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**In the Matter of the Tenure Hearing of Mark C. Bringhurst, School District of the  
City of Vineland, Cumberland County, Agency Dkt. No. 236-8/12**

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**DECISION**

**Before  
Robert C. Gifford, Esq.  
Arbitrator**

**Appearances:**

**For the Vineland Board of Education:**

Robert A. De Santo, Esq.  
Gruccio Pepper De Santo & Ruth

**For Mark C. Bringhurst:**

Robert J. Bowman, Esq.  
Schroll & Bowman

Vineland City Board of Education ["Board" or "Petitioner"], pursuant to N.J.S.A. 18A:6-10 *et. seq.*, certified tenure charges with the Commissioner of Education alleging that Mark C. Bringhurst ["Bringhurst" or "Respondent"] had committed acts of unbecoming conduct of a teaching staff member. The Board seeks to remove the Respondent from his tenured position. Respondent generally does not deny the underlying facts of this matter but seeks to be reinstated to his former teaching position.

On September 13, 2012, I received notice from M. Kathleen Duncan, the Director of the Bureau of Controversies and Disputes, New Jersey Department of Education, that this matter was referred to me pursuant to N.J.S.A. 18A:6-16 as amended by *P.L. 2012, c. 26*.

On October 18, 2012, a hearing was held in Vineland, New Jersey. During the proceedings, the parties were given the opportunity to argue orally, examine and cross-examine witnesses and submit documentary evidence into the record. Testimony was received from Joseph Rossi – Executive Director of Personnel for the Vineland School District, Sergeant Gary Sheehan – Berlin Township Police Department, and the Respondent. The parties submitted post-hearing briefs on or before October 31, 2012. The record was closed upon receipt of the parties' briefs.

## **ISSUE**

The parties stipulated to the following issue:

Whether the conduct of Mr. Bringhurst constitutes unbecoming conduct under the tenure law thus warranting his termination and his forfeiture of his teaching certificate? If not, what shall be the remedy?

**RELEVANT PROVISIONS OF THE NEW JERSEY STATUTES**

**N.J.S.A. 18A:6-10. Dismissal and reduction in compensation of persons under tenure in public school system**

No person shall be dismissed or reduced in compensation,

(a) if he is or shall be under tenure of office, position or employment during good behavior and efficiency in the public school system of the state, or

(b) if he is or shall be under tenure of office, position or employment during good behavior and efficiency as a supervisor, teacher or in any other teaching capacity in the Marie H. Katzenbach school for the deaf, or in any other educational institution conducted under the supervision of the commissioner;

except for inefficiency, incapacity, unbecoming conduct, or other just cause, and then only after a hearing held pursuant to this subarticle, by the commissioner, or a person appointed by him to act in his behalf, after a written charge or charges, of the cause or causes of complaint, shall have been preferred against such person, signed by the person or persons making the same, who may or may not be a member or members of a board of education, and filed and proceeded upon as in this subarticle provided.

Nothing in this section shall prevent the reduction of the number of any such persons holding such offices, positions or employments under the conditions and with the effect provided by law.

## **BACKGROUND**

The Respondent has 11 years of teaching experience and has been a teacher in the Vineland School District for approximately 8 years. During the 2011-2012 school year, the Respondent taught 5<sup>th</sup> grade students at the Winslow Elementary School within the Vineland Public Schools. That year, he was named by his co-workers as Teacher of the Year. The Board confirmed “that Respondent does not have any significant disciplinary history”. [Board Brief, p. 7].

