

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JOHN HOVINGTON : ORDER OF REVOCATION
_____ : DOCKET NO: 476-05/98-172

At its meeting of January 21, 1999, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed John Hovington from his tenured position with the Board of Education of the City of Camden for charges of unbecoming conduct. Hovington currently holds a Teacher of Health and Physical Education certificate.

This case originated on March 30, 1995, when the Board of Education of the City of Camden certified tenure charges against respondent, John Hovington. Hovington was employed as a Teacher of Physical Education and Health and as the women's track coach at Woodrow Wilson High School. Hovington had been tried criminally three times for aggravated sexual assault arising out of a sexual relationship he had had with a student. His first trial resulted in a conviction, but that verdict was overturned on appeal and the case remanded. In his second trial, the jury deadlocked. In October 1994, at his third trial, he was acquitted. After Hovington's acquittal, the district charged him with unbecoming conduct for engaging in an inappropriate relationship with a student and for inappropriately touching another student.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Jeff S. Masin heard testimony over 15 days in late 1995 and early 1996. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on October 2, 1996.

In that decision, ALJ Masin found that Hovington had engaged in a long-standing, inappropriate relationship with P.B., one of his track team members. (Initial Decision, slip op. at 39-47). ALJ Masin initially indicated that the tenure matter was not subject to the same rigorous burden of proof as was the criminal case. Thus, although Hovington had been acquitted in the criminal proceeding, the ALJ could still find that he had acted in a manner unbecoming a teaching staff member for purposes of the tenure case. (Initial Decision, slip op. at 39).

Masin concluded that many of Hovington's actions as coach, *i.e.*, discussing personal issues with his student-athletes, driving them home after practice or games, providing them with small amounts of cash for lunch or other items, were not in themselves troublesome "unless they add to the picture of a predatory adult." (Initial Decision, slip op. at 40). Focusing on Hovington's relationship with P.B., Masin concluded that P.B.'s testimony regarding that relationship was truthful: "... I am convinced and **FIND** that at least in this child's case, he crossed the line, he took advantage of her trust, he converted a friendship which might have well served her during her high school years into an improper relationship." (Initial Decision, slip op. at 46). In addition, Masin found that Hovington had kissed a former student, A.T., on the mouth and had joked with her in a sexually inappropriate manner. (Initial Decision, slip op. at 48). He stated that those actions, standing alone, would not justify the removal of Hovington's tenure, but rather compel an increment withholding. (Initial Decision, slip op. at 49). The issue of the appropriate discipline for those offenses was moot, however, in light of Judge Masin's findings regarding P.B. Thus, based on his review of the entire record, the ALJ concluded that Hovington's breach was too substantial to allow for his

continued employment in the district. (Initial Decision, slip op. at 49). Consequently, the ALJ ordered Hovington dismissed from his tenured employment.

In a decision dated November 18, 1996, the Commissioner of Education affirmed the ALJ's Initial Decision as to the tenure charges against Hovington.. The Commissioner agreed with the ALJ that the local board had proven its case against Hovington with regard to the tenure charges of unbecoming conduct. (Commissioner's Decision, slip op. at 53). The Commissioner found that Hovington's "behavior constituted unbecoming conduct based on the finding that he had sexual contact with a student on a repetitive basis. (Commissioner's Decision, slip op. at 54). Accordingly, the Commissioner affirmed Hovington's removal from his tenured employment with the Camden Board of Education and transmitted the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6 for appropriate action regarding Hovington's certificate.

Hovington appealed from the Commissioner's Decision to the State Board of Education. In a decision dated April 2, 1997, the State Board remanded the matter to the Commissioner for consideration of Hovington's exceptions, which the Commissioner had previously ruled untimely.¹ On remand, the Commissioner reviewed Hovington's exceptions, but found they contained nothing to warrant the reversal of his prior determination "with regard to the finding that respondent's actions, as proven, constitute unbecoming conduct for the reasons expressed in the initial decision of the OAL, as further explicated in the Commissioner's prior decision." (Commissioner's Decision on Remand, slip op. at 3). Accordingly, the Commissioner affirmed the initial decision and

¹ The State Board also ordered the Commissioner to rule on Hovington's claims for indemnification and back pay, which had been raised in a separate case in Superior Court that was transferred to the Commissioner. That part of this matter was ultimately remanded to the OAL. Since that aspect of the case is irrelevant to this issues raised here, it will not be discussed in this decision.

dismissed Hovington from his tenured position with the Camden Public School District. (Commissioner's Decision on Remand, slip op. at 4).

Thereafter, on May 14, 1998, the State Board of Examiners issued an Order to Show Cause to Hovington why his certificate should not be or suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Order to Show Cause was mailed to Respondent by regular and certified mail on June 9, 1998. The Order provided that if respondent desired to file an Answer to the Order that Answer must be filed within 20 days. The certified mail card was signed and returned, but Hovington did not file a response to the Order to Show Cause. On November 4, 1998, Hovington received another ten days to respond to the Order to Show Cause. At its November 5, 1998 meeting, the State Board of Examiners voted to table the case so that Hovington would have the opportunity to respond. Once again, Hovington did not respond to the Order to Show Cause.

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Hovington's conduct and his subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of January 21, 1999, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since Hovington has not denied those charges, they are therefore deemed admitted. Accordingly, Hovington's actions, as proven in the tenure proceeding, constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Hovington's offense as set forth in the Order to Show Cause, represents just cause to act against his certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

The State Board of Examiners 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. 6:11-3.4. Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), aff'd. 131 N.J.L. 326 (E & A 1944). "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. There can be no dispute that engaging in an intimate relationship with a student violates the most fundamental aspect of a teacher's responsibilities. Moreover, not only does it tarnish the teacher's reputation, it sullies the certificate that individual holds. The only proper response to this transgression is revocation.

Accordingly, it is therefore ORDERED that John Hovington's Teacher of Health and Physical education certificate be revoked on this 21st day of January, 1999. It is further ORDERED that John Hovington return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: March 15, 1999

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

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