

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
ROBERT KUPCHA : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 1516-209

At its meeting of June 23, 2016, the State Board of Examiners (Board) reviewed information the North Brunswick School District (NB) had forwarded pursuant to *N.J.A.C. 6A:9B-4.4* regarding Robert Kupcha. Kupcha resigned from his tenured position after the district filed tenure charges against him alleging unbecoming conduct, misbehavior, neglect and insubordination.

In the tenure charges, which are incorporated herein by reference, NB stated that, in November 2013, Kupcha was reprimanded for engaging in a dialogue with a 10<sup>th</sup> grade student on a social media website. In that post, Kupcha made comments about men's/boys' underwear and made references to engaging in sexual activities with a girl. He also posted a message inviting a person to his home to partake in the consumption of alcohol. Both posts were visible to the public and violated district policy. Kupcha was reminded by the administration about the importance of refraining from similar inappropriate conduct in the future.

In February 2014, Kupcha made an inappropriate posting on a social network website, accessible to the general public, wherein he identified a student as classified for special education services. Kupcha received a six-day suspension without pay as a result.

NB also alleged that, in April 2014, Kupcha was reprimanded for posing as an anonymous parent in an email he forwarded to the administration complaining about an aide in his classroom and praising himself. In May 2015, Kupcha received a written reprimand for committing a NJ ASK security breach by placing secure testing materials in an unattended and

open mailbox rather than personally returning them to the test coordinator as he had been instructed to do.

On October 30, 2015, Kupcha text messaged an image of male genitalia drawn in the sand of the baseball field at Linwood to 14 Linwood staff members, many of whom categorized his action as unsurprising, inappropriate and offensive. Kupcha neither removed the image from the sand nor requested the assistance of another district employee to do so. After being removed from the building on “Authorized School Business Leave,” Kupcha ignored an administrative directive to refrain from communicating with staff and students until the investigation into the incident was complete by messaging students on December 4, 2015, thereby causing a disruption in the school day.

During NB’s investigation into Kupcha’s conduct on October 30, 2015, the administration uncovered numerous other instances of misconduct wherein he made inappropriate and sexually laced comments to colleagues. For example, Kupcha sent one colleague a Facebook message stating his desire to make a bet with her husband where the loser would have to run around in his underwear while she watched. Kupcha also messaged another colleague wanting to make a bet with her husband that would require her husband to wear a thong. During the course of the 2012-2013 and 2013-2014 school years, Kupcha asked a substitute teacher how he was being paid and offered to pay him extra money if he “ran the bases in his boxer shorts.” Kupcha also sent the substitute late night texts wanting to hang out together in “just their underwear.”

Kupcha currently holds a Teacher of Elementary School In Grades K-5 Certificate of Eligibility, issued in September 2005, a Teacher of Elementary School With Subject Matter Specialization: Science in Grades 5-8 Certificate of Eligibility, issued in September 2005, and

Teacher of Elementary School In Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Science in Grades 5-8 certificates, both issued in October 2006. Upon review of the above information, at its September 16, 2016 meeting, the Board voted to issue Kupcha an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Kupcha the Order to Show Cause by regular and certified mail on September 22, 2016. The Order provided that Kupcha had 30 days to respond. Kupcha responded on October 20, 2016.

In that Answer, Kupcha admitted to posting on social media in response to someone else's Tweet but stated he was unaware that a student was able to see it. (Answer, ¶ 4). He claimed that he apologized to the student and the principal at the time. (Answer, ¶ 4). Kupcha also admitted to posting about his special education student in a positive way, but indicated he did not know that listing the student's classification was wrong. (Answer, ¶ 5). Kupcha stated that he took the post down after he was informed of that fact. (Answer, ¶ 5). Kucha did admit to sending the email about his classroom aide and added that he had tried "several times through the union and the administration to have a colleague removed from my classroom for inappropriate behavior and neither acted on it." (Answer, ¶ 6).

As for the test security breach, Kupcha stated that he accidentally left the test in his supervisor's mailbox and that it was only there for 10 minutes. (Answer, ¶ 7). He added that his supervisor spoke on his behalf saying it was a mistake. (Answer, ¶ 7).

Kupcha also admitted sending the picture of the male genitalia drawn on the baseball field but said he was never approached by anyone on the staff claiming it was sexual harassment. (Answer, ¶ 8). He stated that his email message to students that appeared after his suspension was preprogrammed into the system prior to his suspension. (Answer, ¶ 8). Kupcha also

admitted to making sexual comments to two colleagues but stated it was on private cell phone numbers and he was never approached by either individual or the administration about it until he was suspended. (Answer, ¶ 9).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on October 31, 2016, the Board sent Kupcha a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Kupcha 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 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 Kupcha's offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Kupcha was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as "Unclaimed" and the regular mail copy was not returned. Kupcha did not file a response.

The threshold issue before the Board in this matter is whether Kupcha's conduct constitutes conduct unbecoming a certificate holder or other just cause. At its meeting of January 19, 2017, the Board considered the allegations in the Order to Show Cause as well as Kupcha's Answer. The Board concluded that no material facts related to Kupcha's offense were in dispute since he never denied that he engaged in the conduct alleged. 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 Kupcha'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: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). Kupcha's actions in violating district policy by engaging in online conversations with a student, identifying a student on a social network site as a special education student, posing as a parent in an email to administrators, failing to remove an offensive image from the baseball field or report its existence to the administration, and making inappropriate and sexually-laced comments to colleagues, indicate a pattern of conduct that is inexcusable for a role model. The Board therefore concludes that the appropriate response to his breach is the revocation of his teaching certificates.

Accordingly, on January 19, 2017, the Board voted to revoke Robert Kupcha's Teacher of Elementary School In Grades K-5 and Teacher of Elementary School With Subject Matter Specialization: Science 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: Science in Grades 5-8 certificates, 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

revocation of Kupcha's certificates be effective immediately. It is further ORDERED that Kupcha return his 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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Kupcha, Robert rev dist report inapp sexual comments ans only MAR.docx

**Date of Mailing:**  
**via certified and regular mail**

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