

IN THE MATTER OF THE TENURE :
HEARING OF JANNETTE DURAN, :
SCHOOL DISTRICT OF THE CITY :
OF CAMDEN, CAMDEN COUNTY, :
and

IN THE MATTER OF THE TENURE :
HEARING OF ROSALYN VINSON, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY : DECISION
OF CAMDEN, CAMDEN COUNTY, :
and

IN THE MATTER OF THE TENURE :
HEARING OF JANICE JONES, :
SCHOOL DISTRICT OF THE CITY :
OF CAMDEN, CAMDEN COUNTY. :

SYNOPSIS

The Camden Board of Education certified tenure charges of insubordination, conduct unbecoming and neglect of duty against three teachers based on allegations that they were involved in a fraudulent attempt to receive payment for attendance at meetings of their respective School Leadership Councils – when no such meetings ever took place – and then attempted to cover up the facts during the district’s investigation by filing fabricated documents and giving false information. The cases were tried together because the charges against each respondent stemmed from the same alleged activities and raised the same issues regarding their obligations as tenured employees.

The ALJ found that the Board had proven the charges against each of the three respondents and that – notwithstanding prior unblemished records, absence of venal motives, and circumstances that helped explain their conduct – dismissal from tenured employment with the district was, in fact, the appropriate penalty for respondents’ conduct.

The Commissioner concurred with the ALJ that all charges had been proven by the Board and that respondents’ conduct warranted dismissal from their tenured employment. The Commissioner referred all three matters to the State Board of Examiners pursuant to *N.J.A.C. 6A:9-17.6(a)1* for action against respondents’ certificates as that body deems appropriate.

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| This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner. |
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July 5, 2007

OAL DKT. NOS. EDU 6754-06, EDU 6887-06 and EDU 6957-06
AGENCY DKT. NOS. 307-9/06, 305-9/06 and 308-9/06

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The record of these matters – heard together because they arose from the same alleged activities – and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Exceptions to the Initial Decision were filed pursuant to *N.J.A.C.* 1:1-18.4 by Rosalyn Vinson, Jannette Duran and the Camden Board of Education, respectively; none filed replies, and no submission of any kind was received from Janice Jones.

In her exceptions, Rosalyn Vinson (Vinson) contends that the Administrative Law Judge failed to consider, or make findings of fact indicating, that “there were distinct differences in the procedures used in the meetings that resulted in

cooperation offered by the Wilson staff and lack of cooperation by the Wiggins staff” and that these differences – together with the loyalty, trust and fear inspired by Wiggins Principal Juanita Worthy, whose directive to “continue the lie” Vinson dutifully followed – “discouraged [Vinson] from coming forward with the truth when asked” and led to the conduct that has now threatened her tenured employment. Vinson urges that teachers, while held to a higher standard as public employees and role models, are “susceptible to [the] same pressures and demands [as] any other individuals,” and that, on balance, she is a “loyal and dedicated employee perhaps to a fault” who does not deserve to lose her tenure rights as a result of the incident in question. (Exceptions of Rosalyn Vinson at 1-3, quotations at 2-3)

Similarly, Jannette Duran (Duran) argues on exception that the ALJ failed to consider sufficiently the situation in which her conduct arose, specifically that she was “out of school and ill during the critical period of the investigation,” so that she had “no understanding of the peripheral matters” related to it; had she had such knowledge, she contends, she would not have submitted the fabricated meeting matrix – which she had signed at the directive of her principal – and would instead have acted as did her colleagues, who received letters of reprimand because they did not submit such matrices although they had previously signed meeting attendance sheets. According to Duran, “it cannot be ignored that there are a number of teaching staff members who did essentially the same things with which [she] has been charged, and who have received only letters of reprimand,” so that, under all of the circumstances, the appropriate penalty for her additional act of submitting a matrix is the withholding of her increment and forfeiture of the 120 days’ pay withheld pursuant to *N.J.S.A. 18A:6-14* – not the “extreme measure of

termination” as recommended by the ALJ. (Exceptions of Jannette Duran at 1-3, quotations at 2-3)

