

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
ANTHONY ASHLEY : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-132

At its meeting of September 23, 2004, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Anthony Ashley from his tenured position with the State-Operated School District of the City of Jersey City (hereafter Jersey City) for charges of unbecoming conduct. *In the Matter of the Tenure Hearing of Anthony Ashley*, Docket No. 421-02 (Commissioner's Decision, December 6, 2002). Ashley currently holds a Teacher of Industrial Arts certificate, issued in June 1984.

This case originated when Jersey City certified tenure charges against respondent, Anthony Ashley. The district charged him with unbecoming conduct for engaging in violent behavior towards a student and hostile, disrespectful and uncooperative conduct towards the school principal.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) William Jeremiah heard testimony on several days in May 2002. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on September 30, 2002.

In that decision ALJ Jeremiah found that Ashley had kicked a student at least once after she had engaged in what she thought was a playful encounter with him. (Initial decision, slip op. at 6.) Additionally, Ashley refused to speak to the principal about the incident and in fact, told her to get away from him when she tried to inquire about what had happened. (Initial Decision, slip op. at 6-7).

After considering all the testimony, ALJ Jeremiah found that Ashley's conduct was improper and constituted conduct unbecoming a teacher: "Rather than acting in a respectful manner, he used violence against a student, speaking to the student in vulgar language - all in front of other students - and then angrily refused to speak to the Principal about the incident." (Initial Decision, slip op. at 9.) The ALJ also found that Ashley had acted without provocation. (Initial Decision, slip op. at 9.)

In considering the appropriate penalty, ALJ Jeremiah determined that Ashley's conduct was "such a flagrant deviation from the civil behavior expected of a professional teacher that termination of employment is warranted." (Initial Decision, slip op. at 10). Furthermore, the ALJ held that there were no extenuating circumstances or mitigating factors to excuse Ashley's behavior. (Initial Decision, slip op. at 10.) Thus, based on his review of the entire record, the ALJ concluded that Ashley's breach was too substantial to allow for his continued employment in the district. (Initial Decision, slip op. at 12). Consequently, the ALJ ordered Ashley dismissed from his tenured employment. (Initial Decision, slip op. at 12.)

In a decision dated December 6, 2002, the Commissioner of Education affirmed the ALJ's Initial Decision as to the tenure charges against Ashley. The Commissioner deferred to the ALJ's credibility assessments since Ashley did not provide the Commissioner with copies of the hearing transcripts in support of his factual challenges. (Commissioner's Decision, slip op. at 15-16.) Accordingly, the Commissioner affirmed Ashley's removal from his tenured employment with Jersey City and transmitted the matter to the State Board of Examiners pursuant to *N.J.A.C. 6A:9-17.6* for appropriate action regarding Ashley's certificate. (Commissioner's Decision, slip op. at 16.)

Ashley appealed from the Commissioner's decision to the State Board of Education. In a decision dated May 7, 2003, the State Board of Education affirmed the Commissioner's decision dismissing Ashley from his tenured position. (State Board of Education Decision, slip op. at 1.) Ashley appealed to the Superior Court of New Jersey, Appellate Division, which affirmed the State Board of Education's decision on June 18, 2004. *State Operated District of Jersey City v. Anthony Ashley*, Docket No. A-5327-02T2 (App. Div. June 18, 2004.)

Thereafter, on September 23, 2004, the State Board of Examiners issued Ashley an Order to Show Cause as to why his certificate should not be suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board sent Ashley the Order to Show Cause by regular and certified mail on January 13, 2005. The Order provided that Ashley's Answer was due within 30 days. Ashley filed an Answer on March 8, 2005. In his Answer, Ashley admitted that the district had brought tenure charges against him. He also stated that the Board of Examiners did not have a sufficient basis to take any action against his certificate. (Answer, ¶ 7). In the remainder of his Answer, Ashley added that his actions consisted of one unfortunate incident in which there were no injuries or serious consequences. (Answer, Separate Defenses ¶ 1.) He also stated that he responded to the unprovoked attack by a student and that his record was unblemished before this. (Answer, Separate Defenses ¶¶ 2,3.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on March 16, 2005, the Board sent Ashley a hearing notice by regular and certified mail. The notice explained that, since it

appeared no material facts were in dispute regarding the tenure charges, Ashley 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. Although Ashley's attorney signed for the certified mail copy of the Hearing Notice, he did not provide a response.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Ashley's conduct and his subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of June 9, 2005, the State Board of Examiners reviewed the charges and papers Ashley filed in response to the Order to Show Cause. After reviewing his response, the Board of Examiners determined that no material facts related to Ashley's offense were in dispute since he admitted to the physical altercation with the student. Thus, since Ashley did not deny the charges in the Order to Show Cause, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*.

The State Board of Examiners must now determine whether Ashley's offense as set forth in the Order to Show Cause, represents just cause to act against his certificate pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds 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. 6A:9-17.5*. Furthermore, 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 (Sup. 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 Ashley’s violent outburst and subsequent disrespect to his principal negates any claim he can have to self-restraint. His inability to comport himself in a professional manner with students and colleagues speaks volumes about his lack of control. This volatility does not belong in a classroom. Thus, the only proper response to Ashley’s breach is revocation.

Accordingly, it is therefore ORDERED that Anthony Ashley’s Teacher of Industrial Arts certificate be revoked on this 9th day of June 2005. It is further ORDERED that Ashley return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, PO Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Michael K. Klavon, Secretary
State Board of Examiners

Date of Mailing: JULY , 2005

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