

EDU #1998-06
C # 370-06
SB # 47-06

IN THE MATTER OF THE TENURE HEARING :

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

Decided by the Commissioner of Education, October 26, 2006

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

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

On January 19, 2006, the State-operated School District of the City of Paterson (hereinafter "State-operated District") certified 15 tenure charges alleging unbecoming conduct and insubordination against Ardeena Long (hereinafter "Respondent"), a tenured teacher assigned to the Great Falls Academy, an alternative high school, who had begun her employment in the Paterson school district in 1980. The charges included theft of district property, conducting personal business during instructional time, improperly entering into a supervisor's personal portfolio and taking personal material, possession of stolen items, and dishonesty.

On September 15, 2006, an administrative law judge ("ALJ") concluded that the State-operated District had demonstrated eight of the charges, in whole or part, by a preponderance of the credible evidence: Charge 4 (dishonesty by the Respondent in

denying that she had gone into her supervisor's file cabinet and taken correspondence from her personnel folder for copying), Charge 6 (taking the supervisor's staff sign-out book from his office), a portion of Charge 7 (using a copy machine in the school to make personal photocopies and then attempting to cover the infraction by integrating the document she was copying into the lesson she was teaching), Charge 8 (using a school computer to conduct private business during instructional time), and Charges 9, 10, 11 and 12 (improperly entering her immediate supervisor's personal portfolio and taking her pre-observation form and personal notes, and dishonesty in denying that she had done so).

Taking into consideration the nature of the sustained charges and the fact that the Respondent had been receiving positive evaluations, the ALJ concluded that the charges did not rise to a level sufficient to revoke the respondent's tenure. She concluded that the appropriate penalty was a six-month suspension without pay, and a withholding of the Respondent's salary increments for the 2004-05 and 2005-06 school years, along with a withholding of her increments for an additional two years.

On October 26, 2006, the Commissioner adopted in part and rejected in part the ALJ's recommendation. The Commissioner agreed with the ALJ regarding the charges proven by the State-operated District, but she disagreed with the ALJ's recommended penalty, concluding that the sustained charges "necessitated" the Respondent's dismissal from her tenured position. The Commissioner reasoned that the Respondent's behavior was:

directly contrary and inimical to the expectations placed on teaching staff members, most particularly an educator in an alternative school which serves an already troubled student population.

Although duly considering all of the factors which ordinarily could serve to militate against respondent's dismissal – specifically, that the events giving rise to the charges against respondent occurred over a short period of time, i.e., September 8, 2004 through October 6, 2004; that prior to this time respondent had positive evaluations and a discipline-free work record for over 20 years; and that respondent's transgressions were committed in an environment marked by an escalating acrimonious relationship with the school principal, Mr. Moody, who also on this record can be found to have conducted himself at times in a less than exemplary fashion – the Commissioner determines that these factors are greatly outweighed by the seriousness of her conduct in this matter.

Commissioner's Decision, slip op. at 5.

Accordingly, the Commissioner directed that the Respondent be dismissed from her tenured employment.

The Respondent filed the instant appeal to the State Board, challenging the tenure charges which were sustained by the Commissioner and arguing that dismissal was "excessive in light of Respondent's history with the school system and the extremely short period of time in which the alleged events occurred when compared with Respondent's twenty four years of employment with the School District." Appeal Brief, at 2.

After a thorough review of the record, including the exceptions to the Legal Committee Report filed by the School District of the City of Paterson, we affirm the Commissioner's findings with regard to the specific charges proven by the State-operated District, but modify the penalty imposed by the Commissioner. Taking into consideration all of the circumstances, In re Tenure Hearing of Fulcomer, 93 N.J. Super. 404 (App. Div. 1967), including the nature and gravity of the sustained charges and the

respondent's lengthy period of employment in the Paterson school system, we conclude that dismissal of the Respondent from her tenured employment is an unduly harsh penalty to be imposed under the circumstances. Rather, we conclude that the penalty recommended by the ALJ is appropriate. Accordingly, we affirm the Commissioner's conclusion with regard to the tenure charges which have been demonstrated by the State-operated District, but adopt the penalty as set forth by the ALJ.

Kathleen Dietz opposed.

Josephine Hernandez abstained.

April 16, 2008

Date of mailing _____