

IN THE MATTER OF THE TENURE HEARING :

OF ANTONIA M. BENECHCHI, SCHOOL : COMMISSIONER OF  
EDUCATION

DISTRICT OF THE TOWNSHIP OF : DECISION

MANTUA, GLOUCESTER COUNTY. :

\_\_\_\_\_ :

### SYNOPSIS

Board certified tenure charges of unbecoming charges against elementary music teacher for allegedly throwing a tambourine (which hit a child) and pushing a music stand (which grazed another child).

Having considered the evidence and all of the circumstances of the incident, the ALJ concluded that respondent did engage in unprofessional conduct, failed to properly control her class and displayed less than proficient ability to adjust her lesson plan to existing circumstances. ALJ, however, found that removal of respondent's tenure was too great and too harsh a penalty as she acted without malicious and cruel intent, she was seriously challenged and patently ignored by the students and she has recognized the faults of her actions. ALJ concluded that a one-step reduction in pay together with the loss of any increments which respondent would have been due since her suspension and any which she may be due for the coming school year 1997-98 was a sufficiently steep penalty.

Commissioner concurred with the ALJ's credibility determinations, as well as his resultant findings and conclusions. However, in light of respondent's apparently unblemished record in the District, the Commissioner modified the recommended sanction -- respondent was to forfeit her 120 days' pay already withheld, and was to be subject to the loss of her increments, if any, which were due since her suspension and any which were due for the 1997-98 school year.

JULY 28, 1997

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The record of this matter and the initial decision of the Office of Administrative Law have been reviewed. No exceptions were filed by the parties.

Upon careful and independent review of the record in this matter, the Commissioner concurs with the ALJ's credibility determinations, as well as his resultant findings and conclusions. The Commissioner does, however, modify the recommended sanction in this matter so as to determine that respondent shall forfeit her 120 days' pay already withheld, and shall be subject to the loss of her increments, if any, which may have been due since her suspension and any which may be due for the 1997-98 school year. The Commissioner finds that such a penalty sufficiently demonstrates that respondent's conduct, even under provocative circumstances, was indeed unprofessional and imprudent, yet also considers her apparently unblemished record in the District and is consistent with penalties effectuated in prior tenure determinations which did not result in the dismissal of respondent.

Accordingly, the initial decision is adopted, as modified, for the reasons well-expressed by the ALJ.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

JULY 28, 1997