

STATE OF NEW JERSEY
COMMISSIONER OF EDUCATION

In the Matter of the Tenure Hearing of

RUTHERFORD BOARD OF EDUCATION

and

STAVROS SISKAS, RESPONDENT

Agency Docket Number 130-8/21

AWARD OF ARBITRATOR

The undersigned Arbitrator, having been duly designated by the Commissioner of Education from the Panel of Arbitrators in accordance with the TeachNJ statute, and having been duly sworn, and having duly heard the proofs and allegations of the parties, AWARDS as follows:

Based on the evidence submitted, Rutherford Board of Education properly revoked the tenure and terminated the employment of Respondent Stavros Siskas. Respondent's grievance is hereby denied.

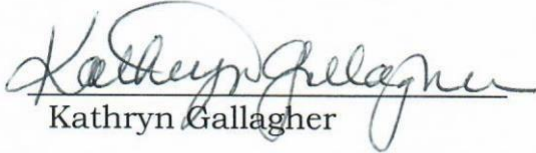
February 25, 2022



Daniel F. Brent, Arbitrator

State of New Jersey
County of Mercer

On this day 25th day of February 2022 before me personally came and appeared Daniel F. Brent, to me known and known to me to be the individual described in the foregoing instrument, and he acknowledged to me that he executed the same.


Kathryn Gallagher



STATE OF NEW JERSEY
COMMISSIONER OF EDUCATION

In the Matter of the Tenure Hearing of

RUTHERFORD BOARD OF EDUCATION

and

STAVROS SISKAS, RESPONDENT

Agency Docket Number 130-8/21

The undersigned was appointed by the Commissioner of Education as Arbitrator in the matter of the tenure proceedings brought by the Rutherford Board of Education against Stavros Siskas. Hearings in the above-entitled matter were held at Rutherford Borough Hall in Rutherford, NJ on November 29, 2021, December 3, 2021 and December 10, 2021 before Daniel F. Brent, duly designated as Arbitrator. Both parties attended these hearings, were represented by counsel, and were afforded full and equal opportunity to offer testimony under oath, to cross-examine witnesses, and to present evidence and arguments. A verbatim transcript was made of the proceeding. Both parties submitted post-hearing briefs, and the record was declared closed on January 31, 2022.

APPEARANCES

For the Board of Education

Rodney P. Hara, Esq. of Fogarty and Hara, Esqs.

Ashley L. Roessler, Esq., of Fogarty and Hara, Esqs. on the brief.

Jack Hurley, Superintendent of Schools

Joseph Kelly, Business Administrator and Board Secretary

Barbara O'Donnell, Supervisor of Computer Technology and Business
Education

For the Respondent:

Ben Weathers, Esq., of Caruso, Smith and Picini, Esqs.

Stavros Siskas, Respondent

ISSUE SUBMITTED

What shall be the disposition of the tenure charges brought by the
Rutherford Board of Education against Stavros Siskas?

NATURE OF THE CASE

Respondent Stavros Siskas was employed by the Rutherford Board of Education (hereafter, the Board or the District) since 2007, and acquired tenure in 2010. After serving as a Special Education Teacher at Union School from 2007 to 2014 and a Guidance Counselor at Union School from 2014 to 2016, the Grievant served as a Guidance Counselor at Pierrepont Upper Elementary School, from 2016 to the present. His transfer from the Union School to the Pierrepont School was part of a District-wide reorganization effectuated at the beginning of the 2016-17 school year.

On April 9, 2021, the Respondent was arrested [REDACTED]

[REDACTED]

[REDACTED] The police officers stopped Respondent because he failed to signal before making a turn and thereafter failed to stop for a pedestrian walking in a crosswalk. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] During a search of his vehicle, the Grievant responded to police inquiries by stating that he had come from the Stellito Funeral Home, where his mother's recent funeral service had been held.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Respondent was arrested and transported to Lyndhurst Police headquarters where he was served a complaint summons and officially charged [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] He did not immediately report his arrest to the District. Rather, based on his professed reliance on statements by the arresting officers that the matter would be resolved expeditiously without criminal charges, Respondent waited to report his arrest, but did so within the fourteen-day interval required by applicable New Jersey statute.

On April 12, 2021, the Board suspended Respondent with pay and commenced its investigation of circumstances leading to his arrest. On August 3, 2021, Superintendent of Schools Jack Hurley filed tenure charges with Board Secretary Joseph Kelly. These charges were served on Respondent on August 4, 2021. Respondent filed a written response to the tenure charges on August 19, 2021. On August 23, 2021, the Rutherford Board of Education voted to certify the tenure charges to the Commissioner of Education and to suspend Respondent without pay pending a hearing on the merits. On August 25, 2021, the District served the Board's decision together with the tenure charges on Respondent and his attorney. On August 31, 2021, the Board certified the following Tenure Charges:

CHARGE NO. 1

Stavros Siskas, a tenured teaching staff member employed by the Rutherford Board of Education, exhibited unbecoming conduct when he was arrested on April 9, 2021, [REDACTED] and subsequently fabricated the circumstances of his arrest to the administration, and, as a result, should be dismissed from his position.