On March 21, 2012, the Respondent was arrested by the Berlin Township Police Department in West Berlin, New Jersey. He was charged with the fourth degree crime of Lewdness. [See *N.J.S.A. 2C:14-4A*]. The Complaint-Summons prepared by the arresting officer, Berlin Township Police Sergeant Gary Sheehan, indicates:

By certification or on oath, the complainant says that to the best of his/her knowledge, information and belief the named defendant on or about 03-21-2012 in BERLIN TWP, CAMDEN, NJ did:

WITHIN THE JURISDICTION OF THIS COURT, PERFORM A FLAGRANTLY LEWD AND OFFENSIVE ACT BY EXPOSING HIS GENITALS FOR THE PURPOSE OF AROUSING OR GRATIFYING THE SEXUAL DESIRE OF OF DEFENDANT OR ANOTHER, KNOWING OR REASONABLY EXPECTING THAT THE ACT WAS LIKELY TO BE OBSERVED BY A NONCONSENTING PERSON WHO WOULD BE ALARMED SPECIFICALLY BY RUNNING AROUND

GREENWAY VILLAGE APARTMENT PARKING LOT IN THE NUDE  
AT AN HOUR WHEN PEOPLE WOULD BE LIKELY TO SEE HIM.  
PROBABLE CAUSE HAS BEEN FOUND FOR THE ISSUANCE OF THIS  
COMPLAINT  
P/C: DEFENDANTS TAPED STATEMENT  
[Ex. J-3].

Sergeant Sheehan prepared a written investigation report. It provides:

MO: ACCUSED RAN NAKED THROUGH GREENWAY  
APARTMENTS PARKING LOT IN THE PRESENCE OF OTHERS.

ON WEDNESDAY, MARCH 21, 2012 AT 2033 HOURS THIS  
OFFICER WAS DISPATCHED TO GREENWAY VILLAGE  
APARTMENTS FOR A REPORT OF A MALE RUNNING THROUGH  
THE PARKING LOT NAKED. UPON MY ARRIVAL I OBSERVED  
THERE WERE MULTIPLE PEOPLE WALKING AROUND THE  
COMPLEX AS IT WAS NOT LATE AND IT WAS A WARM NIGHT.  
THE MALE IN QUESTION WAS GONE, BUT I SPOKE WITH THE  
CALLER/WITNESS, MARIO CARDENAS. CARDENAS DESCRIBED  
THE MALE AS WHITE, APPROXIMATELY 40 YEARS OF AGE AND  
BALDING. HE SAID HE LEFT THE COMPLEX IN A SILVER, 4 DOOR,  
FORD ESCORT, WITH PARTIAL NJ TAG UFL OR UFE AND TURNED  
RIGHT ONTO NORTH RT73. CARDENAS FURTHER STATED THAT  
THIS WAS NOT THE FIRST TIME THE SUBJECT RAN NAKED  
THROUGH THE PARKING LOT. HE SAID HE DID NOT CALL  
POLICE THE FIRST TIME AND WAS UNSURE EXACTLY WHEN IT  
HAPPENED. HE SAID THE REASON HE CALLED THIS TIME IS  
BECAUSE THERE WERE CHILDREN IN THE AREA AND HE WAS  
CONCERNED FOR THEIR SAFETY. A PICK UP AND HOLD WAS  
BROADCASTED BY CENTRAL COMMUNICATIONS WITH THE  
INFORMATION PROVIDED.

AFTER LEAVING GREENWAY APARTMENTS I DECIDED TO  
CHECK THE TWO ADULT BOOKSTORES ON RT 73. THE FIRST WAS  
THE RED BARN BOOK STORE, WHICH IS LOCATED NORTH OF  
GREENWAY AND IS IN THE DIRECTION THE SUBJECT REPORTED  
AS HEADING. I LOCATED, IN THE LOT, A VEHICLE MATCHING  
THE DESCRIPTION PROVIDED BY CARDENAS. THE VEHICLE WAS  
A SILVER 2 DOOR FORD ESCORT WITH NJ REGISTRATION

UFE69C. A CHECK OF THE VEHICLE SHOWED IT WAS REGISTERED TO A MARK BRINGHURST, A 40 YEAR OLD MALE FROM BERLIN. OFFICER MURRAY AND I WENT INSIDE THE BOOK STORE AND FOUND A SUBJECT MATCHING THE DESCRIPTION GIVEN BY CARDENAS. THE MALE IDENTIFIED HIMSELF AS MARK BRINGHURST. HE WAS ESCORTED OUTSIDE WHERE WE CONFIRMED THAT THE VEHICLE WE FOUND PARKED IN THE LOT WAS INDEED HIS. BRINGHURST WAS MIRANDIZED AND THEN ASKED WHERE HE WAS PRIOR TO COMING TO THE BOOK STORE. AT FIRST HE DENIED BEING IN GREENWAY, BUT LATER ADMITTED TO BEING THERE AND RUNNING NAKED THROUGH THE PARKING LOT IN THE NUDE. HE SAID HE DID IT ON A DARE. AT THIS POINT BRINGHURST WAS ARREST AND TRANSPORTED TO POLICE HEADQUARTERS, HIS VEHICLE WAS IMPOUNDED BY RHP.

