

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
DAVID VANDEN HEUVEL : ORDER OF REVOCATION
_____ : DOCKET NO: 0607-272

At its meeting of June 5, 2008, the State Board of Examiners reviewed information the Hackettstown School District had forwarded pursuant to *N.J.A.C. 6A:9-17.4* regarding David Vanden Heuvel. Vanden Heuvel resigned from his tenured position in the district after it was alleged that he had engaged in unbecoming conduct. Allegedly, Vanden Heuvel made sexually inappropriate comments to several female students, invited several female students to go with him to Bushkill falls and joked about skinny dipping with them and talked in class about problems in his marriage. In addition, the district alleged that Vanden Heuvel sent inappropriate notes to a female student, showed a student a painting on his computer depicting an orgy and showed some students naked pictures of his children. Vanden Heuvel currently holds a Teacher of Elementary School Certificate of Eligibility, issued in August 1992, a Teacher of the Handicapped certificate, issued in June 1993 and a Teacher of Art certificate, issued in May 1998. At its meeting of September 20, 2007, the Board voted to issue Vanden Heuvel an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Vanden Heuvel the Order to Show Cause by regular and certified mail on November 7, 2007. The Order provided that Vanden Heuvel's Answer was due within 30 days. Vanden Heuvel filed an Answer on December 7, 2007. In his Answer, Vanden Heuvel admitted that he resigned his tenured position in light of allegations of unbecoming conduct, but denied the allegations. (Answer, ¶¶ 3-5.) He also denied that any conduct on his part provided just cause for the revocation of his certificates. (Answer, ¶ 6.) In the remainder of his Answer, Vanden Heuvel maintained that both DYFS and the Prosecutor's office had cleared him of any

wrongdoing. (Answer, ¶ 7.) He also listed a history of his many accomplishments while teaching. (Answer, ¶ 7.) Vanden Heuvel also submitted letters of recognition with his Answer.

Thereafter, the Board transmitted the matter to the Office of Administrative Law (OAL) as a contested case. A hearing was conducted before Administrative Law Judge (ALJ) Joseph Paone on July 21 and December 29 and 30, 2009. After the record closed, ALJ Paone issued his Initial Decision on January 6, 2010. *In the Matter of the Certificates of David Vanden Heuvel*, Dkt. No. EDE 3374-08 (Initial Decision, January 6, 2010). In that decision, ALJ Paone concluded that Vanden Heuvel had told one student, C.W., “1) that things would be different when she turned eighteen, 2) that he had dreamed about her and that she was good, 3) that he had trouble in his marriage and would leave his wife for her, 4) that he wanted to paint C.W. naked and 5) while they were alone and with his arm on her shoulder, he told her that he really loved her.” *Id.* at 13. The ALJ also found that Vanden Heuvel often texted and wrote notes to C.W. and that he called her “princess” and other endearing names. *Ibid.* Vanden Heuvel also asked C.W. out to lunch, invited her and another student with him to Bushkill Falls to skinny dip and gave C.W. the song “Ladybug,” which he wrote about her. *Ibid.* ALJ Paone further determined that Vanden Heuvel discussed the subject of masturbation and his sexual activity with his wife with another student, T.G. *Ibid.* After reviewing all of the testimony, ALJ Paone determined that C.W. and T.G. “testified in a sincere and forthright manner, and there appeared to be no motivation for them to exaggerate their testimony or to mislead.” *Ibid.* Conversely, the ALJ found that Vanden Heuvel’s “explanation of his conduct appeared contrived and self-serving.” *Ibid.*

In considering the appropriate penalty in the case, ALJ Paone determined that the Board met its burden of proof by a preponderance of competent and credible evidence that Vanden

Heuvel had engaged in conduct unbecoming a teacher. *Id.* at 14. His communications with students, particularly C.W., were clearly inappropriate. As the ALJ noted, “he crossed the line and abused the trust of his students and violated his fiduciary responsibility as an educator.” *Ibid.* As a result, the ALJ concluded that Vanden Heuvel’s “conduct and actions did rise to the level of conduct unbecoming a teacher, and that revocation of the certificates issued to him by the Board of Examiners is appropriate.” *Id.* at 15.

Vanden Heuvel submitted Exceptions and the Deputy Attorney General (DAG) representing the Board of Examiners submitted Reply Exceptions. In his Exceptions, Vanden Heuvel argued that the ALJ erred in crediting C.W.’s testimony because, among other things, he ignored contradicting evidence, C.W.’s unreasonable delay in complaining about Vanden Heuvel’s actions, C.W.’s refusal to answer certain questions and C.W.’s financial motivation to testify as she did. (Exceptions, pp. 3-14.) Additionally, Vanden Heuvel claimed that T.G. had a personal motivation to testify falsely and that ALJ Paone ignored T.G.’s “unstable, emotional condition” in assessing her credibility. (Exceptions, pp. 16-18.) Vanden Heuvel added that the ALJ failed to consider all of the testimony in the case, including Vanden Heuvel’s clear, firm and consistent denials of making many of the comments C.W. and T.G. attributed to him. (Exceptions, pp. 18-21.) Finally, Vanden Heuvel argued that, even if the ALJ was correct in finding Vanden Heuvel had engaged in unbecoming conduct, revocation was not warranted given his outstanding prior record and his remorse over what had happened. (Exceptions, pp. 21-25.)