CHARGE NO. 2

Stavros Siskas, a tenured teaching staff member employed by the Rutherford Board of Education, exhibited unbecoming conduct when, through his actions [REDACTED] leading to

his arrest for a third degree crime and fabricating the circumstances of his arrest to the administration, he violated Board policies, State regulations and national standards applicable to his position, and, as a result, should be dismissed from his position.

CHARGE NO. 3

Stavros Siskas, a tenured teaching staff member employed by the Rutherford Board of Education, exhibited unbecoming conduct when he set a firmware password on a district-issued laptop without the consent of the administration, thereby restricting the administration from being able to access the laptop and resulting in the elimination of the hard drive, in violation of the Board's acceptable use policy, and when he outright denied setting the firmware password despite conclusive evidence to the contrary, and, as a result, should be dismissed from his position.

CHARGE NO. 4

Stavros Siskas, a tenured teaching staff member employed by the Rutherford Board of Education, exhibited unbecoming conduct when, through his actions of setting a firmware password on a district-issued laptop, thereby restricting the administration's access and resulting in the elimination of the hard drive, and outright denying his doing so despite conclusive evidence to the contrary, he violated board policies, state regulations and national standards applicable to his position, and, as a result, should be dismissed from his position.

CHARGE NO. 5

Stavros Siskas, a tenured teaching staff member employed by the Rutherford Board of Education, exhibited unbecoming conduct when, throughout the 2014-15, 2015-16, 2018-19 and 2019-20 school years, he repeatedly violated board policies and regulations, procedures and chain of command, resulting in his being placed on two performance improvement plans and having his salary increments withheld, and when he continued violating Board policies and regulations during the 2020-21 school year despite such remedial measures, and, as a result of his pattern of misconduct, should be dismissed from his position. The charges were referred to the Commissioner of Education.

By letter dated September 16, 2021, counsel for the Board of Education and for Respondent were advised that the tenure charges “had been reviewed and deemed sufficient, if true, to warrant dismissal or reduction of salary, subject to determination by the arbitrator of the Respondent’s defenses and any motions which may be filed with the arbitrator. The arbitrator shall review the charges which are not dismissed as the result of a motion under the preponderance of the evidence standard. Accordingly, the charges are now referred to Arbitrator Daniel Brent, pursuant to N.J. S. A. 18A: 6-16.”

At the arbitration hearings, the District offered testimony by Detective Christopher Cuneo of the Lyndhurst Police Department, Detective William Kapp of the Lyndhurst Police Department; Detective

Lieutenant Vincent Auteri of the Lyndhurst Police Department; Joseph Kelly, Rutherford Board Secretary; Barbara O'Donnell, Supervisor of Computer Technology and Business Education; Christopher Richmond, Network System Administrator for the Rutherford Board of Education; Michael Kivowitz, Network Systems Administrator; Curt Schweitzer, Principal of Union School; Joan Carrion, Principal of Pierrepont School; and Jack Hurley, Superintendent of Schools. Respondent testified in support of his position and called as a witness Nicole Ealey, a teacher of math and architecture at the Union School.

The Board offered into evidence Exhibits P1 through P16, P20 through P25 and P27 through P72. Respondent offered Exhibits R-6A, R-8A, R-11A and R-13A. Counsel for Respondent Siskas requested, and the Board consented to, an extension of the deadline for the filing of post-hearing briefs from January 19, 2022 to January 31, 2022.

DISCUSSION AND ANALYSIS

Respondent is employed by the Rutherford Board of Education in a position of trust as an educator and a guidance counselor. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] No school district can reasonably be expected to maintain in its employ a teaching or guidance professional with direct contact with children who has engaged in such egregious and illegal conduct.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The District has proven beyond the applicable standard of preponderance of the evidence that the Respondent engaged in activity that violated New Jersey law, applicable professional ethical standards, and the essential bond of trust with his employer.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] District has demonstrated by more than a preponderance of

the evidence that Respondent Stavros Siskas is culpable for Charge 1 and Charge 2, for having violated applicable national professional standards and Rutherford Board of Education policies regarding his position as a Guidance Counselor. That Respondent may have had an inaccurate understanding or a misconception regarding the import of his not having been convicted of a third degree crime is immaterial. He compounded his poor judgment by repeatedly lying to District officials about the circumstances of his arrest, [REDACTED] and about his role in installing computer software that more probably than not disabled a Board laptop in his possession.

The District alleged in Charges 3 and 4 that the Respondent intentionally disabled the District issued laptop computer by setting a “firmware” password shortly after he was notified of his suspension pursuant to the tenure charges. As a result of this action, the District contended that Respondent restricted District administration from “from being able to access the laptop and resulting in the elimination of the hard drive -- in violation of the Board’s acceptable use policy.” The Board further contended that the Respondent lied to the Board about his actions notwithstanding “conclusive evidence to the contrary” and thus should be dismissed from his position for conduct unbecoming that includes repeated manifest dishonesty that rendered Respondent unfit to resume his duties.

