

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSES OF : STATE BOARD OF EXAMINERS
NORMA POLLARD : ORDER OF REVOCATION
_____ : DOCKET NO. 448 – 05/97-143

Norma Pollard is the holder of a Teacher of Reading, Elementary School Teacher, Teacher of the Handicapped and a Learning Disabilities Teacher Consultant license in New Jersey. At its meeting of May 15, 1997, the State Board of Examiners reviewed a Commissioner of Education decision captioned, In the Matter of the Tenure Hearing of Norma Pollard, State Operated School District of the City of Paterson, Passaic County, 96 N.J.A.R. 2d (EDU)170, aff'd State Board of Education December 6, 1995. The tenure charges found Ms. Pollard guilty of unbecoming conduct involving corporal punishment, using profane language and insubordination.

At that meeting the State Board of Examiners voted the tenure charges proven against Ms. Pollard constituted grounds for issuing an Order to Show Cause. Ms. Pollard was served with the Order to Show Cause by regular and certified mail on or about July 25, 1997. Secretary of the State Board of Examiners, Ida Graham, granted Ms. Pollard a reply extension until October 26, 1997, at Ms. Pollard's request. On October 24, 1997 an Answer to the Order to Show Cause, in the form of an Affidavit from Ms. Pollard, was received from Marvin L. Comick, Esq. on behalf of his client, Norma Pollard.

Ms. Pollard's Affidavit admits she was found guilty of unbecoming conduct involving corporal punishment of students, using profane language and insubordination as set forth in the Commissioner of Education decision cited above. However, she states she disagrees with the conclusion reached by the Commissioner of Education and the Administrative Law Judge (ALJ).

Moreover, Ms. Pollard contends in her affidavit that the findings of fact underpinning the decision of the Commissioner and State Board of Education raise sufficient doubt that the State Board of Examiners should allow her to continue to pursue her lifelong vocation of educating young people. She further submits that the tribunal that heard her case was not impartial. Although stating she understands she may not now raise objections to the findings in the tenure matter, she also claims that factual inconsistencies and false documentation exist in all of the charges brought against her. She submits that if the State Board of Examiners chooses to believe all of the negative things that were said about her in the tenure matter, she still believes that the revocation of her licenses to teach is excessive punishment. She claims she has paid a heavy price already, including losing her job. She states she is now unemployed but is volunteering substantial time to the American Literacy Program. She states she has also taught a third grade class in a parochial school from October 15, 1995 to January 1996 without problem. She is willing to undergo additional training to resume her teaching career, and asks that she not be foreclosed from continuing to teach.

Pursuant to the hearing process in N.J.A.C. 6:11-3.6(a)1, on December 11, 1997 a hearing notice was mailed by regular and certified mail to both Ms. Pollard and Mr. Comick. The notice explained that, it appearing that no material facts were in dispute, Ms. Pollard was provided an opportunity to offer legal argument on the issue of whether her removal from her tenured position constituted conduct unbecoming a license holder. On December 31, 1997, a response to the hearing notice was received from Mr. Comick on behalf of Ms. Pollard. It included a second affidavit reiterating the points made in her Answer to the Order to Show Cause. Her response also included a letter brief stating again her innocence of the tenure charges and submitting that the sanctions imposed against her in the tenure matter are sufficiently severe

to accomplish the intended purpose. Ms. Pollard claims any further penalty would be excessive and contrary to school law, citing In re Fulcomer, 93 N.J. Super 404 (1967) and Middletown Board of Education v. Gwaley, 1986 S.L.D. 168.

Upon careful and independent consideration of Ms. Pollard's responsive pleadings, and the Commissioner of Education and State Board of Education decisions in the tenure matter, the State Board of Examiners finds that the charges found to be fact in the tenure proceedings against Ms. Pollard constitute conduct unbecoming a teaching staff member, sufficient to warrant revocation of her teaching licensure pursuant to N.J.A.C. 6:11-3.6.

At its meeting of April 2, 1998, the State Board of Examiners reviewed the charges against Ms. Pollard as well as her responses to the Order to Show Cause and the hearing notice. It determined that no material facts related to the charges contained in the tenure matter were in contest. Ms. Pollard's affidavit accompanying her Answer admits she was found guilty of unbecoming conduct involving corporal punishment of students, using profane language and insubordination. Thus, it was determined at that meeting that this case could proceed to a determination as to whether the charges levied against Ms. Pollard in the Order to Show Cause constitute conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

The Board finds that Ms. Pollard has demonstrated an alarming lack of self-control and professional behavior, as proven in her tenure hearing. Ms. Pollard has exhibited a pattern of verbal outbursts, as well as physical violence against her students and colleagues, that stands in clear contradiction to the higher standards of behavior expected of teaching professionals. "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. Parents in this state have the right to be assured that their children will not be subjected to Ms. Pollard's inability to govern herself. She must not be permitted to return to the classroom.