In her reply, the DAG argued that the Initial Decision “and the factual findings, legal conclusions, and credibility determinations contained therein” were amply supported by the evidence in the record. (Reply Exceptions, p. 1.) The DAG stated that the “lack of judgment

Vanden Heuvel displayed in writing the inappropriate letters and music lyrics for C.W. were not isolated incidents.” (Reply Exceptions, p. 6.) Moreover, she added that Vanden Heuvel “admitted to routinely discussing sexual issues with all his students, including C.W., H.H., and T.G.” (Reply Exceptions, p. 7.) The DAG discounted Vanden Heuvel’s contention that ALJ Paone relied on information that was not present in the record, arguing that ALJ Paone’s incorrect citations in the decision to two exhibits were inconsequential since “the substantive information is present in the record.” (Reply Exceptions, p. 9.) She claimed that C.W. did not refuse to answer questions, once the ALJ allowed her an opportunity to explain her answers after Vanden Heuvel’s counsel had “twisted” her words. (Reply Exceptions, pp. 10-11.) The DAG also noted that Vanden Heuvel was manufacturing discrepancies in testimony where none existed in an attempt to “distract the Examiners from his egregious conduct.” (Reply Exceptions, pp. 11-12.) Finally, the DAG disputed Vanden Heuvel’s assertion that the ALJ did not take his unblemished record into account when recommending a penalty and added that “revocation can be an appropriate penalty even when a teacher’s record is unblemished, as in the instant case.” (Reply Exceptions, pp. 13-14.)

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of April 29, 2010, the Board reviewed the Initial Decision, Exceptions and Reply Exceptions.¹ After full and fair consideration of the Decision, Exceptions and Reply Exceptions and the issues raised therein, the Board voted to adopt the Initial Decision.

¹ On March 24, 2010, after exceptions and reply exceptions were filed in the case but before the Board of Examiners had reviewed the Initial Decision, Vanden Heuvel made a motion to Supplement the Record. The motion was based upon the fact that T.G. had filed a civil lawsuit against Vanden Heuvel seeking damages for his alleged conduct. Vanden Heuvel claimed that the lawsuit was relevant to T.G.’s credibility in the revocation matter. The DAG representing the Examiners opposed the motion and the Examiners considered the motion before ruling on the Initial Decision. At its meeting of April 29, 2010, the Board of Examiners voted to supplement the record with the additional information Vanden Heuvel submitted and considered it in rendering this decision.

There is no doubt that the ALJ is in the best position to render credibility determinations in this matter. Accordingly, the Board will defer to those findings. Although Vanden Heuvel challenges C.W. and T.G.'s credibility based on the fact that both have filed lawsuits against him, the Examiners are not persuaded that this affected their testimony. Although C.W. had filed a notice of claim at the time of the OAL hearing, T.G. had not and the ALJ found T.G. to be credible. Moreover, both students testified in a manner consistent with the statements that they had given to Detective Laterio, long before any lawsuits were filed or perhaps, even contemplated. Furthermore, Vanden Heuvel has engaged in a pattern of inappropriate behavior that cannot be countenanced. His sexually oriented discussions with impressionable high school students cannot be dismissed as mere "jokes." His manipulation of C.W. and T.G., while reprehensible standing alone, is compounded by his attempt to paint them as vindictive, damaged students. Significantly, ALJ Paone found that "Vanden Heuvel's unprofessional and irresponsible behavior constitutes a significant departure from the standard of conduct that the public expects from one who teaches children." (Initial Decision, slip op. at 14.) This Board could not agree more. Vanden Heuvel has clearly engaged in conduct that negates his status as a role model for students. The Examiners therefore conclude that the only appropriate response to Vanden Heuvel's breach is the revocation of his teaching certificates.

Accordingly, on April 29, 2010, the Board of Examiners voted to adopt the Initial Decision and revoke Vanden Heuvel's teaching certificates. On this 10th day of June 2010, the Board of Examiners formally adopted its written decision to adopt the Initial Decision in this matter, and it is therefore ORDERED that David Vanden Heuvel's Teacher of Elementary School Certificate of Eligibility and Teacher of the Handicapped and Teacher of Art certificates be hereby revoked effective immediately. It is further ORDERED that Vanden Heuvel 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

Date of Mailing:

Appeals may be made to the Commissioner of Education pursuant to *N.J.S.A.* 18A:6-38.4.