

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JOSEPH DEVITA : ORDER OF SUSPENSION
_____ : DOCKET NO: 1415-196

At its meeting of June 26, 2015, the State Board of Examiners (Board) reviewed information received from the Fort Lee and Cliffside Park Police Departments and the Fort Lee School District regarding Joseph Devita. In November 2013, Devita was charged with Stalking, based on his alleged conduct toward two students at Fort Lee High School while they were attending school in the district and subsequent to their graduation. The charges were dismissed in December 2014 due to lack of prosecution. Devita was removed from Fort Lee's substitute list due to his unsatisfactory performance.

According to the Cliffside Police report, in July 2013, Devita was brought to the hospital for apparent psychological problems. He stated he had anxiety because he wanted to have a sexual relationship with two females, A.B.1 and A.B.2, who were his former students when he was a substitute teacher in Fort Lee. He stated that he would go to the Dunkin Donuts in Cliffside Park every day hoping they would appear. Devita also stated that he wanted to rub his hands under their shirts when he sees them and that he expressed this to the girls.

In November 2013, A.B.1 reported to Fort Lee Police that she was the victim of harassment. She indicated that Devita called her house stating that he must speak to her. She also reported that Devita had tried to speak to her and her friend, A.B.2, on numerous occasions at the Dunkin Donuts in Cliffside Park. A.B.1 also told police that Devita had called the bakery her family owned looking for her and then her residence. Her mother had answered the phone at

their house and told him not to call again. Devita later appeared at A.B.1's house and her mother called police.

Devita currently holds a Teacher of Mathematics Certificate of Eligibility, issued in May 2006. Upon review of the above information, the Board voted at its meeting of July 30, 2015 to issue Devita an Order to Show Cause as to why his certificate should not be revoked.

The Board sent Devita the Order to Show Cause by regular and certified mail on August 3, 2015. The Order provided that Devita must file an Answer within 30 days. Devita filed an Answer on August 13, 2015.

In his Answer, Devita admitted being charged with Stalking and noted that the charges were later dismissed due to lack of prosecution. (Answer, ¶ 3). He denied being removed from Fort Lee's substitute list. (Answer, ¶ 3). Devita also denied that he was brought to the hospital for psychological problems, instead claiming that he was having emotional anxiety problems because he was losing his friendship and his communication with the two females. (Answer, ¶ 4). He noted that he did not want a sexual relationship with the two students. (Answer, ¶ 4). Devita also denied that he was harassing or stalking A.B.1. He admitted to calling her relative's house in November 2013 stating that he wanted to speak to her. (Answer, ¶ 5). He also admitted to calling the bakery that A.B.1's family owned so he could speak to her. (Answer, ¶ 5). Devita claimed that when A.B.1's relative would not speak to him, he appeared at the relative's house. (Answer, ¶ 5). He noted that this was a one-time occurrence and it was not stalking or harassment, but merely him showing his concern that he would lose communication and friendship with A.B.1 and A.B.2. (Answer, ¶¶ 5, 6). Devita therefore claimed that his certificate should not be revoked. (Answer, ¶ 7).

Since there were material facts in dispute, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. On April 28, 2016, the Administrative Law Judge assigned to the case returned it to the Board after Devita failed to appear for a scheduled hearing. Pursuant to *N.J.A.C. 1:1-3.3*, the ALJ had provided Devita with 13 days to submit an explanation for his nonappearance. Devita did not submit an explanation or otherwise respond to that notice. At its meeting of June 20, 2016, the Board voted not to retransmit the matter to OAL.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on July 15, 2016, the Board sent Devita a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Devita 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 his certificate. Devita was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Devita filed a response on August 22, 2016.

In that response, Devita claimed that he had been a substitute teacher in Fort Lee since 2007. (Hearing Response, p. 1). He claimed that the harassment/stalking charge against him was dismissed in 2014 “with no further liability towards me.” (Hearing Response, p. 1). (Hearing Response, p. 1). He claimed that he had been friends with the two students since he had them at Fort Lee High School. (Hearing Response, p. 1). Devita stated that he would have coffee with them at Dunkin Dounts a few days a week but that there “were no romantic parts to this-strictly friendship.” (Hearing Response, p. 1). When the girls missed coffee for over a month, Devita stated he became concerned for their situation and phoned the aunt of one of them

to ask about the girls. (Hearing Response, p. 1). He claimed that the aunt would not talk to him on the phone so he went to her home in Fort Lee to introduce himself and inquire about the girls. (Hearing Response, p. 1). He claimed this single event led to the harassment charge. (Hearing Response, p. 1). He asked the Board to consider this and take no negative action against his certificate. (Hearing Response, p. 1). Devita also asked to appear before the Board but did not appear for his hearing.

The threshold issue before the Board in this matter is whether Devita's conduct constitutes conduct unbecoming a certificate holder. At its meeting of January 19, 2017, the Board considered the allegations in the Order to Show Cause as well as Devita's Answer and Hearing Response. The Board determined that no material facts related to Devita's offense were in dispute since he admitted to most of the conduct alleged in the Order to Show Cause. Thus, 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 Devita's conduct, as set forth in the Order to Show Cause, represents just cause to act against his certificate 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. 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, Devita tried to track down two students whom he would see at Dunkin Donuts. When one of the students' relatives refused to give him information about her whereabouts, he appeared at that relative's house and the student's family business. This behavior certainly shows Devita's failure to maintain appropriate boundaries and indicates a serious lapse in judgment. The Board therefore concludes that the appropriate response to Devita's breach is a three-year suspension of his certificate.

Accordingly, on January 19, 2017, the Board voted to suspend Joseph Devita's Teacher of Mathematics Certificate of Eligibility for a period of three years, effective immediately. On this 3rd day of March 2017 the Board voted to adopt its formal written decision and it is therefore ORDERED that the suspension of Joseph Devita's certificate be effective immediately. It is further ORDERED that Devita return his certificate 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.

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.