

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ROBERT J. CARTER : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-159

At its meeting of December 6, 2013, the State Board of Examiners (Board) reviewed a tenure decision regarding Robert J. Carter, a tenured teacher in the State-Operated School District of the City of Paterson (Paterson). Pursuant to *N.J.S.A. 18A:6-16*, the tenure matter captioned *In the Matter of the Tenure Hearing of Robert J. Carter*, Dkt. No. 51-3/13 (Arbitrator's Decision, June 19, 2013), was referred to the Board by the Arbitrator the Department of Education had assigned to hear the case.

Paterson had certified tenure charges against Carter alleging unbecoming conduct, incompetency and other just cause. Specifically, Paterson alleged that, Carter had engaged in inappropriate and intentional misconduct; overreacted to situations; created a classroom as a battleground rather than as a supportive and nurturing environment; exaggerated students' behavior; had to be threatened with insubordination before he would provide a student an accommodation; was unable to empathize with students' needs and feelings; was unable to interact professionally with children or adults; followed his own rules and refused to listen to others; retaliated against students; had a bad attitude and a bad temper; inflicted pain upon a student by grabbing his sweatshirt causing an abrasion; slammed a chair to the floor; yelled at fellow staff and administrators; had poor classroom management skills; did not speak respectfully to others; used profanity and called the students names; and acted negligently and irresponsibly when students were able to access pornography in his classroom while he sat at his desk.

In his Decision (which is incorporated herein by reference), the Arbitrator concluded that in one instance, after Carter had asked a student to return to his seat numerous times, when the student did attempt to sit down, Carter blocked his path no matter which way the student turned. After assessing that Carter was not a credible witness, the Arbitrator determined that Carter had repeatedly refused to comply with another student's need for a flash drive and had pushed this same student from behind when they were on the stairs.

The Arbitrator also found that Carter was not able to control his class and had thrown a chair on the ground to get the class' attention. The Arbitrator concluded that that behavior was unacceptable and conduct unbecoming a teacher.

The Arbitrator also found that Carter refused accommodation to a student who had broken her foot until he was told that the accommodation was a directive from the principal. Carter also scolded a diabetic student in front of other students for not finishing his lunch.

The Arbitrator also sustained Paterson's allegation that in June 2009 Carter was sitting at his desk while students in his classroom were on an inappropriate sexually-oriented website. The Arbitrator concluded that the incident supported Paterson's position that Carter did not have control of his class and that his credibility was questionable.

In addition to the regular in-service training offered to all teachers, the district also made resources available to Carter to help him improve his teaching skills and interpersonal relationships as there had been several complaints about the way Carter spoke to students. The Arbitrator found that Carter did not avail himself of these resources.

In another incident, Carter grabbed a student by the shirt so roughly that right after the incident, the principal saw burn marks on the student's neck and arm corresponding to the location of the garment. The Arbitrator found that this incident further demonstrated that Carter did not have control over his students.

The Arbitrator also found that Carter was insubordinate in September 2010 by not decorating his classroom to make it inviting to students after being directed to do so by the principal and by shouting out during a meeting the principal was leading with about 60 others in attendance.

The Arbitrator also found that, contrary to district policy, Carter had failed to hand out information to parents on Back to School Night in September 2011, had failed to complete lesson plans in a timely manner despite repeated warnings and had spoken to students in a confrontational and antagonistic manner, even calling one student "your fat self."

After evaluating all of the evidence and testimony in the record, the Arbitrator determined that Carter's disruptive, unprofessional and inappropriate behavior unbecoming a teacher was consistent and that Paterson had proven all of the tenure charges. Carter was dismissed from his tenured employment with Paterson as a result of the unbecoming conduct proven in the tenure proceeding and the Arbitrator transmitted the matter to the Board for its review.

Carter currently holds a Teacher of Elementary School Certificate of Eligibility, issued in June 2000 and a Teacher of Elementary School certificate, issued in June 2001. After reviewing the above information, at its January 17, 2014 meeting, the Board voted to issue an Order to Show Cause to Carter as to why his certificates should not be revoked.

