

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
LISA A. SIVILLO : ORDER OF REVICATION  
\_\_\_\_\_ : DOCKET NO: 1213-132

At its meeting of September 19, 2014, the State Board of Examiners (Board) reviewed a tenure decision regarding Lisa A. Sivillo. Pursuant to *N.J.S.A. 18A:6-16*, the Arbitrator assigned by the Department of Education to hear the case, referred to the Board the tenure matter captioned *In the Matter of the Tenure Hearing Between Lisa Sivillo and the Woodbridge Township Board of Education*, Dkt. No. 159-7/13 (Arbitrator's Decision, August 4, 2014).

Woodbridge had certified tenure charges against Sivillo alleging unbecoming conduct. Specifically, Woodbridge alleged that, with respect to the 2010 and 2011 NJ ASK tests, Sivillo had: told her proctor for the 2010 test, Stephanie Klecan, to look over the students' shoulders during the test and tap on their desks if a particular question was answered incorrectly; told students in advance of the test about the correction method; actually alerted several students during the 2010 test that their answers were wrong by tapping on their desks, using nonverbal cues, such as a head nod or prolonged glance and, in one instance, verbally telling the student his answer was wrong. Woodbridge also alleged that once the Office of Fiscal Accountability and Compliance (OFAC) began its investigation into the alleged test breach, Sivillo tried to influence the information Klecan would report to investigators, including telling Klecan just to say her "role was to pass out pencils and tissues."

The district also alleged that the wrongful assistance Sivillo provided to students led to inflated scores on the NJ ASK test, which, in turn, provided an inaccurate indication of their respective abilities and resulted in the denial of supplemental educational services for some children. Additionally, Woodbridge charged that Sivillo's conduct led, in part, to the OFAC investigation and the need for a

Corrective Action Plan, the need for the district to hire an independent consultant to review data at a cost to the district, and negative consequences to the district's reputation in the community and the state.

In her Decision (which is incorporated herein by reference), the Arbitrator concluded that Woodbridge had proven all of the tenure charges leveled against Sivillo. The Arbitrator found that during the 2010 and 2011 NJ ASK tests, Sivillo pointed to wrong answers and nodded to students when they changed their answers to the correct choice. The Arbitrator also found that at different times Sivillo double tapped on wrong answers, pointed to a question and said "fix it" but did not tell the student the correct answer, or tapped on a wrong answer and gave a thumbs up when it was corrected. The Arbitrator also concluded that Sivillo told students before the test that she would be coming around and pointing to indicate that an answer was wrong.

The Arbitrator also found that Klecan provided credible testimony that Sivillo told her before the administration of the 2010 NJ ASK test that they would walk around the room and point and tap on students' desks to let them know when their answer was wrong. According to the Arbitrator, Klecan also credibly testified that during the OFAC investigation she received "a lot of phone calls" from Sivillo who would update her on the investigation. Klecan noted that Sivillo told her to say that Klecan's only job as proctor was to pass out pencils and tissues.

The Arbitrator also found that, in at least one instance, a student was denied special education assistance because of the artificially inflated scores she received on the 2010 NJ ASK test when she was in Sivillo's third grade class. The student, S.C., received an advanced proficient score on the math portion of the test, although the investigation later revealed that she had a very high wrong to right erasure rate on her test. S.C. also testified that Sivillo told students she would be pointing to a wrong answer and giving thumbs up if it was correct. S.C.'s mother testified that she had tried to get additional help for her child since second grade but because of her high score on the NJ ASK test the district would not evaluate her. When S.C.'s scores dropped precipitously from third to fifth grade, she was finally evaluated at the end of fifth grade and started receiving special education assistance beginning in sixth grade.

The Arbitrator also sustained Woodbridge's allegation that because of Sivillo's (and other staff members') conduct there was a negative impact on the district due to the information revealed in the OFAC report. In addition, the Woodbridge superintendent testified that the Board had to write a corrective action plan for test security, read the report at a Board meeting and publicize it on the district's website. The district also had to compensate one parent because of the damage done to her child because of the inflated scores.

The Arbitrator concluded that Sivillo failed in her obligations as a teacher and as a public employee and set an example for students and a co-worker that it was acceptable to cheat on a test. The Arbitrator concluded that Sivillo was a poor role model for students and returning her to the classroom would "further increase the damage done to the students and to the District."

Sivillo was dismissed from her tenured employment with Woodbridge as a result of the unbecoming conduct proven in the tenure proceeding. The Arbitrator then transmitted the matter to the Board for its review.

Sivillo currently holds Teacher of Elementary School and Teacher of Preschool Through Grade 3 Certificates of Eligibility With Advanced Standing, both issued in February 2004 and a Teacher of Elementary School certificate, issued in July 2005. Upon review of the above information, the Board voted at its meeting of October 23, 2014 to issue Sivillo an Order to Show Cause as to why her certificates should not be revoked.

The Board sent Sivillo the Order to Show Cause by regular and certified mail on October 27, 2014. The Order provided that Sivillo must file an Answer within 30 days. Sivillo filed an Answer on December 3, 2014 and because there were material facts in dispute, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. Subsequently, on June 8, 2016, Sivillo withdrew her Answer and request for hearing and the OAL returned the file to the Board.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on August 23, 2016, the Board sent Sivillo a hearing notice by regular and certified mail. Sivillo 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 found just cause to take action against her certificates. Sivillo was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Sivillo's counsel indicated that he believed she had voluntarily relinquished her certificates while she was represented by another attorney, but no such document had been submitted to the Board. Neither Sivillo nor her attorney submitted any document in response to the hearing notice.

The threshold issue before the Board in this matter is whether Sivillo's conduct constitutes conduct unbecoming a certificate holder. Since Sivillo withdrew her Answer, at its meeting of June 15, 2017, the Board considered only the allegations in the Order to Show Cause and deemed them to be admitted. *N.J.A.C. 6A:9B-4.6(c)*. Thus, since no material facts related to Sivillo's offense were in dispute, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*.

The Board must now determine whether Sivillo's conduct, as set forth in the Order to Show Cause, represents just cause to act against her certificates pursuant to *N.J.A.C. 6A:9B-4.4*. 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:9B-4.4*. "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 matter, Sivillo engaged in a pattern of behavior that violated the security and integrity of the State's standardized testing. Her conduct in interfering with students' independent performance on the tests conveyed the wrong message about cheating to her students and an impressionable young colleague and demonstrates how far from a role model she is. Even more egregious is the fact that Sivillo's conduct

directly resulted in students being denied services they deserved and needed because of falsely inflated test scores. The Board therefore concludes that the only appropriate response to Sivillo's breach is the revocation of her certificates.

Accordingly, on June 15, 2017, the Board voted to revoke Lisa A. Sivillo's Teacher of Elementary School and Teacher of Preschool Through Grade 3 Certificates of Eligibility With Advanced Standing and her Teacher of Elementary School certificate. On this 27th day of July 2017 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Sivillo's certificates be effective immediately. It is further ORDERED that Sivillo return her certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

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Robert R. Higgins, Secretary  
State Board of Examiners

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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.