The State Board of Examiners so finds noting that among her arguments, Ms. Pollard speaks to her activities since being removed from her tenured teaching employment. It must be stressed that the instant hearing is not one that considers evidence of rehabilitation. See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2d (EDE)1,aff'd App. Div Dkt. No. A-1246-96T5 (September 9, 1997) Therein, the State Board of Examiners emphasized that the purpose of the hearings conducted by the State Board of Examiners is "to permit circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." (citing In the Matter of the Revocation of the Teaching Certificate of James Noll, State Board of Examiners decision (February 7, 1990) Id. at 16.

Hence, the State Board of Examiners did not consider Ms. Pollard's statements concerning her current ability to teach but instead focused on assessing whether the proven tenure charges constitute conduct unbecoming a license holder sufficient to warrant action against her licensure.

Moreover, it is noted that the responsive pleadings tendered by Ms. Pollard in this matter ask for reconsideration of testimony and documentation already considered or not entertained before the Office of Administrative Law. Notwithstanding her stating she knows she is not permitted to address anew the finding established in her tenure matter, Ms. Pollard is attempting to relitigate her tenure case. She is, however, foreclosed from doing so by the principles of collateral estoppel. See T.W. v. A.W., 224 N.J.Super. 675 (App. Div. 1988). It bears reiterating that the issue before the State Board of Examiners is a narrow one and a legal one, that is, whether the conduct at issue was unbecoming a license holder.

As to the specific charges proven against Ms. Pollard, it cannot be emphasized strongly enough, that pupils in the state of New Jersey have long been protected by statute from corporal punishment. (N.J.S.A. 18A:6-1). In addition to this nearly two hundred year old legislation, the Commissioner has in many cases explained that while the frustrations of managing a classroom may try the patience of a teacher, physical or verbal outbursts will not be tolerated. See, e.g., In the Matter of the Tenure Hearing of David Fulcomer, 1962 S.L.D. 160, remanded St. Bd. 1963 S.L.D. 251, decision on remand by Commissioner 1964 S.L.D. 142, aff'd St. Bd. 1966 S.L.D. 225, remanded 93 N.J. Super 404 (App. Div. 1967), decision on remand by Commissioner 1967 S.L.D. 215, aff'd (App. Div.) 1967 S.L.D. 220). Therein it is stated:

While teachers are sensitive to the same emotional stresses as all other persons, their particular relationship to children imposes upon them a special responsibility for exemplary restraint and mature self-control.

(Id. at 162)

In addition to the findings against Ms. Pollard regarding a pattern of profanity and corporal punishment, the State Board of Examiners is also troubled by Ms. Pollard's pattern of insubordination. The ALJ found seven of the eight charges of insubordination levied in the tenure proceedings were proven, and that the conduct described was "both brazen and bizarre." (Initial decision at p. 62). The State Board of Examiners concurs with the ALJ, the Commissioner, and the State Board of Education that Ms. Pollard's willful disobedience to the directives of her superiors, in conjunction with the proven charges of corporal punishment and use of profane language constitute conduct unbecoming a license holder. In light of the very serious nature of the charges and the pattern of unacceptable behavior the charges against Ms. Pollard represent, the State Board of Examiners is convinced that the severest sanctions against Ms. Pollard's teaching licensure is called for to protect the children within our schools.

Accordingly, the State Board of Examiners finds the tenure charges proven against Respondent and affirmed by the State Board of Education, including corporal punishment against students, insubordination, and use of profane language, warrant revocation of Ms. Pollard's teaching licenses.

It is, therefore, ORDERED that Norma Pollard's licenses as an Elementary School Teacher, Teacher of Reading, Teacher of the Handicapped, and Learning Disabilities Teacher-Consultant are hereby revoked on this 2nd day of April, 1998.

It is further ORDERED that Norma Pollard return her licenses to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter.

Secretary
State Board of Examiners

Date of Mailing: April 8, 1998

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

IBG:KHK:br:Pollardrv