The Board sent Carter the Order to Show Cause by regular and certified mail on January 24, 2017. The Order provided that Carter must file an Answer within 30 days. Carter submitted an Answer on March 31, 2017. In that Answer, Carter admitted the allegations contained in the Order to Show Cause but denied the underlying conduct that led to the Order. (Answer, ¶ 1). In Affirmative Defenses, he stated that his actions were proven not to be unbecoming conduct and added that the Arbitrator's findings were based on hearsay evidence. (Affirmative Defense, ¶ 2). He added that his actions had no affect [*sic*] on the maintenance of discipline and the proper administration of the school system and that he was not unfit to hold his certificates. (Affirmative Defense ¶¶ 3-4). Carter also noted that he had no prior disciplinary history while employed as a teacher in New Jersey. (Affirmative Defense ¶ 5). The matter was then transmitted to the Office of Administrative Law for hearing.

Administrative Law Judge (ALJ) Jeffrey A. Gerson heard the matter on October 28, 2016. The record closed on January 12, 2017, and the ALJ issued an Initial Decision on February 23, 2017. *In the Matter of the Certificates of Robert J. Carter*, Dkt. No. EDE 04041-14 (Initial Decision, February 23, 2017). Neither the Deputy Attorney General (DAG) representing the Board nor Carter filed Exceptions to the Initial Decision.

In the decision, the ALJ noted that "the findings of fact and conclusions of law submitted in the Arbitrator's decision, were, by virtue of collateral estoppel determined to be the facts of the case." (Initial

Decision, slip op. at 2). ALJ Gerson noted that Carter testified at the hearing to present mitigating factors which would result in a penalty of suspension rather than revocation, but added that “Carter’s testimony did little to refute the allegations of the tenure charges....” *Id.* at 2-3. ALJ Gerson added that Carter testified that he no longer wished to return to the classroom but preferred to return to the educational profession as an administrator. *Id.* at 3.

In assessing the appropriate penalty, the ALJ stated that the Arbitrator’s decision clearly indicated “that Carter was not only having serious difficulties in controlling students in his classroom, but that he also had resisted attempts to rectify his shortcomings.” *Ibid.* ALJ Gerson further noted that the incidents the Arbitrator described “were not isolated, but actually established a pattern of evidence supporting the contention that there was an inability to control a classroom in addition to an inability to work effectively with administrators.” *Ibid.* The ALJ also maintained that Carter’s testimony that he was assigned a classroom full of disciplinary problems was, in essence, a contention “that the nature of the students and the disciplinary difficulties he subsequently confronted were actually the cause of his problems rather than any shortcomings in his own inabilities.” *Ibid.* ALJ Gerson also saw Carter’s statement that he would prefer not to return to the classroom as an admission that the Arbitrator’s findings were accurate. *Id.* at 3-4. The ALJ therefore concluded that “Carter’s conduct as depicted in the Arbitrator’s decision warrants revocation as opposed to suspension.” *Id.* at 4.

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of April 6, 2017, the Board reviewed the Initial Decision. After full and fair consideration of the Decision, the Board voted to adopt the Initial Decision.

“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. Unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (Sup. Ct. 1943), *aff’d*, 131 *N.J.L.* 326 (E & A 1944). In this case, ALJ Gerson correctly noted that the facts underlying Carter’s pattern of conduct were established at the tenure hearing

and, pursuant to collateral estoppel, govern the Board's decision-making here. Furthermore, the Board agrees with ALJ Gerson that Carter's behavior constituted unbecoming conduct which warrants a severe penalty. Consequently, the Board finds that revocation is the appropriate response in this matter and therefore adopts the Initial Decision.

Accordingly, on April 6, 2017, the Board voted to adopt the Initial Decision and ordered to revoke Carter's certificates. On this 12th day of May 2017, the Board formally adopted its written decision to adopt the Initial Decision, and it is therefore ORDERED that Robert Carter's Teacher of Elementary School Certificate of Eligibility and his Teacher of Elementary School certificate are hereby revoked, effective immediately. It is further ORDERED that Carter 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:
via regular and certified mail

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