

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JESSE KENDLE, JR. : ORDER OF REVOCATION
_____ : DOCKET NO: 0304-129

At its meeting of January 23, 2003, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Jesse Kendle from his tenured position with the Board of Education of Asbury Park for charges of unbecoming conduct. In the Matter of the Tenure Hearing of Jesse Kendle, Jr., Docket No. 519-12/01 (September 27, 2002.) Kendle currently holds a Teacher of Physical Education certificate.

This case originated on December 19, 2001 when the Asbury Park Board of Education certified tenure charges against respondent, Jesse Kendle. Kendle was employed as a Teacher of Physical Education. The district charged him with unbecoming conduct for engaging in inappropriate physical contact with several students. Kendle had allegedly told one student to hit another after the first student complained that the latter student had hit her with a ball. In addition, Kendle had pushed or grabbed several second and third grade students in his classes.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL) on January 9, 2002. Administrative Law Judge (ALJ) Anthony Bruno heard testimony on several days in April, May and June 2002. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on September 27, 2002.

In that decision ALJ Bruno found that Kendle had grabbed, pushed, screamed at and thrown various students in his physical education classes. The ALJ found that all of

the student witnesses were credible as they testified and that Kendle did not deny their allegations. (Initial Decision, slip op. at 9.) The ALJ further found that Kendle's encouragement of one student to strike another violated the statutory prohibition against corporal punishment, N.J.S.A. 18A:6-1. The ALJ concluded that the pattern of physical discipline Kendle had used was unbecoming conduct since it was both "corporal punishment and child abuse." (Initial Decision, slip op. at 10.)

In considering the appropriate penalty, the Judge examined Kendle's prior teaching record and acknowledged that he had positively influenced many students. That mitigating factor, however, did not outweigh Kendle's improper conduct. (Initial Decision, slip op. at 10). Thus, based on his review of the entire record, the ALJ concluded that Kendle's breach was too substantial to allow for his continued employment in the district. (Initial Decision, slip op. at 10). Consequently, the ALJ ordered Kendle dismissed from his tenured employment.

In a decision dated November 6, 2002, the Commissioner of Education affirmed the ALJ's Initial Decision as to the tenure charges against Kendle. The Commissioner agreed with the ALJ that the local board had proven its case against Kendle with regard to the tenure charges of unbecoming conduct. (Commissioner's Decision, slip op. at 14.) The Commissioner found that Kendle had indeed engaged in the alleged behavior. (Commissioner's Decision, slip op. at 14.) Accordingly, the Commissioner affirmed Kendle's removal from his tenured employment with the Asbury Park 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 Kendle's certificate.¹

¹ On January 20, 2004, the State Board of Education adopted a new administrative code governing professional licensure and standards. N.J.A.C. 6A:9-1 et seq. Although this decision was mailed after the

Thereafter, on January 23, 2003, the State Board of Examiners issued Kendle an Order to Show Cause as to 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 Board sent Kendle the Order to Show Cause by regular and certified mail on June 17, 2003. The Order provided that an Answer must be filed within 20 days. Kendle filed an Answer on July 7, 2003. In his Answer Kendle admitted that the district had brought tenure charges against him. He also stated that the Commissioner had agreed with the ALJ's decision to dismiss him for his tenured position. (Answer, ¶¶ 3-5).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on July 24, 2003, the Board sent Kendle a hearing notice by regular and certified. The notice explained that, since it appeared no material facts were in dispute regarding the tenure charges, Kendle 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. It also explained that, upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any.

Kendle responded to the Hearing Notice on August 9, 2003. In that response, Kendle claimed that the district had treated him unfairly and had not fully investigated the incidents that formed the basis of tenure charges against him. (Hearing Response, p.

effective date of the new code, the Board of Examiners' decision in this case predates the effective date of the new code and was therefore decided under the old code. All citations in this decision therefore are to the prior administrative code.

1.) He also stated that the district did not include statements from other witnesses to the incidents at issue. (Hearing Response, p. 4-6.) Most of Kendle's Hearing Response focused on perceived district failures in investigating and presenting the tenure case against him.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Kendle's conduct constitutes conduct unbecoming a certificate holder. At its meeting of September 25, 2003, the State Board of Examiners reviewed the charges and papers Kendle filed in response to the Order to Show Cause. After reviewing his response, the Board of Examiners determined that no material facts related to Kendle's conduct were in dispute since he admitted that he had been dismissed for conduct unbecoming a teacher. Thus, Kendle has not denied the charges in the Order to Show Cause. Accordingly, his actions regarding his inappropriate physical interactions with his students constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Kendle's conduct 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 Kendle’s behavior toward his students negates any claim he can have to self-restraint. His inability to discipline young students without resorting to physical contact speaks volumes about his lack of control. This volatility does not belong in a classroom. Thus, the only proper response to Kendle’s breach is revocation.

Accordingly, it is therefore ORDERED that Jesse Kendle’s Teacher of Physical Education certificate be revoked on this 25th day of September 2003. It is further ORDERED that Kendle return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: November 4, 2004

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