

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
RANDI TRUE : ORDER OF REVOCATION
_____ : DOCKET NO: 1112-164

At its meeting of March 1, 2012, the State Board of Examiners (Board) reviewed a decision forwarded by the Acting Commissioner of Education that had dismissed Randi True from her tenured position with the School District of Willingboro (Willingboro) for charges of excessive absenteeism, unbecoming conduct, insubordination and other just cause. *In the Matter of the Tenure Hearing of Randi True*, Docket No. 319-11 (Acting Commissioner's Decision, August 15, 2011). True currently holds a Teacher of Elementary School certificate, issued in June 1989, a Teacher of Nursery School certificate, issued in July 1989 and a Teacher of the Handicapped certificate, issued in December 1994.

This case originated when Willingboro certified tenure charges of chronic absenteeism, unbecoming conduct, insubordination and other just cause against True. The case was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case on March 25, 2010. Administrative Law Judge (ALJ) Israel Dubin heard the matter on October 5, 26, November 9 and November 16, 2010. The record closed on March 25, 2011 and the ALJ issued an Initial Decision on June 29, 2011. *In the Matter of the Tenure Hearing of Randi True*, OAL Docket No. EDU 812-10 (Initial Decision, June 29, 2011).

In that decision, ALJ Dubin found that between the 1998-1999 and the 2009-2010 school years, True was absent from school for a full or half day on 302 occasions, which equaled an average of 27.5 times per year. *Id.* at 26-27. He also determined that, although True received leaves of absence for some of her absences, the administration did meet with her several times to discuss her absenteeism. *Id.* at 28-30. ALJ Dubin further found that the administration had even

greater concerns about True's chronic and excessive tardiness. *Id.* at 31. He noted that True received several warnings regarding her late arrivals and early departures beginning as early as March 1999. *Ibid.* Dubin found that True had been tardy 16 times during the 2006-2007 school year and, as of March 27, 2009 she had been tardy 8 times during the 2008-2009 school year. *Ibid.* Despite meeting with her principal and union representative in April, 2009, True's tardiness and early departures continued "unabated until they ultimately reached critical mass on May 28, 2009, when she left early without permission and without signing out." *Ibid.* ALJ Dubin found that True "said little and did not help herself" when given the opportunity to "offer an explanation for her seeming inability or refusal to comply with her contractual working hours." *Ibid.* Rather, he found that she attempted to transfer blame to her principal or the administration for not allowing her to sign in or for failing to tell her that her leaves of absence could have an adverse impact on her employment. *Ibid.* ALJ Dubin noted that True's "flat affect and failure to exhibit any emotion, even when it might have been expected and appropriate, gave one the impression that she either did not care about these proceedings, or was resigned to what she believed would be the probable outcome." *Id.* at 31-32. The ALJ therefore concluded that Willingboro had proven that "True's chronic and excessive absenteeism and tardiness constituted incapacity, unbecoming conduct, or other just cause warranting dismissal from her position of teacher in the Willingboro School District." *Id.* at 32. The ALJ also found that True addressed her students in an "inappropriate, demeaning and unprofessional manner" by calling them names, and left some of her students unattended in a hallway during class instructional time. *Id.* at 32-36. The latter incident resulted in two students fighting in the hallway while True remained in her classroom; other staff members separated the students. *Id.* at 35. ALJ Dubin found that True's behavior in the "use of name-calling and other demeaning

language toward her students” and her failure “to properly supervise the students in her charge” constituted unbecoming conduct or other just cause warranting dismissal from her tenured teaching position. *Id.* at 35-36. Finally, ALJ Dubin also found that True “willfully refused to comply” with a directive sent from the Interim Superintendent that she have no further contact with the staff and students of her former school when she was transferred to a different building during the investigation of her conduct. *Id.* at 36. Rather, True sent a text message to her two former paraprofessionals accusing them of lying. *Ibid.* ALJ Dubin did not believe True’s explanation that she thought the directive only meant that she was not allowed to talk to anyone when she physically returned to her old school to gather her things, and noted that “there can be no argument that texting is contacting another person.” *Id.* at 36-37. Consequently, the ALJ concluded that True had engaged in insubordination warranting her dismissal from her tenured position. *Id.* at 37. Based upon his conclusion that all but one of the tenure charges had been sustained, ALJ Dubin ordered True dismissed from her tenured teaching position in Willingboro. *Ibid.*

In a decision dated August 15, 2011, the Acting Commissioner of Education (Commissioner) concurred with the ALJ that Willingboro had proven that True was “guilty of chronic absenteeism, unbecoming conduct, and insubordination warranting the termination of her employment.” (Acting Commissioner’s Decision, slip op. at 3). The Commissioner found that the record demonstrated that True was chronically absent throughout her employment even after receiving several warnings from the administration about the impact of her absences. (Acting Commissioner’s Decision, slip op. at 3). The Commissioner also deferred to the ALJ’s determinations regarding the credibility of the witnesses and their testimony as to True’s use of inappropriate language with her students, her failure to properly supervise her students and the

charge of insubordination. (Acting Commissioner's Decision, slip op. at 3-4). Accordingly, the Commissioner ordered True's removal from her tenured position in Willingboro and transmitted the matter to the Board for appropriate action regarding True's certificates. (Acting Commissioner's Decision, slip op. at 4).

Thereafter, on April 2, 2012, the Board issued True an Order to Show Cause as to why her certificates should not be revoked. The Order was predicated on the charges of chronic absenteeism, unbecoming conduct and insubordination that had been proven in the tenure hearing.

The Board sent True the Order to Show Cause by regular and certified mail on April 4, 2012. The Order provided that True's Answer was due within 30 days. True filed an Answer on April 16, 2012. In her Answer, True admitted to all of the factual allegations of the Order to Show Cause but denied that she had engaged in the behavior alleged by Willingboro and found to be true by the Acting Commissioner. (Answer, ¶¶ 3-6). True requested that the Order to Show Cause be dismissed with prejudice. (Answer, ¶ 9).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on May 4, 2012, the Board sent True a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, True 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 as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against her certificates. It also explained that upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if True's offense warranted action against her certificates. Thereupon, the Board would also determine the appropriate sanction, if any. True was also

offered the opportunity to appear before the Board to provide testimony on the sanction issue. In a letter dated May 24, 2012, True disputed that there were no material facts in dispute and requested a hearing before the Office of Administrative Law. This request was denied and on June 4, 2012, True submitted a Hearing Response. She also asked to appear before the Board.

In her Hearing Response, True argued that although she was found to have been guilty of excessive absenteeism, she was not given several warnings about it. (Hearing Response, pp. 3-5). True did admit to being tardy, but stated that it was 24 times in 10 years. (Hearing Response, pp. 5-7). She added that her certification should not be suspended or revoked based on tardiness. (Hearing Response, p. 7). True also argued that her one instance of failing to supervise her students, which resulted in a hallway altercation, was not a sufficient basis upon which to suspend or revoke her certificates. (Hearing Response, pp. 7-10). She added that the witnesses who testified against her with regard to her inappropriate name calling of students were not credible. (Hearing Response, pp. 10-12). True also claimed that even if she did use inappropriate language with her students on two or three occasions, such language did not justify the suspension or revocation of her certificates. (Hearing Response, p. 12). Finally, True maintained her position that her Superintendent's directive not to have contact with anyone in her former building was meant only to apply while she was there retrieving her belongings. (Hearing Response, pp. 13-15). She claimed that she did not consider texting "talking to anyone" and therefore did not believe she was violating the directive. (Hearing Response, pp. 14-15). True argued that "it is questionable that such arguable disobedience to [the Superintendent's] indeterminate directive was of a 'substantive nature'." (Hearing Response, p. 15). True claimed that the ALJ and Commissioner erroneously concluded that she was guilty of

insubordination and argued that based upon the entire record, her certificates should be neither suspended nor revoked. (Hearing Response, pp. 15-16).

In testimony before the Board, True's attorney noted that there was never a finding of insubordination against his client. He added that her absences were legitimate and not a volitional act of unbecoming conduct. True's attorney noted that she was tardy because she was ill and under a doctor's care since she was divorced, responsible for two small children and under a great deal of stress. He claimed that nothing True had done came close to requiring suspension or revocation of her certificates and that no public good would be gained by her suspension. Finally, he added that teaching was True's life and that she wanted to serve the community, especially the neediest kids.

True testified that she took responsibility for her absenteeism and lateness. She attributed her tardiness to the stress of going through a divorce in 2007 and the fact that she had to get her children to a safe place at school. She stated that she was the sole provider for her children. True added that she loves teaching and does not know anything else. She noted that she still has contact with former students in Willingboro and was still reaching students in her position in Camden. Finally, True claimed that she had great observations in Camden and wished to return to her position there.

The threshold issue before the Board in this matter, therefore, is whether True's conduct and her subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of September 21, 2012, the Board considered the allegations in the Order to Show Cause, True's Answer, Hearing Response and testimony. The Board determined that no material facts related to True's offense were in dispute since she did not deny that she had lost her tenured position as a result of the tenure proceedings brought against her. Thus, the Board 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 Board must now determine whether True's conduct as set forth in the Order to Show Cause, represents just cause to act against her certificates pursuant to *N.J.A.C.* 6A:9-17.5. The Board finds that it does.

The Board 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. "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. As the ALJ noted and the Commissioner agreed, Willingboro sustained its charges of chronic and excessive absenteeism, insubordination and unbecoming conduct against True. The record was replete with instances which demonstrate that True's tardiness and excessive absenteeism were not an aberration. Rather, True was either unable or unwilling to change her behavior even long before tenure charges were filed. This intransigence or apathy continued at the hearing, as noted by the ALJ. Even if the Board believed, as True contends, that Willingboro did not prove that she had engaged in excessive absenteeism, her tardiness and continued refusal to amend her behavior in that regard would be enough to warrant action against her certificates. Moreover, True's negative interaction with students was unacceptable behavior. Her use of demeaning language toward students as well as her failure to supervise students in the hallway, which resulted in a fight, is conduct unbecoming a certificate holder. Furthermore, her disregard of her Superintendent's directive to refrain from contact with

staff or students in her former building is clear insubordination and her attempt to parse his language so as to negate her own responsibility in the matter amply demonstrates why action against her certificates is warranted. There can be no dispute that True's conduct, in its totality, evinces her unfitness to continue to be a certificate holder. The Board therefore determines that the appropriate response to True's chronic and excessive absenteeism and tardiness, unbecoming conduct and insubordination is the revocation of her teaching certificates.

Accordingly, on September 21, 2012, the Board voted to revoke Randi True's Teacher of Elementary School, Teacher of Nursery School and Teacher of the Handicapped certificates. On this 30th day of November 2012 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of True's certificates be effective immediately. It is further ORDERED that True return her certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Willingboro, 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.