

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
CARL HILL : ORDER OF REVOCATION
_____ : DOCKET NO: 0708-260

At its meeting of October 16, 2008, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Carl Hill from his tenured position with the Irvington Board of Education for charges of unbecoming conduct. *In the Matter of the Tenure Hearing of Carl Hill*, Docket No. 176-07 (Commissioner's Decision, May 15, 2007). Hill currently holds a Teacher of Health and Physical Education certificate, issued in April 1972 and a Teacher of Driver Education certificate, issued in February 1973.

This case originated when the Irvington Board of Education certified tenure charges against respondent, Carl Hill. Hill was employed as a Teacher of Health and Physical Education. The district charged him with unbecoming conduct including habitual and repeated lateness, sleeping on the job, failure to attend professional workshops, failure to submit lesson plans in a timely manner, using disrespectful and unprofessional language towards teachers and students, dereliction of duty by failing to supervise students until the end of the day, failure to report on time to cafeteria duty as assigned, and endangering students' welfare by leaving them unsupervised in the school building during a fire drill.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Mumtaz Bari-Brown heard testimony over five days in August 2006. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on April 2, 2007.

In the Matter of the Tenure Hearing of Carl Hill, Oal Dkt. No. EDU 05979-06 (Initial Decision, April 2, 2007.)

In that decision ALJ Bari-Brown found that Hill had engaged in several acts of insubordination during the 2004-2005 school year including arriving late to a workshop for all physical education teachers and addressing his supervisor “in a manner that was unprofessional and insubordinate.” (Initial Decision, slip op. at 7-8.) Hill also refused to accept letters from supervisors because he believed they contained false accusations about his conduct, failed to submit his roll book and grade book in a timely manner, used inappropriate language toward a student, and used disrespectful language and vulgar gestures towards colleagues. (Id. at 8.) The ALJ also found that during the 2004-2005 school year, Hill was absent 18 full days and 14 half days and was late 35 times. (Id. at 8.)

After considering all the testimony, ALJ Bari-Brown found that Hill’s principal and one of the Board’s witnesses, Dr. Wilma Crespo, provided “straightforward and credible” testimony regarding Hill’s inappropriate conduct. (Id. at 11.) The Judge found that Hill had “engaged in the conduct described by the Board.” (Id. at 12.)

In considering the appropriate penalty, ALJ Bari-Brown examined Hill’s otherwise unblemished record. That mitigating factor, however, did not outweigh Hill’s improper conduct. (Id. at 12.) Thus, based on her review of the entire record, the ALJ concluded that Hill’s breach was too substantial to allow for his continued employment in the district. (Id. at 12-13.) Consequently, the ALJ ordered Hill dismissed from his tenured employment. (Id. at 13.)

In a decision dated May 15, 2007, the Commissioner of Education affirmed the ALJ's Initial Decision as to the tenure charges against Hill. The Commissioner agreed with the ALJ that the local board had proven its case against Hill with regard to the tenure charges of unbecoming conduct. (Commissioner's Decision, slip op. at 1-2). The Commissioner held that since the ALJ had the opportunity to assess the credibility of the witnesses and was not arbitrary, capricious or unreasonable in her decision, the Commissioner had no basis in the record to alter the ALJ's determination. (Commissioner's Decision, slip op. at 2). Accordingly, the Commissioner affirmed Hill's removal from his tenured employment with the Irvington Board of Education and transmitted the matter to the State Board of Examiners for appropriate action regarding Hill's certificates. Hill appealed from the Commissioner's decision to the State Board of Education which affirmed Hill's dismissal on October 17, 2007. *In the Matter of the Tenure Hearing of Carl Hill*, Docket No. 14-07 (State Board, October 17, 2007).

Thereafter, on January 13, 2009, the State Board of Examiners issued Hill an Order to Show Cause as to why his certificates should not be suspended or revoked. The Order was predicated on the conduct underlying the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board sent Hill the Order to Show Cause by regular and certified mail on January 14, 2009. The Order provided that Hill's Answer was due within 30 days. Hill filed an Answer on February 19, 2009. In his Answer Hill denied that he ever engaged in the conduct charged in the tenure hearing and stated that he disagreed with the tenure decisions and had been "railroaded." (Answer, ¶¶ 3-5). In the remainder of his Answer, Hill asked the Board of Examiners not to suspend or revoke his certificates because he

“firmly believe[d]” that he had not engaged in conduct unbecoming a teaching staff member. (Answer, ¶ 6).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on February 27, 2009, the Board sent Hill a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute regarding the tenure charges and Hill 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 conduct warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Hill was also provided the opportunity to appear before the Board and testify on the sanction issue.

Hill responded to the Hearing Notice on April 9, 2009. In that response, he requested the opportunity to appear before the Board of Examiners. (Hearing Response, p. 1.) Hill never appeared before the Board although he was provided several opportunities to do so at both the Board’s meeting of May 11, 2009, and its meeting on June 22, 2009.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Hill’s conduct as determined through the tenure proceeding constitutes conduct unbecoming a certificate holder. At its meeting of July 28, 2009, the State Board of Examiners reviewed the charges and papers Hill filed in response to the Order to Show Cause. After reviewing his response, the Board of Examiners determined that no material facts related to Hill’s offense were in dispute since Hill cannot deny that the

conduct underlying the tenure charges has been proven and the Initial Decision subsequently adopted by the Commissioner and State Board. Thus, Hill has not denied effectively the charges in the Order to Show Cause. Accordingly, his actions of addressing his supervisor in an inappropriate and unprofessional manner, refusing to accept letters from his supervisors, failing to submit his grade and roll books in a timely manner, using inappropriate language towards students and colleagues, and excessive tardiness and absenteeism constitute conduct unbecoming a certificate holder. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether Hill's offenses as set forth in the Order to Show Cause, represents just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

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 Hill's behavior negates any claim he can have to being a role model for students or a respected

professional to his colleagues. At the very least, his repeated absences and tardiness had a negative impact on the educational system in Irvington. That disruption, coupled with his rude and insubordinate behavior, militates toward action against his teaching certificates. The Board believes that Hill's behavior requires his removal from the teaching profession.

Accordingly, on July 28, 2009, the Board of Examiners voted to revoke Carl Hill's Teacher of Health and Physical Education and Teacher of Driver Education certificates. On this 17th day of September 2009 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Hill's certificates be effective immediately. It is further ORDERED that Hill return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

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

RRH:MZ: