

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOHN PODESTA : ORDER OF SUSPENSION
_____ : DOCKET NO: 1920-193

At its meeting of July 30, 2020, the State Board of Examiners (Board) reviewed information provided by the Dumont Board of Education (Dumont). Dumont certified tenure charges against Podesta dated February 13, 2020. Pursuant to *N.J.S.A.* 18A:6-16, the Arbitrator assigned by the Department of Education to hear the case, referred to the State Board of Examiners (Board) the tenure matter captioned *In the Matter of the Tenure Hearing Between John Podesta and the Dumont School District*, Dkt. No. 38/2/20 (Arbitrator’s Decision, June 23, 2020). The arbitration decision is incorporated herein by reference.

The Tenure Charges allege that Podesta engaged in inappropriate behavior towards a coworker, J.B. Podesta purchased gifts for J.B., made professions of love for J.B., insisted that J.B. have as little contact as possible with other colleagues, retaliated against J.B. by alleging she was insubordinate and disloyal, and threatened to fire her. The Tenure Charges alleged that Podesta’s conduct was irrational, self-absorbed, and resulted in unfair treatment of J.B.

The Arbitrator, Ruth Moscovitch, sustained all charges, finding that all allegations were proven and constituted grounds for termination of Podesta’s tenure. The Arbitrator found that many of the “most significant facts in this matter are undisputed.” *Arbitration Decision* at p. 40. Podesta used “intemperate and ugly language” about a fellow principal, put pressure on J.B., and chastised her for her work, expressed his personal feelings, used words and song that were wholly unprofessional.

The Arbitrator also found that Podesta demanded J.B. not speak a colleague’s name unless she speaks negatively about him. Podesta told J.B. he did not want her to laugh with the colleague.

The Arbitrator found that the demand was unprofessional and represented pressure that is contrary to her professional obligations, as well as civility and comity. *Id.* at 43.

The Arbitrator found credibility in J.B.'s testimony that Podesta told her he loved her, asked her to have sex with him, and touched her by giving her hugs in the office. Accordingly, Podesta "crossed the physical and social boundaries that must exist between a supervising principal and his subordinate." *Id.* at p. 43.

Further, the Arbitrator found that Podesta threatened J.B.'s job and her tenure. Podesta accused J.B. of disloyalty and insubordination which was inappropriate because she was doing her job. *Id.* at p. 50. Podesta's principal position is a great responsibility and he abused it when he used it to demean and harass J.B. over a period of months. Podesta expressed no recognition that his conduct was inappropriate and showed no remorse or regret. The Arbitrator therefore found that Podesta cannot be expected to change. Podesta's conduct is unacceptable. *Id.* at p. 51. Podesta was dismissed from his tenured employment with Dumont as a result of the charges proven in the tenure proceeding.

Podesta currently holds a Teacher of Music, Supervisor and Principal Certificate, along with a Principal Certificate of Eligibility. Upon review of the above information, at its October 29, 2020 meeting, the Board voted to issue Podesta an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Podesta the Order to Show Cause by regular and certified mail on November 4, 2020. The Order provided that Podesta had 30 days to respond. Podesta filed an Answer on December 2, 2020. In that Answer, Podesta admitted that he was the subject of tenure charges but indicated that the charges and arbitration award speak for itself and/or should not be

characterized. *See* Answer at ¶¶1-9. Podesta also asserted five (5) affirmative defenses, including that Podesta has a more than 40-year unblemished educational career.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on January 26, 2021, the Board sent Podesta a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute. Thus, Podesta 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. It also explained that, upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if his offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Podesta was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Podesta filed a written response on August 2, 2021.

In that response, Podesta argued that he has an unblemished education record. *See* Hearing Submission at p. 9. He further indicated that there is no finding that he used the evaluation process to retaliate against J.B. *Id.* The conduct at issue occurred over a very limited period near the end of his tenure. Finally, staff and students were not affected by the dispute between J.B. and Podesta. *Id.* at p. 9-10.

The hearing was scheduled for the Board's October 28, 2021 meeting. Mr. Podesta appeared with his counsel, John Farinella, Esquire. Mr. Farinella requested that the Board refrain from revocation and asked that the Board consider the language of the Arbitration decision. He pointed to specific paragraphs of the Order to Show Cause and requested that any language not in the arbitration decision, or that is paraphrased, not be considered. He noted that the Arbitration

decision referenced a very narrow period and is not representative of Podesta's long and unblemished educational career.

Podesta appeared and indicated that he has 40 years of honorable service. He always treats others with respect. His school was well run and there were no issues before the tenure charges. He stated that he allowed his passion for his students to cloud his judgment. He regrets his interactions with colleagues, but he is not the person he was portrayed to be. He is a caring and devoted family man. He stated that he wishes he could go back in time; the loss of his educator certificates would be a permanent tragedy.

The threshold issue before the Board in this matter is whether Podesta's conduct constitutes conduct unbecoming a certificate holder or other just cause. At its meeting of December 16, 2021, the Board considered the allegations in the Order to Show Cause, the Answer, as well as Podesta's Hearing Response and testimony. The Board determined that no material facts related to Podesta's offense were in dispute since the Arbitration Award sustained all the charges, finding that the allegations were proven and constituted grounds for termination of Podesta's tenure. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*. After reviewing the allegations, the Board found that Podesta engaged in unbecoming conduct.

The Board must now determine whether Podesta's conduct, as set forth in the Order to Show Cause, provides 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. Moreover, 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 (1943), *aff’d*, 131 *N.J.L.* 326 (E & A 1944). Podesta’s conduct in using “intemperate and ugly language” about a fellow principal, chastising her for her work, expressing his personal feelings about her, crossing physical and social boundaries between a principal and his subordinate, along with other conduct, clearly indicates a serious lapse in judgment.

Nevertheless, given Podesta’s presentation of mitigation, specifically his exemplary and lengthy educator record prior to this incident, his passion for education, and the fact that there is no record of concerns related to his teaching, the Board concludes that the appropriate response to his breach is a one-year suspension of his certificates.

Accordingly, on December 16, 2021, the Board voted to suspend John Podesta’s Teacher of Music, Supervisor, and Principal certificates, and Principal Certificate of Eligibility for a period of one year. On this 21st day of January 2022 the Board voted to adopt its formal written decision and it is therefore ORDERED that Podesta’s certificates are hereby suspended for a period of one year, effective immediately. It is further ORDERED that Podesta 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.

Rani Singh, 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.