

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS  
LEWIS SHINKLE : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 0405-239

At its meeting of May 5, 2005, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Lewis Shinkle from his tenured position with the Hamilton Board of Education for charges of unbecoming conduct. *In the Matter of the Tenure Hearing of Lewis Shinkle*, Docket No. 490-12/97 (Commissioner's Decision, August 19, 2004). Shinkle currently holds a Teacher of Social Studies certificate, issued in July 1986.

This case originated in 1998 when the Hamilton Board of Education certified tenure charges against respondent, Lewis Shinkle. Shinkle was employed as a Teacher of Social Studies. The district charged him with unbecoming conduct for engaging in a sexual relationship with a student.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). After many delays due to criminal indictments and other litigation arising out of the case, Administrative Law Judge (ALJ) Solomon Metzger heard testimony on several days in 2004. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on July 12, 2004.

In that decision ALJ Metzger found that Shinkle started a sexual relationship with one of his students while she worked as a stage crew assistant on the high school drama production. (Initial Decision, slip op. at 2). Shinkle and the student had many sexual encounters both in the school and in his home. (Initial Decision, slip op. at 2). According to the student, one of the locations was in a janitor's closet in the auditorium. (Initial Decision, slip op. at 2). This area

was searched and police collected evidence from ladder rungs that indicated the presence of semen. (Initial Decision, slip op. at 5). When the rungs were tested, the DNA found there matched Shinkle's. (Initial Decision, slip op. at 5). In addition, one of Shinkle's colleagues, Leonard Santa Maria, testified that after he was suspended, Shinkle had asked him to go to the janitor's closet and clean the area, especially the ladder. (Initial Decision, slip op. at 4). According to Santa Maria, Shinkle explained that he had had sexual relations there the previous year with another student and he did not want that evidence to be used mistakenly in this case. (Initial Decision, slip op. at 4).

After considering all the testimony, ALJ Metzger found that Shinkle's conduct was improper. (Initial Decision, slip op. at 8). The ALJ found that even though Shinkle's witnesses sought to discredit the student's account by testifying that the locations she described were unlikely venues for sexual assignments, nothing in their testimony made sex in those locations unachievable. (Initial Decision, slip op. at 8). Furthermore, in response to attacks on Leonard Santa Maria's testimony, Judge Metzger also noted that "no evidence was developed that points to any animus, or other motive that might have stirred Mr. Santa Maria to fabricate so strange and ruinous a story." (Initial Decision, slip op. at 9). The ALJ therefore concluded that the Board had proven the charge of unbecoming conduct of a teaching staff member. (Initial Decision, slip op. at 8.)

In considering the appropriate penalty, ALJ Metzger was unequivocal in his determination that dismissal was the only appropriate response: "Given the nature of the offense little need be said regarding the merits of the proposed penalty. Respondent grievously exploited his position of trust and disgraced himself, the district, and his profession." (Initial Decision, slip op. at 10). Thus, based on his review of the entire record, the ALJ concluded that Shinkle's

breach was too substantial to allow for his continued employment in the district. (Initial Decision, slip op. at 10). Consequently, the ALJ ordered Shinkle dismissed from his tenured employment. (Initial Decision, slip op. at 10).

In a decision dated August 19, 2004, the Commissioner of Education affirmed the ALJ's Initial Decision as to the tenure charges against Shinkle. The Commissioner agreed with the ALJ that the local board had proven its case against Shinkle with regard to the tenure charges of unbecoming conduct. (Commissioner's Decision, slip op. at 1). The Commissioner also found that the ALJ's credibility determinations were of particular importance and entitled to deference. (Commissioner's Decision, slip op. at 1-2). Accordingly, the Commissioner affirmed Shinkle's removal from his tenured employment with the Hamilton Board of Education and transmitted the matter to the State Board of Examiners for appropriate action regarding Shinkle's certificate. (Commissioner's Decision, slip op. at 2). Shinkle appealed from the Commissioner's Decision to the State Board of Education, which, on December 1, 2004, affirmed the Commissioner's decision "for the reasons expressed therein." (State Board of Education Decision, slip op. at 1).

Thereafter, on May 5, 2005, the State Board of Examiners issued Shinkle 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 Shinkle the Order to Show Cause by regular and certified mail on May 24, 2005. The Order provided that Shinkle's Answer was due within 30 days. Shinkle filed an Answer on May 24, 2005. In his Answer Shinkle admitted that the district had brought tenure charges against him. (Answer, ¶ 3). He also stated that he had been dismissed from his tenured employment because the ALJ found that the district had proven the tenure charges. (Answer, ¶¶ 4, 5).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on August 1, 2005, the Board sent Shinkle 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, Shinkle 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.

Shinkle responded to the Hearing Notice on August 30, 2005. In that response, he claimed that the testimony presented on behalf of the district was patently incredible and not worthy of consideration. In particular, Shinkle alleged that the accusing student, L.K., had given inconsistent statements regarding her relationship with him. (Hearing Response, pp. 8-12.). He also stated that the DNA expert's testimony was insufficient to support the district's allegation because it never tested for the presence of L.K.'s DNA in its last round of testing. (Hearing Response, pp. 14-15). Shinkle also asserted that the other DNA found in the janitor's loft might have belonged to A.K., a student he claimed to have had sex with in a prior year, and not L.K., thus undermining the district's current allegations. (Hearing response, pp. 14-15). Shinkle also argued that the witnesses he presented gave consistent, credible statements underscoring the fact that it would have been nearly impossible for he and L.K. to spend time in his home, the janitor's loft, the pool locker room, the auditorium sound booth, and the yearbook room undiscovered. (Hearing Response, pp. 15-21).

When the State Board of Examiners reviewed Shinkle's documents at its November 3, 2005 meeting, it realized that Shinkle's tenure case was on appeal to the Appellate Division.

Accordingly, the matter was withdrawn from the Board's agenda pending resolution of the tenure case. On April 21, 2006, the Appellate Division affirmed the decision of the State Board of Education to remove Shinkle from his tenured position. *In the Matter of the Tenure Hearing of Lewis Shinkle*, Dkt. No. A-2286-04T2 (App. Div. April 21, 2006). On June 19, 2006, the State Board of Examiners provided Shinkle an opportunity to file another hearing brief. Shinkle did not file a new brief.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Shinkle's conduct and his subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of November 2, 2006, the State Board of Examiners reviewed the charges and papers Shinkle filed in response to the Order to Show Cause. After reviewing his response, the Board of Examiners determined that no material facts related to Shinkle's offense were in dispute since he admitted to the allegations in the Order to Show Cause. Accordingly, his actions regarding having an inappropriate sexual relationship with a student constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Shinkle'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 Shinkle’s conduct negates any claim he can have to being a role model for students. His actions in initiating a sexual relationship with a student, speaks volumes about his character and fitness to remain a teacher. Clearly, this individual does not belong in a classroom. Thus, the only proper response to Shinkle’s breach is revocation.

Accordingly, on November 2, 2006, the Board voted to revoke Shinkle’s certificate. On this 7<sup>th</sup> day of December 2006 voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Lewis Shinkle’s Teacher of Social Studies certificate be effective immediately. It is further ORDERED that Shinkle 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.

---

Robert R. Higgins, Acting Secretary  
State Board of Examiners

Date of Mailing: December 13<sup>th</sup>, 2006

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