

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
BRIAN YATAURO : ORDER OF REVOCATION
_____ : DOCKET NO: 523-05/99-232

At its meeting of May 13, 1999, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Brian Yatauro from his tenured position with the Lacey Township Board of Education for unbecoming conduct. Yatauro currently holds Teacher of Music and Supervisor certificates.

This case originated on September 18, 1997 when the Lacey Township Board of Education certified tenure charges against respondent, Brian Yatauro. (Initial Decision, slip op. at 1). Yatauro was the high school band director and music teacher. The District certified tenure charges against Yatauro for unbecoming conduct and insubordination. The District alleged that Yatauro had engaged in an inappropriate sexual relationship with a minor student, E.K. (Initial Decision, slip op. at 2). The case was transferred to the Office of Administrative Law where the ALJ conducted a thirteen-day hearing. The ALJ found that Yatauro had engaged in sexual contact with E.K. and ordered Yatauro removed from his tenured position. (Initial Decision, slip op. at 55-63).

On March 1, 1999, the Commissioner affirmed the ALJ's decision for the reasons expressed therein. (Commissioner's Decision, slip op. at 69). The Commissioner found that the District had proven its charges against Yatauro by a preponderance of the credible evidence. (Commissioner's Decision, slip op. at 69). Accordingly, the Commissioner affirmed Yatauro's removal from his tenured employment with the Lacey Township 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 Yatauro's certificates. (Commissioner's Decision, slip op. at 70).

Thereafter, on May 13, 1999, the State Board of Examiners issued Yatauro an Order to Show Cause why his certificates 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 Yatauro by regular and certified mail on July 9, 1999. The Order provided that an Answer to the Order must be filed within 20 days. Yatauro did not respond to the Order. On December 28, 1999, the Board of Examiners gave Yatauro an additional ten days to file a response admitting or denying the facts in the Order to Show Cause. Yatauro was advised that, if he did not respond, the allegations in the Order to Show Cause would be deemed admitted and the State Board of Examiners would proceed to a decision as to revocation or suspension on the basis of the evidence before it. On January 6, 2000, Yatauro responded that he did not wish to contest the Order to Show Cause and had previously attempted to surrender his teaching certificates. On January 11, 2000 the Board of Examiners sent Yatauro a letter requesting that he sign an affidavit voluntarily surrendering his certificates, but he did not respond.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Yatauro's conduct and subsequent loss of tenure as alleged in the Order to Show Cause constitute conduct unbecoming a certificate holder. Since Yatauro failed to respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in

the Order to Show Cause are deemed admitted for the purpose of this proceeding. N.J.A.C. 6:11-3.6(a)1. Since Yatauro's unbecoming conduct is admitted, the Board of Examiners must now decide whether that constitutes a sufficient basis 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 in the State of New Jersey "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 that individual holds. The Board of Examiners agrees with the Commissioner that such an individual does not belong in a classroom, any classroom. In fact, Yatauro himself acknowledged this when he attempted to surrender his certificates voluntarily. Thus, the only proper response to Yatauro's breach is revocation.

Accordingly, it is therefore ORDERED that Brian Yatauro's Teacher of Music and Supervisor certificates be revoked on this 21st day of September 2000. It is further ORDERED that Yatauro return his certificates 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: November 9, 2000

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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