished and exemplary career as well as the enormity of the personal stress she was subject to during this time. Although her personal circumstances do not act as an excuse for her behavior, they do provide some mitigation due to their extreme nature. On balance, the Board believes that a two-year suspension is warranted. The Board therefore adopts the Initial Decision with modification as to penalty.

Accordingly, on January 23, 2015, the Board voted to adopt the Initial Decision with modification as to penalty and to suspend Cooper's certificate for two years. On this 12th day of March 2015, the Board formally adopted its written decision to adopt the Initial Decision with modification in this matter and it is therefore ORDERED that Lori Cooper's Teacher of the Handicapped certificate is hereby suspended for a period of two years effective immediately. It is further ORDERED that Cooper return her certificate 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

RRH/MZ/th
Date of Mailing:

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