ONCE AT POLICE HEADQUARTERS I INTERVIEWED BRINGHURST ABOUT THE INCIDENT. THE INTERVIEW BEGAN AT APPROXIMATELY 2120 HOURS AND WAS RECORDED FROM START TO FINISH. I BEGAN BY AGAIN ADVISING BRINGHURST OF HIS MIRANDA RIGHTS. BRINGHURST STATED HE UNDERSTOOD AND THEN SIGNED A MIRANDA WARNING CARD STATING SAME. BRINGHURST STATED HE DID RUN THROUGH THE PARKING LOT NAKED, BUT HAD NO INTENTION OF LETTING ANYONE SEE HIM. WHEN ASKED WHY HE DID IT, HE SAID HE DID IT ON A DARE. HE EXPLAINED HE MET SOMEONE ONLINE WHO LIKES TO DARE HIM TO RUN THROUGH SOME SORT OF PARKING LOT NAKED. I ASKED HIM IF THIS WAS THE FIRST TIME HE DID A STUNT LIKE THIS IN GREENWAY AND HE SAID NO, HE HAD DONE THE SAME THING ABOUT A YEAR AGO, ALSO ON A DARE. I ASKED WHY HE CHOSE GREENWAY AND HE TOLD ME THE FIRST TIME HE DID IT HE JUST HAPPENED TO BE NEAR THERE WHEN HE WAS DARED. HE SAID ON THIS OCCASION HE DID IT OUT OF FAMILIARITY. HE SAID HE KNEW FROM LAST TIME THERE WAS AN AREA HE COULD PARK WHERE HE MIGHT NOT BE SEEN. HE THEN DESCRIBED TO ME WHERE HE PARKED AND THE AREA HE RAN IN WHILE NAKED. BRINGHURST STATED HE NEVER MEANT FOR ANYONE TO SEE HIM AND HE WAS SORRY IF SOMEONE DID. I ASKED HIM WHY HE STOPPED AT THE BOOK STORE AND THE ONLY REASON HE GAVE WAS THAT IT WAS ON HIS WAY HOME. (THE BOOK STORE IS LOCATED NORTH OF GREENWAY AND HIS HOME IS LOCATED SOUTH OF GREENWAY). DURING THE INTERVIEW BRINGHURST MADE MENTION THAT HE IS AN

ELEMENTARY SCHOOL TEACHER IN THE VINELAND SCHOOL DISTRICT.

UPON COMPLETION OF THE INTERVIEW I SPOKE WITH THE ON CALL LEGAL ADVISOR FROM CCPO, JOEL ARONOW, AND EXPLAINED THE INCIDENT. HE ADVISED ME TO CHARGE BRINGHURST WITH LEWDNESS, 2C:14-4A, A DISORDERLY PERSONS OFFENSE. BRINGHURST WAS RELEASED ON A SUMMONS PENDING A BERLIN TOWNSHIP MUNICIPAL COURT DATE OF APRIL 12, 2012 AT 8:00AM.

CALLER INFORMATION:

MARIO CARDENAS

[Address & phone number purposely omitted].

[Ex. J-3].

By letter dated June 28, 2012, School Business Administrator Cherie Ludy sent the Respondent a written copy of tenure charges against him as well as the written statement of evidence. [Ex. J-1]. The written charges were sworn to under oath by School Superintendent Mary Gruccio on June 27, 2012:

I, Mary Gruccio, Superintendent, Vineland Public Schools, being duly sworn, according to law, upon my oath, deposes and says:

Pursuant to N.J.S.A. 18A:6-10 et. seq. the Vineland School District charges Mark C. Bringhurst with unbecoming conduct and other just cause for dismissal and demands the dismissal of Mark C. Bringhurst, a tenured teaching staff member.

