

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOSEPH T. MAHON : ORDER OF SUSPENSION
_____ : DOCKET NO: 1415-174

At its meeting of March 12, 2015, the State Board of Examiners (Board) reviewed a tenure decision regarding Joseph T. Mahon. The Hamilton Township School District (Hamilton) had certified tenure charges against Mahon, a tenured teacher, alleging unbecoming conduct and other just cause.

On December 20, 2014, the Arbitrator assigned to the case pursuant to *N.J.S.A. 18A:6-16* approved a settlement, in which Mahon agreed to resign from his position and the tenure charges were dismissed. The Arbitrator referred the matter to the Board. *In the Matter of the Tenure Hearing of Joseph Mahon*, Dkt. No. 237-8/14 (Arbitrator's Decision, December 20, 2014).

In the tenure charges, which are incorporated herein by reference, the district alleged that Mahon had a lengthy history of poor performance and unsatisfactory evaluations as a middle school Social Studies teacher in the district. Hamilton also alleged that Mahon had been placed on administrative leave numerous times, including for testing positive for usage of a controlled dangerous substance. The district also alleged that Mahon's increment was withheld for the 2011-2012 school year due to performance issues. Hamilton alleged that Mahon: failed to provide basic instruction to students, repeatedly submitted poorly drafted lesson plans or submitted lesson plans of others, completely diverged from lesson plans, failed to return assignments or tests to students in a timely manner and constantly used his personal cell phone during class time in the presence of students.

Hamilton also alleged that, between September 30, 2013 and January 30, 2014, during his classroom lessons in the presence of students, Mahon: repeatedly made inappropriate and derogatory and racial comments regarding people of Jewish, Indian, African, African-American, Middle Eastern and

Asian origin; made inappropriate remarks about slavery; made inappropriate and derogatory comments about various religions and stated that everyone should be a Christian and believe in God; repeatedly made inappropriate and derogatory comments regarding homosexuality and spoke against gay marriage; spoke inappropriately about violence and drugs; explicitly stated that he hated a certain family in the district and used the name of that family, whose child attends school in the district; showed a video program which contained nudity and used expletive language. In addition, the district alleged that Mahon took the lesson plans of another teacher and presented those plans as his own, all without the other teacher's permission.

Mahon currently holds a Teacher of Social Studies Certificate of Eligibility With Advanced Standing, issued in February 2002 and a Teacher of Social Studies certificate, issued in August 2004. Upon review of the above information, the Board voted at its meeting of April 17, 2015 to issue Mahon an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Mahon the Order to Show Cause by regular and certified mail on April 22, 2015. The Order provided that Mahon must file an Answer within 30 days. Mahon filed an Answer on May 21, 2015.

In his Answer, Mahon stated that all of his evaluations and observations were "above satisfactory without a single reprimand" prior to the arrival of Principal Bigos. (Answer, ¶ 4). Mahon said he had the reputation of being a "team player" and had worked in the district for eight years prior to Bigos' arrival. (Answer, ¶ 4). Mahon stated that Bigos' told him that he would "get me with tenure charges" and acted in a relentless manner to do so. (Answer, ¶ 4). Mahon admitted that he tested positive for marijuana in the spring of 2012 but added that he cooperated with random drug testing which was negative and that he completed a rehabilitation program. (Answer, ¶ 4). Mahon also noted that he used a cell phone app to complete taking attendance after Bigos told him that was acceptable. Mahon added that Bigos later wrote him up for using his cell phone so he stopped using it. (Answer, ¶ 4). Mahon claimed that all student assignments were graded and returned within one week of being collected. (Answer, ¶ 4). Mahon also

noted that he always taught world religions and stressed that the principles of most religions are very similar and that every religion has a small percentage of extremists. (Answer, ¶ 5). He stated that he never suggested that Christianity is a correct religion that should be followed by all and that he taught major religions of the world for ten years “without being accused of something so ridiculous until my last year.” (Answer, ¶ 5). Mahon also stated that there was a discussion of gay rights in one of his classes, but that gay marriage was not discussed. (Answer, ¶ 5). He added that a film he showed, “John Adams,” was shown by another 8th grade teacher also and there was no nudity in the film. (Answer, ¶ 5). Mahon acknowledged having a discussion about the “N” word in class after he heard a student refer to his friend that way. Mahon stated that he explained to the students that the word was offensive. (Answer, ¶ 5). He also pointed out that that allegation that he took another teacher’s lesson plans and used them as his own was “taken back” by Principal Bigos on the first day of the tenure hearing. (Answer, ¶ 5). Mahon therefore hoped that he “provided enough information to show that it would not be justified to take any action against myself.” (Answer, ¶ 5). In addition to his Answer, Mahon also submitted several comments from former students attesting to his character and teaching methods.

Since there were material facts in dispute, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. On January 18, 2017, the Administrative Law Judge assigned to the case returned it to the Board after Mahon failed to appear for a scheduled hearing. Pursuant to *N.J.A.C.* 1:1-3.3, the ALJ had provided Mahon with 13 days to submit an explanation for his nonappearance. Mahon did not submit an explanation or otherwise respond to that notice. At its meeting of March 3, 2017, the Board voted not to retransmit the matter to OAL.

Thereafter, pursuant to *N.J.A.C.* 6A:9B-4.6(e), on March 9, 2017, the Board sent Mahon a hearing notice by regular and certified mail. Mahon 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 found just cause to take action against his certificates. Mahon was also offered the

opportunity to appear before the Board to provide testimony on the sanction issue. Neither the certified mail nor regular mail copies were returned. Mahon did not respond.

The threshold issue before the Board in this matter is whether Mahon's conduct constitutes conduct unbecoming a certificate holder. Since Mahon did not appear at his hearing, at its meeting of May 12, 2017, the Board considered only the allegations in the Order to Show Cause. Since Mahon failed to appear at his OAL hearing, the allegations contained in the Order to Show Cause are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Thus, since no material facts related to Mahon's offense were in dispute, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*.

The Board must now determine whether Mahon's conduct, as set forth in the Order to Show Cause, represents just cause to act against his certificates pursuant to *N.J.A.C. 6A:9B-4.4*. 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:9B-4.4*. "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. In this matter, Mahon engaged in a myriad of behaviors that evidence his failure as a role model, including, but not limited to, using derogatory language about various religions and homosexuality and testing positive for a controlled dangerous substance. However, given his prior positive record in the district the Board therefore concludes that the appropriate response to Mahon's breach is a two-year suspension of his certificates.

Accordingly, on May 12, 2017, the Board voted to suspend Joseph T. Mahon's Teacher of Social Studies Certificate of Eligibility With Advanced Standing and his Teacher of Social Studies certificate for

a period of two years. On this 15th day of June 2017 the Board voted to adopt its formal written decision and it is therefore ORDERED that the suspension of Mahon's certificates be effective immediately. It is further ORDERED that Mahon return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

RRH/MZ/th

Date of Mailing:

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.