The Camden Board of Education (Board), on the other hand, urges adoption of the Initial Decision in major part but objects to: 1) the ALJ’s characterization of respondents as redeemable and perhaps still able to contribute in a teaching setting; 2) his failure to find that respondents’ actions constituted insubordination as well as unbecoming conduct; and 3) his failure to find Rosalyn Vinson guilty of neglect of duty, insubordination and unbecoming conduct with respect to the separate charge arising specifically from her role as chairperson of the Wiggins School Leadership Council (SLC).¹ With respect to its first objection, the Board reviews case law addressing the high standard of conduct to be expected of teachers in light of their influence as student role models and cites extensively to specific actions on the part of respondents, as proven in this matter, that demonstrate the Board’s contention that they are “unfit to teach and should not return to any situation where they would again have the opportunity to set the kind of destructive example they have put forth to the impressionable children of Camden.” (Board’s Exceptions at 3-11, quotation at 10) With respect to its charge of insubordination, the Board argues that by virtue of the behavior in which respondents were found to have engaged, they “all committed flagrant acts of insubordination,” since “it is axiomatic that purposefully providing untruthful information to supervisors and administrators or refusing to cooperate with an administrator’s investigation is ‘willful and intentional disregard of the lawful and reasonable directives’ of that administrator.” The Board holds this behavior to be all the more egregious in a society “plagued by

¹ At various points in the record and Initial Decision, SLCs are incorrectly referred to as School Leadership *Committees*.

corruption, violence and poverty, such as Camden,” where it is “especially crucial for teachers to instill a sense of truthfulness and independence and encourage students to stand up for what is just and right.” (*Id.* at 11-13, quotations at 11 – citing *State-Operated School District of Paterson v. Long*, decided by the Commissioner October 26, 2006 – and 13) Finally, with respect to respondent Vinson, the Board contends that – as chairperson of an SLC – she must be held to an even higher standard of leadership and integrity, yet she knowingly and repeatedly took actions that facilitated and perpetuated the “concerted plan to defraud the Board.” (*Id.* at 13-14, quotation at 13)

Upon review, the Commissioner concurs with the ALJ that the Board has proven its charges against respondents, and that the appropriate penalty in each case is dismissal from tenured employment.

In so holding, the Commissioner notes that the ALJ dismissed neither the charges of insubordination against all three respondents nor the charge against Vinson with respect to her role as SLC chairperson, but rather made no express mention of them in his discussion of law (Initial Decision at 26-27) or final conclusions with respect to each respondent. (*Id.* at 34) Notwithstanding such omission, however, it is abundantly clear from the discussion at 26-33, that the ALJ regarded all charges as proven with respect to all three respondents: In the case of the charge against Vinson, the behavior underlying it is subsumed by the ALJ’s general statement (at 34) regarding her attempt to fraudulently obtain money from the Board, and, to the extent that the ALJ was silent on the question of whether respondents’ actions constitute insubordination as well as unbecoming conduct and neglect of duty, the Commissioner here clarifies that persistently and knowingly responding in an untruthful, evasive manner to district

administrators attempting to investigate a very serious situation – as respondents herein were found to have done – cannot be viewed as anything other than insubordinate; it is well established that there need not be an overt exhibition of disrespect, or an outright refusal to obey directives or perform duties, in order for insubordination to be found. *In the Matter of the Tenure Hearing of Peter Loria, State-Operated School District of the City of Newark, Essex County*, January 26, 1998 slip. op. at p. 69, *aff'd* State Board August 7, 1998.

Similarly, although respondents Vinson and Duran protest that the ALJ failed to consider sufficiently the extent to which each in her own way was a victim of circumstance, the Commissioner finds that, to the contrary, the ALJ very carefully weighed the situations in which respondents found themselves before concluding that their conduct could not be found to warrant anything less than loss of their tenured employment in the district. (Initial Decision at 35-36)

Finally, with respect to the question of whether respondents should suffer professional consequences over and above the loss of their tenured employment in the Camden school district, the Commissioner does not reach the statements of the ALJ to which the Board takes exception and instead construes them not as facts or conclusions to be adopted or rejected, but as dicta expressing nothing more or less than an honest opinion based upon first-hand observation of respondents over multiple days of hearing. Such opinion notwithstanding, however, conduct of the type proven to have been committed by respondents herein cannot be countenanced in the public schools, and the Commissioner, therefore, would be remiss in meeting her own obligations if she failed to refer respondents to the State Board of Examiners so that that body may, pursuant to

N.J.A.C. 6A:9-17.1 et seq., exercise its exclusive authority to determine whether respondents should be permitted to retain their educational certification.

Accordingly, for the reasons expressed therein as clarified and amplified above, the Initial Decision of the OAL is adopted as the final decision in these matters. Respondents Jannette Duran, Rosalyn Vinson and Janice Jones are dismissed from tenured employment with the Camden Board of Education as of the filing date of this decision, and all three matters are hereby referred to the State Board of Examiners pursuant to *N.J.A.C.* 6A:9-17.6(a)1 for action as that body deems appropriate.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: July 5, 2007

Date of Mailing: July 5, 2007

² This decision may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 et seq. and *N.J.A.C.* 6A:4-1.1 et seq.