Said charges of unbecoming conduct and other just cause is summarized as set forth below and is more fully documented, by way of written statement of evidence under oath, in the Certification of Melissa DiLuzio, records custodian for the Berlin Township Police Department together with a true, correct and complete copy of the Police Records on file



with the Berlin Township Police Department relating to the arrest of Mark C. Bringham for lewdness. The Certification and Police Records are hereby filed simultaneously herewith and incorporated by reference herein. (See Exhibit A attached).

### **CHARGE**

Mr. Bringham is a teacher employed by the VBE and is currently assigned to Winslow Elementary School for the 2011-2012 school year.

On or about March 21, 2012, Mr. Bringham was arrested by the Berlin Township Police Department of West Berlin, New Jersey and charged with a violation of the New Jersey Criminal Code, specifically, N.J.S.A. 2C:14-4A: Lewdness. Lewdness is a crime of the fourth degree. (A true and correct copy of the statute is attached hereto as Exhibit B)

On or about March 22, 2012, I received a copy of the Complaint and Summons which alleged the following:

“Defendant (Bringham) on or about 3/21/12 in Berlin Township, Camden County, NJ did within the jurisdiction of this court, perform a flagrantly lewd and offensive act by exposing his genitals for the purpose of arousing or gratifying the sexual desire of of (sic) defendant or another, knowing or reasonably expecting that the act was likely to be observed by a nonconsenting person who would be alarmed specifically by running around greenway village apartment lot in the nude at an hour when people would be likely to see him.” (A true and correct copy of the Complaint-Summons is attached hereto as Exhibit C).

A copy of the investigation report provides a complete account of events that took place on March 21, 2012. (Ex. A)

In the investigation report, Mr. Bringham admitted to Sergeant Gary Sheehan that he did run through the parking lot of Greenview Village Apartments naked but he had no intention of letting anyone see him. When asked why he did it he explained he did it on a dare. Mr. Bringham told Sgt. Sheehan that he met someone online who likes to dare him to do things and this person dared him to do this stunt. He

said the dare was for him to run through some sort of parking lot naked. Mr. Bringhurst admitted this was not the first time he had done this. He stated he had done this about a year ago.

Mr. Bringhurst is an elementary school teacher and his behavior cannot be tolerated by the Vineland School District. The conduct of Mark C. Bringhurst as set forth here and above and as presented in the Berlin Township Police Report, constitutes unbecoming conduct and/or other just cause for dismissal, pursuant to N.J.S.A. 18A:6-10(b).  
[Ex. J-1].

On July 12, 2012, the Respondent, through his attorney, submitted a written statement of position to Ludy:

On behalf of Mark C. Bringhurst, the teacher named above, we submit this written statement of position in regard to the charges against him for unbecoming conduct and the seeking of his dismissal from the employ of the Vineland Public School District.

Mr. Bringhurst does not dispute the facts that occurred on or about March 21, 2012 as set forth in the Charge of Dismissal submitted by Superintendent Mary Gruccio. At the same time, I wish to point out that Mr. Bringhurst was cooperative with the investigative process and immediately sought accountability with his pastor and a counselor. Letters from his Pastor, Jim Hoffecker, dated April 20, 2012, and from his counselor, Louis G. Palena, dated April 30, 2012, are attached as supporting evidence of his immediate actions of accountability.

Mr. Bringhurst first appeared before the Berlin Township Municipal Court on April 12, 2012 and again on May 10, 2012 to answer the charges brought against him by the township. The Prosecutor, with the consent of Mr. Bringhurst and his attorney, proposed that Mr. Bringhurst be given additional time to participate in additional counseling prior to a final

disposition of the charges against him. The attached letter dated June 12, 2012 by the counselor was submitted to the court and his final appearance before the court was July 12, 2012.