Credible testimony during the arbitration hearings by a District Administrator and other computer technology personnel established persuasively by more than a preponderance of the evidence that a firmware password had disabled the laptop computer provided to Respondent for his professional use and that Respondent had opportunity and motive to install such a password after he was advised of the tenure charges and before he returned the laptop to appropriate Board officials. Notwithstanding the Respondent's testimony denying this accusation, no other logical or reasonable conclusion regarding the installation of software known as "Firmware" other than through the Respondent's actions has been demonstrated by credible evidence. The Board has met its burden in this regard.

Credible testimony also established that the immobilization, destruction, or inaccessibility of data stored on the hard drive of the Board issued laptop was caused, at least in part, by the Board IT experts while attempting to secure access to the hard drive. However, the record did not establish unequivocally that either the manufacturer or the vendor misled the Board's computer technicians in the sequence of programming they employed to try to overcome the restrictions imposed by the software password. Moreover, the evidentiary record is speculative regarding what Respondent may have placed on the hard drive, if anything, beyond the installation of the firmware that would have been

inconsistent with his obligation to the Board and a violation of Board policy.

If the laptop related charges were the sole basis for tenure charges brought against Respondent, a penalty short of dismissal might reasonably be contemplated. However, given the Respondent's uncontroverted culpability for serious conduct unbecoming a teacher or guidance counselor [REDACTED]

[REDACTED] the penalty of dismissal is justified for these elements of Respondent's misconduct as specified in Charges 1 and 2.

Charge 5 alleges a series of violations of "Board policies and regulations, procedures in chain of command, resulting in his being placed on two performance improvement plans and having his salary increments withheld." According to the Board, Respondent's continued violation of Board policies and regulations during the 2020-21 school year, despite multiple remedial measures, constituted a pattern of misconduct justifying dismissal from his position. Testimony from various District officials, including school principals and administrators, chronicled multiple instances in which the Respondent's sense of entitlement and his lack of appreciation for the boundaries of his authorities as a Guidance Counselor resulted in multiple violations of Board policy.

These actions included ripping out cabinetry in his office and ordering replacement furnishings without authorization, opening an Amazon account using his school's name without permission of the District, setting up a limited liability corporation in the name of a District school purportedly to handle the finances of a holiday party, violating a written admonition not to reveal prematurely the admissions decisions affecting his students by a Bergen County technical school, installing unauthorized monitoring systems in his guidance office, and purchasing and using a private email blast system to circumvent the District's technology for communicating with groups of students and parents. In addition, he permitted his students to spend a school day outdoors in response to being assigned to cover for an absent teacher when he had been previously scheduled to accompany students on a field day to the beach.

Respondent was twice placed on Personal Improvement Plans, had annual increments withheld, and was otherwise unequivocally placed on notice by the Board that his conduct and persistent flouting of the Board's policies, procedures, and reasonable expectations regarding his professional demeanor would jeopardize his employment. Having spent down his account of accumulated good will by irresponsible conduct over a period of years, Respondent depleted any equitable argument for

leniency regarding the revocation of his tenure and termination of his employment.

At best, the Respondent was a troubled, troubling, and difficult employee for District administrators. His inflated sense of what he should be able to do without seeking authorization from his supervisors repeatedly created conflict with District officials. The evidentiary record accurately and persuasively portrayed ongoing efforts by administrators on multiple occasions to communicate clearly and unambiguously to Respondent that his mode of conduct and his actions were inconsistent with the Board's reasonable expectations as his employer. Respondent failed properly to respond to the imposition of progressively severe discipline through these warnings, PIPs, and increment withholdings. Consequently, the District has demonstrated Respondent's culpability for the conduct described above as encompassed by Charge 5 by at least a preponderance of the evidence.

The Board's persuasive proofs, in combination with Respondent's testimony admitting most if not all of the substance of these complaints without any rationale or justification for his actions, constituted an aggravating factor that precludes any finding that the Board acted arbitrarily or capriciously in determining that the Respondent's conduct for the time frame encompassed by the instant tenure charges created just cause to terminate his employment.

The Board demonstrated persuasively that the penalty of dismissal is neither arbitrary nor capricious given Respondent's admitted and proven misconduct. Although Respondent may now regret the poor choices he made, the Respondent has unable to offer any credible or persuasive defense to his egregious misconduct. The Arbitrator has thoroughly considered all of the allegations, proofs, and testimony offered by the parties, including those that have not been discussed at length herein. After carefully considering the evidence and arguments contained in the evidentiary record, I find that the Board satisfied the standards governing the rights of tenured teachers established by the applicable New Jersey statutes, and further find that Respondent's gross misconduct fully justified revocation of his tenure and his dismissal from employment for conduct unbecoming a teacher and for other good cause shown.

Based on the evidence submitted, I find that the Rutherford Board of Education properly revoked the tenure and terminated the employment of Respondent Stavros Siskas. Respondent's grievance is hereby denied.

February 25, 2022

Daniel F. Brent, Arbitrator

