

EDU #9650-04  
C # 447-05  
SB # 56-05

IN THE MATTER OF THE TENURE HEARING :

OF CHRISTOPHER MOLOKWU, STATE- : STATE BOARD OF EDUCATION  
OPERATED SCHOOL DISTRICT OF THE : DECISION  
CITY OF PATERSON, PASSAIC COUNTY. :

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Decided by the Acting Commissioner of Education, December 12, 2005

For the Petitioner-Respondent, Schenck, Price, Smith & King, LLP  
(Joanne Butler, Esq., of Counsel)

For the Respondent-Appellant, Oxfeld Cohen, P.C. (Nancy I. Oxfeld, Esq.,  
of Counsel)

The decision of the Acting Commissioner of Education to dismiss the appellant from his tenured position is affirmed for the reasons expressed therein.

In so doing, we fully concur with the Acting Commissioner that, given the nature and gravity of the tenure charges demonstrated in this matter, it is not necessary to address the merits of Charges Two, Three and Four, which allege that the appellant pushed a student out of his classroom and used threatening and abusive language towards his supervisor and another teacher. However, we clarify that a district board is not necessarily barred from including in tenure charges conduct which had occurred prior to the staff member's achievement of tenure. The State Board's decision in Borrelli v. Board of Education of the Borough of Rutherford, 1985 S.L.D. 1848, 1851,

which involved the withholding of a staff member's salary increments, is instructive. In Borrelli, we explained that:

...where conduct not warranting board action to withhold salary increments in a single year continues to be exhibited in subsequent years, such that the cumulative effect of the pattern of conduct has a deleterious impact on the delivery of educational services, the board may at that point decide that withholding future increments is appropriate. In such cases, the board should not be confined to examining the current school year in a vacuum but should be permitted to consider the developing pattern. However, where no such continuing pattern is identified, no justification exists to review behavior in prior years.

Similarly, in determining whether to certify tenure charges to the Commissioner, a district board may consider a pattern of behavior. Indeed, unfitness for a position is best evidenced by a series of incidents. Redcay v. State Board of Education, 128 N.J.L. 281 (Sup. Ct. 1942), affirmed o.b. 131 N.J.L. 326 (E. & A. 1944). Consequently, a district board would not necessarily be precluded from reviewing incidents occurring prior to the staff member's achievement of tenure in order to demonstrate the cumulative effect of a continuing pattern of conduct.

May 3, 2006

Date of mailing \_\_\_\_\_