In court on July 12, 2012, the Prosecutor recommended, and the court agreed, that the original charges against Mr. Bringhurst be amended to a Municipal Charge #87-2 "Acting in an Improper Manner" and Mr. Bringhurst pleaded guilty to that charge. Mr. Bringhurst acknowledged his conduct and understood that a repeat occurrence would subject him to much more significant penalties in the future

While we fully acknowledge the Board's obligation to determine what behavior can or cannot be tolerated by the district, we respectfully request that the Board take into consideration all of the facts and circumstances prior to rendering a decision to dismiss Mr. Bringhurst from his position. While Mr. Bringhurst acted in an arguably improper manner, which human beings tend to do from time to time, he immediately sought assistance from his pastor and those to whom his pastor referred him. For the past ninety days he has participated in counseling sessions exploring the roots of his behavior and has embarked on a course of accountability to prevent the behavior from reoccurring.

We request that the Board also consider Mr. Bringhurst's admirable teaching record prior to the events of March 21, 2012 and consider that a person who has been called to account for his actions is much less likely to repeat that conduct in the future.

Lastly, the Board is not obligated to terminate Mr. Bringhurst for the events of March 21, 2012 or the charge to which he pleaded guilty in court. Neither state law nor regulations require termination in this instance. The Board has the authority and discretion to determine whether the totality of the facts and circumstances are sufficient to warrant dismissal but it can also decide that the charges are not sufficient to warrant dismissal as well.

For all of these reasons, we respectfully request that the Board re-instate Mr. Bringhurst to his position with the Vineland

Public School District and dismiss the tenure charges against him.  
[Ex. J-2].

On August 8, 2012, the Board held a closed session and determined by a majority vote "that the charges and evidence in support of the charges were sufficient, if true in fact, to warrant dismissal of Mr. Bringhurst." [Ex. J-3, Certification of Ludy dated August 21, 2012]. On August 21, 2012, Ludy filed with the Commissioner of the Department of Education the written tenure charges and supporting evidence against the Respondent. [Ex. J-3].

On September 4, 2012, the Respondent, through his attorney, submitted a written response to the tenure charges against him. [Ex. J-4]. The Respondent reiterated the points he made in his letter to Ludy on July 12, 2012. He also emphasized that he pleaded guilty to a municipal violation rather than the 4<sup>th</sup> degree criminal charge of lewdness that was dropped. In addition, the Respondent indicated that he did not intend for others to observe his conduct in the parking lot on March 21, 2012.

On September 13, 2012, the matter was referred to me pursuant to N.J.S.A. 18A:6-16 as amended by P.L. 2012, c. 26.

Testimony was taken during arbitration proceedings that I summarize as follows.

Joseph Rossi is the Executive Director of Personnel. He is familiar with the charges against the Respondent. The Respondent's conduct is "upsetting" and "disappointing". It is contrary to the standard the Board expects its teachers to meet. The fact that the Respondent performed the same inappropriate act on two (2) separate occasions shows that his conduct on March 21, 2012 was not an isolated mistake. It is evident, particularly in light of the fact that he was discovered in an adult book store immediately following his act in the parking lot, that he exercised poor judgment that is unacceptable in a school environment. The Respondent's plea of guilty to a lesser charge, his decision to seek counseling after his arrest, and his claim that he did not intend for anyone to see him in the parking lot, did not alter Rossi's opinion that the Respondent must be terminated from his teaching position.

Sergeant Sheehan recounted the events described in the Complaint-Summons and the Investigation Report. His testimony was consistent with the information contained in those documents. Sheehan indicated that when he spoke to the Respondent at the adult book the Respondent initially denied that he had recently been in the Greenway Apartments parking lot. Sheehan did not believe the Respondent's claim that he went to the adult book store simply

because it was on his way home. Sheehan indicated he did not have personal knowledge of children being present in the parking lot when the Respondent ran naked.

