

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
ROBERT KLEIN : ORDER OF REVOCATION
_____ : DOCKET NO: 1617-214

At its meeting of April 6, 2017, the State Board of Examiners (Board) reviewed information provided by the Howell Public School District (Howell) regarding Robert Klein. Howell reported that Klein resigned from his position in the district, effective December 31, 2016, following allegations that, at the 2015 New Jersey Education Association Conference in Atlantic City, he invited undercover journalists to his room and was filmed offering cocaine, describing how he keeps cocaine in his home and how he avoids being caught. In the video, which was posted on multiple news and social media sites worldwide, Klein can be heard making the following statements: “If you want blow you can have a bump. You can have whatever you want;” “Dude, if you want some I’ll give you a taste, don’t be embarrassed;” “Have some;” “You come to my home at night, you come to my room now. I have booze, I have water, I have blow at the house, whatever it is, whatever anybody wants, I have it there;” “Yes I’m a good host and I have this s*** at my house when you come;” “Like I work with the police in the school district with the drug dogs and they teach us, and they teach our kids how the drug dogs sniff out drugs;” “We’re not putting drugs in my car. Blow-different. You put it in your pocket, it’s nothing;” “Blow, people mix it with different things so it has different scents.”

Klein is the holder of a Teacher of Physical Education Certificate of Eligibility With Advanced Standing, issued in December 1994, a Teacher of Physical Education certificate, issued in January 1999 and a Teacher of Health and Physical Education certificate, issued in June 2000. After reviewing the above information, at its May 12, 2017 meeting, the Board voted to issue Klein an Order to Show Cause as to why his certificate should not be revoked.

The Board sent Klein the Order to Show Cause by regular and certified mail on May 15, 2017. The Order provided that Klein must file an Answer within 30 days. Klein responded on June 12, 2017. In his Answer, Klein admitted to attending the 2015 NJEA Convention in Atlantic City, but denied offering

cocaine to the journalists. (Answer ¶3). He stated that the people he met and brought up to his hotel room began discussing drug use and that any comments Klein made, which was heard on the video, were in response to statements made by the male who implied he had some in his possession. (Answer ¶ 6). Klein stated that there were never any drugs in his hotel room and that he was “joking around” about having drugs at his house. did not receive a reply to his “numerous attempts to meet with authorized personnel and obtain documentation of credibility and completion of professional educational course work.” (Answer, ¶ 6).

Since there were material facts in dispute, on June 30, 2017, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. Administrative Law Judge (ALJ) Joseph A. Ascione heard the matter on July 25, 2018. The record closed on January 8, 2019 and ALJ Ascione issued an Initial Decision on May 21, 2019. *In the Matter of the Certificate(s) of Robert Klein*, Dkt. No. EDE 09566-17 (Initial Decision, May 21, 2019).

The Board’s witness was Mr. Joseph J. Isola, Howell Superintendent. Klein testified on his own behalf. (Initial Decision, slip op. at 11). ALJ Ascione found that Klein attended the November, 2015 NJEA Convention and unknowingly participated in a videotaped interview at his hotel room during the convention. *Id.* at 5. Klein’s statements made during the interview portray him as aware of, and a participant in, drug culture. *Id.* at 6. Moreover, ALJ Ascione found that Klein’s statements during the interview appear to promote the use of controlled dangerous substances and that Klein’s statements are inconsistent with the conduct of any educational professional. *Ibid.*

In his testimony, Klein acknowledged his poor judgment and stated that his motivation was the pursuit of a romantic opportunity. *Id.* at 4. Although ALJ Ascione finds Klein to be credible, he found that his admission and statements were self-serving in an attempt to rationalize what he had done/said. *Ibid.*

After reviewing the testimony and the record, ALJ Ascione found that it is “Klein’s blatant lack of judgment which provides the exclusive basis for this tribunal’s determination that the actions are ‘conduct unbecoming a teacher’ and provide more than ‘just cause’ for the Examiners determination to terminate Klein’s certificates.” *Id.* at 7.

In assessing the appropriate penalty, ALJ Ascione acknowledged that Klein had no disciplinary history, but that lack of prior discipline did not impact the determination because his actions clearly demonstrate conduct unacceptable by any teacher. The suggestion that he had drugs available is “an anathema to a prior educator” and is the basis for the revocation of certificates. *Ibid.* ALJ Ascione therefore ordered that Klein’s certificates should be revoked. *Ibid.*

On June 3, 2019, Klein submitted exceptions. Klein argued that the statements made in the video were hyperbole and made for dramatic effect. Respondent acknowledges that the statements were “utterly ridiculous” but that since there was laughter in the background it was clear that Klein’s statements were made for comedic effect. (Exceptions at p. 2). Further, Klein argues that ALJ Ascione failed to consider the circumstances and selected the most severe sanction possible. *Id.* Klein contrasts the facts of this case with another case wherein an ALJ found revocation to be too severe a penalty. *Id.*

In its reply exceptions, the Deputy Attorney General (DAG) assigned to the case argued that Klein presents no basis upon which to reject ALJ Ascione’s initial decision. (Reply Exceptions at p. 2). The DAG argues that ALJ Ascione made a credibility determination, finding that Klein was not credible and that he offered only self-serving statements to rationalize his actions. *Id.* at p. 5, 6. Moreover, Klein’s conduct demonstrated an extreme lapse in judgment in which he failed to think about his words or actions. Such conduct cannot be tolerated from an educator. *Id.* at p. 8.

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of August 1, 2019, the Board reviewed the Initial Decision. After full and fair consideration of the Initial Decision the Board voted to adopt it in its entirety.

“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. There is no doubt that the ALJ is in the best position to render credibility determinations in this matter. Accordingly, the Board will defer to those findings.

As noted above, after assessing the evidence and credibility of the witnesses, ALJ Ascione concluded that Klein unknowingly participated in a videotaped interview at his hotel room wherein he offered controlled substances to others, indicated he knew about drug culture, and promoted the use of controlled substances. Although Klein tries to rationalize and excuse the statements he made, his conduct indicates a serious lapse in judgment and convinced the ALJ that revocation was warranted here. After reviewing the entire record, the Board agrees with the ALJ's assessment regarding both the nature of Klein's conduct and the penalty to be assessed.

Accordingly, on August 1, 2019, the Board voted to adopt the Initial Decision and ordered the revocation of Klein's certificate. On this 19th day of September, 2019, the Board formally adopted its written decision to adopt the Initial Decision and it is therefore ORDERED that Robert Klein's Teacher of Physical Education Certificate of Eligibility With Advanced Standing, Teacher of Physical Education Certificate, and Teacher of Health and Physical Education Certificate is hereby revoked, effective immediately. It is further ordered that Klein return his certificate 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.

Rani Singh, Acting Secretary
State Board of Examiners

Date of Mailing:
via certified and regular mail

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