

#243-12 (OAL Decision: Not yet available online)

IN THE MATTER OF THE TENURE :
HEARING OF JOHN ZAWADZKI, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE : DECISION
TOWNSHIP OF OLD BRIDGE, :
MIDDLESEX COUNTY. :

SYNOPSIS

The Board certified tenure charges of conduct unbecoming and insubordination against John Zawadzki – a tenured teacher of industrial arts – following an incident in which he threatened a student with a knife, in violation of various school policies including the prohibition against possession of a weapon on school grounds. Charges of insubordination stemmed from previous incidents in which respondent, *inter alia*, made physical contact with students and/or disobeyed Board policy, resulting in prior discipline and increment withholdings. The petitioning Board sought removal of respondent from his tenured position.

The ALJ found, *inter alia*, that: respondent admitted to carrying a knife – which he characterized as a tool rather than a weapon – in school, and taking it out during the incident in question in an effort to discipline a student; although respondent credibly denied any intent to harm the student, the act of taking a knife out and using it as an instrument to threaten a student is clearly in violation of Board policy and – pursuant to *N.J.S.A. 18A:6-1* and related case law – constitutes conduct unbecoming a teacher; and respondent was repeatedly warned by supervisors about his physical contact with students and told that he must work on appropriate methods of classroom discipline, yet continued to exhibit behavior that was confrontational, demonstrated a lack of proper supervision of students, and in violation of Board policy. The ALJ concluded that the Board amply sustained its burden of demonstrating that respondent’s conduct was both unbecoming and insubordinate, and that the appropriate penalty is termination. Accordingly, the ALJ ordered that the tenure charges be sustained and respondent’s tenure be terminated.

Upon full consideration and review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter and ordered a copy of this decision forwarded to the State Board of Examiners for action as that body may deem appropriate.

<p>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.</p>

June 14, 2012

IN THE MATTER OF THE TENURE :
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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.¹ The parties did not file exceptions.

This case involves tenure charges brought by the Board against the respondent, a teacher of industrial arts in the Old Bridge School District. The Board charged the respondent with unbecoming conduct stemming from an incident in which he threatened a student with a knife in violation of various school policies, including the prohibition against the possession of a weapon on school grounds and the use of corporal punishment to discipline a student. The Board also charged the respondent with insubordination based on several incidents that resulted in previous discipline and increment withholdings. The Administrative Law Judge (ALJ) found that the respondent was guilty of unbecoming conduct and insubordination, and recommended that the respondent be removed from his tenured position.

In the absence of any basis in the record on which to dispute the fact-finding and credibility determinations of the ALJ pursuant to *N.J.S.A. 52:14B-10(c)*, *In re Morrison*, 216 *N.J. Super.* 143, 158 (App. Div. 1987), the Commissioner concurs with the ALJ that the Board has established that respondent is guilty of unbecoming conduct and insubordination. The ALJ had the opportunity to assess the credibility of the witnesses who appeared before her and made findings of

¹ The record contains no transcripts from the hearings conducted at the OAL on March 29 and 30, 2012.

fact based upon their testimony. Insofar as her opinion on this issue is a credibility determination, the Commissioner may not disturb it unless a review of the record discloses that it is arbitrary, capricious or unreasonable. *N.J.S.A. 52:14B-10c; D.L. and Z.Y., on behalf of minor children, T.L. and K.L. v. Board of Education of the Princeton Regional School District*, 366 N.J. Super. 269, 273 (App. Div. 2004).

Moreover, the Commissioner fully concurs with the ALJ's assessment of respondent's conduct in light of applicable law and prior decisional precedent, and agrees that the conduct proven in this proceeding amply warrants respondent's dismissal from tenured employment. As noted by the ALJ, "respondent was warned by his supervisors about his physical contact with students and told that he must work on positive means to supervise them. Despite these warnings, respondent continued to exhibit behavior that was confrontational, demonstrated a lack of proper supervision of his students, and violated Board policy." (Initial Decision at 25).

Accordingly, for the reasons expressed therein, the Initial Decision of the OAL is adopted as the final decision in this matter. Respondent is hereby dismissed from his tenured position with the Old Bridge School District. This matter will be transmitted to the State Board of Examiners for action against respondent's certificate(s) as that body deems appropriate.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 14, 2012

Date of Mailing: June 15, 2012

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*)