The Respondent expressed remorse for his actions. He has a wife and three (3) daughters. He admitted to having failures in his personal life but stated that they did not affect his ability to teach. He immediately sought counseling after his arrest. He testified that immediately before he ran naked in the parking lot on March 21, 2012 he decided it would be the last time that he performed such an act. He stated that the only reason he repeated the act was because he was dared to do it by someone he met online. The Respondent indicated that he no longer communicates with that individual. He stated that he went to the adult book store as he was going home because he "did not want to go straight home". He indicated that the adult book store was the only business that (1) was open when he travelled north from the parking lot and (2) was convenient enough to stop at en route to his home.

The parties presented the following arguments in support of their respective positions.

## **SUMMARY OF THE ARGUMENTS**

### **The Board's Position**

Teachers serve as role models to children, and they are responsible for the children's care and custody. As such, there is well settled case law that holds teachers to a high standard of conduct in and out of the classroom. The decisional law that the Board cites in support of this standard include, but are not limited to: *State Bd. of Examiners v. Charlton*, 96 N.J.A.R. 2d (EDE) 18 (1996); *In the Matter of the Certificates of Cheryl Sloan*, 2012 WL 2520387 (N.J. Adm.) (6/15/12); *Saunders v. N.J. Dept. of Ed.*, 91 N.J.A.R. 2d (EDE) 12 (1991); *In the Matter of the Tenure Hearing of Theresa Lucarelli*, 97 N.J.A.R. 2d (EDE) 537 (1997).

The Board seeks the Respondent's dismissal based upon unbecoming conduct and other just cause. The term "unbecoming conduct" is an "elastic" standard that is determined on a case-by-case basis. It has been "broadly defined to include any conduct 'which has a tendency to destroy public respect for [government] employees and competence in the operation of [public] services'". [Board Brief, p. 6, citing *Karins v. City of Atlantic City*, 152, N.J. 532, 554 (1998)]. A finding of unbecoming conduct "may be based primarily on a violation of an implicit standard of good behavior". [Board Brief, p. 6, citing *In re Emmons*, 63 N.J. Super. 136, 140 (App. Div. 1960)].

The facts of this matter show and the Respondent admits that his conduct was unbecoming. The Board provides the following support for its position:

Respondent's behavior clearly violated the "implicit standard of good behavior" to which a teacher must be held. In this matter, he admitted the conduct as testified by Sgt. Sheehan but also admitted lying to the officer, this conduct manifests questionable judgment that would cause the public to question his fitness in teaching and caring for young impressionable children. Consequently, the charges of conduct unbecoming a teacher should be upheld.

As a public school teacher, entrusted with the care and education of young children, his behavior cannot be tolerated by the Board. The Board must ensure the safety of each child in the Vineland Public School System. Continuing the employment of a teacher, who has admitted to behavior which, arguably, put children at risk, could certainly have a harmful effect on the maintenance of discipline and proper administration of the school system. The Board seeks appropriate action against such behavior in order to maintain order and properly deliver educational services to the children of the District. Accordingly, Respondent should be terminated from his position. [Board Brief, p. 7].

The Board emphasizes that the Respondent's plea of guilty to a lesser charge does not mitigate the severity of his conduct or lessen the standard to which he must be held.

For all of the reasons above, the Board requests that the charges against the Respondent be upheld, and that he be discharged from his position with the Board.



### **The Respondent's Position**

The Respondent "has no intention of appealing the arbitrator's decision, whether it is favorable to him or unfavorable". [Respondent Brief, p. 2]. He requests "that the arbitrator refrain from providing specifics in his determination for the best interest of everyone concerned, particularly the students, the very individuals the State Board of Education desires to serve and protect". [Id.].

The Respondent does not dispute the facts of this matter. He "admits he acted improperly, regrets his actions, and regrets that others were witness to his actions." [Id.]. But he also emphasizes that there is a difference between the conduct for which he was arrested and the manner in which it has been described:

[T]here is a real difference between the use of the words, "exposed himself", "children could have seen it", and "lewdness" versus Sergeant Sheehan's statement of what was reported to him by one individual witness that, in the back of the parking lot in the dark, [the Respondent] "got out of his car, ran around the car, got back in the car, and drove off". [Id. at pp. 1-2].

The Respondent points out that he has taken steps to account for his behavior through counseling and his church.

The Respondent indicates that “[t]he mistakes in his personal life outside of school in no way changed what was real about the excellence of [students’] education.” [*Id.* at p. 2].

For all of the reasons above, the Respondent requests that “the arbitrator take into consideration all of the facts and circumstances prior to rendering a decision.” [*Id.* at 2-3]. The Respondent also requests the arbitration to “consider [his] admirable teaching record prior to the events of March 21, 2012 as well as his accountability since that time, and consider that a person who has been called to account for his actions is much less likely to repeat that conduct in the future prior to deciding whether to revoke his teaching certificate”. [*Id.* at 3].

## **DISCUSSION**

I have carefully reviewed the record. The Board must prove the basis for the tenure charges against the Respondent by a preponderance of the credible evidence. It must also demonstrate that dismissal is the appropriate penalty.

The Respondent requests that I exercise discretion in the manner in which this matter is described in this Decision. The Respondent's concerns are noted, but the requirement to determine whether the Board has met its burden necessitates an analysis of the relevant facts, findings and conclusions to be drawn from the record.

As indicated above, the Respondent generally admits to his conduct, but he disagrees over the manner in which Sergeant Sheehan described it in the Complaint-Summons and the Investigation Report. For this reason I will outline the basic facts of this case that form the basis for my conclusions.

During the 2011-2012 school year, the Respondent was a 5<sup>th</sup> grade elementary school teacher. He does not have "any significant disciplinary history". He was voted Teacher of the Year by his peers. The Respondent's teaching performance is not the basis for the proffering of tenure charges.

Instead, it is his conduct beyond the classroom. The Respondent on his own volition ran naked through the parking lot of an apartment complex on two (2) separate occasions. These incidents transpired about a year apart from each other. His actions were observed each time. On the second occasion, the Respondent got into his car and drove to an adult book store down the street. He was discovered inside of the book store by Sergeant Sheehan who inquired into his conduct. When asked, the Respondent denied that he was recently in the apartment complex parking lot. He later admitted to his conduct and expressed remorse.

The facts and circumstances above demonstrate that the Respondent exercised severely poor judgment on more than one occasion. His lack of judgment is not diminished by the fact that his conduct occurred outside of the school setting. The Respondent's actions are simply not consistent with the conduct that a 5<sup>th</sup> grade elementary school teacher must display whether in or out of the classroom. There is a common theme to the line of decisional law that addresses the high standard of conduct that teachers must possess - they are required to have "an unusually high degree of self-restraint and controlled behavior". [*Tenure of Sammons*, 1972 S.L.D. 302, 321]. The Respondent's conduct did not only meet this standard but was damaging to the reputation of the school district and injurious to its educational process. It runs contrary to

conduct the school district can reasonably expect of its employees. [See generally *Karins; In re Fulcomer*, 93 N.J.Super. 404 (App. Div. 1967)].

Based on the foregoing facts and the applicable law, I conclude that the Board has sustained its tenure charge of unbecoming conduct against Respondent Mark C. Bringhurst and that the appropriate penalty of dismissal was justifiable and reasonable under all of the relevant circumstances. The fact that he pled guilty to a lesser charge than the criminal charge of lewdness does not preclude a finding of unbecoming conduct nor does it require a modification of the penalty imposed.

As indicated in the parties' stipulated issue, the Board has sought the forfeiture of the Respondent's teaching certificate. I do not decide that issue. The authority to revoke or suspend a certificate rests with the Board of Examiners. [See N.J.S.A. 18A:6-38; N.J.A.C. 6A:9-17.1 et. seq.].

**DECISION**

The Board has sustained its tenure charge of unbecoming conduct against Respondent Mark C. Bringhurst. The Respondent is dismissed from his tenured teaching position in the City of Vineland Public School District.

Dated:

Sea Girt, New Jersey

\_\_\_\_\_  
Robert C. Gifford

State of New Jersey     }  
County of Monmouth    }ss:

On this     day of                     , 2012, before me personally came and appeared Robert C. Gifford to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.