STATE OF NEW JERSEY
COMMISSIONER OF EDUCATION

In the Matter of the Tenure Hearing Between

DAVID BARON

and

CLIFTON BOARD OF EDUCATION, PASSAIC COUNTY, NEW JERSEY

Agency Docket No. 324-11/22

Hearings were held in the above-entitled matter at the Clifton School Board Administrative Office in Clifton, New Jersey on March 30, April 26, May 15, and June 19, 2023 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 proceedings. Both parties submitted post-hearing briefs, and the record was declared closed on August 29, 2023.

APPEARANCES

For the Employer:

Derlys M. Gutierrez, Esq., of Adams, Gutierrez & Lattiboudere, LLC

Adam S. Herman, Esq., of Adams, Gutierrez & Lattiboudere, LLC

Geovanny Mora, Esq., of Adams, Gutierrez & Lattiboudere, LLC

Dr. Danny A. Robertozzi, Superintendent of Schools

Mark Gengaro, Assistant Superintendent of Schools

Michael Ucci, School Business Administrator

For the Union:

Keith Waldman, Esq., of Selikoff & Cohen, Esqs.

Hop T. Wechsler, Esq., of Selikoff & Cohen, Esqs.

Melanie Lemme, NJEA UniServe Representative

David Baron, Respondent

ISSUE SUBMITTED

Did the Respondent David Baron engage in conduct unbecoming or does the Board have other just cause to take disciplinary action? If so, does the conduct warrant termination of his employment or a lesser penalty?

NATURE OF THE CASE

Respondent David Baron (hereafter, the Respondent) has been employed by the Clifton School Board (hereafter, the Board, the District, or the Employer) since 2007 and as the Head Custodian at the Christopher Columbus Middle School since 2010. On or about October 4, 2022, Respondent was served with Tenure Charges following an investigation by the School Board in response to allegations that he had committed a series of policy infractions, including a pattern of repeatedly using racist language to and about a Custodian under his supervision and including an incident during which he locked this Custodian in a chain link supply cage for a short interval that was recorded on surveillance video and then told the Custodian he did so because the Custodian was Black and deserved to be in a cage.

After the Custodian, Complainant Donovan Rose, described the pattern of harassment by Respondent to his Principal at Christopher Columbus Middle School, managers from the Board's Building and Grounds Department conducted structured individual interviews with the Christopher Columbus Middle School custodian staff and collected anecdotal evidence supporting Mr. Rose's complaint. Respondent Baron was not interviewed before Tenure Charges were filed.

After receiving the Tenure Charges, Respondent Baron denied having made any remarks disparaging and demeaning Mr. Rose as attributed to him by the Complainant and other Custodians. Respondent characterized placing a stick in the lock hasp of the supply cage door to prevent Complainant from exiting the cage as horseplay that was common in this workplace. Mr. Baron also denied stating to Mr. Rose that he locked Mr. Rose in the cage because Mr. Rose was Black and deserved to be in a cage or uttering the litany of derogatory comments described by Complainant Rose and his fellow Custodians, including words such as "ni----", "Darkness", "Shadow", "the Black one", and "monkey."

The Clifton School Board submitted and certified Tenure Charges to the New Jersey Department of Education, and the undersigned was appointed as Arbitrator by the Commissioner of Education on December 7, 2022.

RELEVANT STATUTORY PROVISIONS

N.J.S.A. 18A:17-3: Every public school janitor of a school district shall, unless he is appointed for a fixed term, hold his office, position or employment under tenure during good behavior and efficiency and shall not be dismissed or suspended or reduced in compensation, except as the result of the reduction of the number of janitors in the district made in accordance with the provisions of this title or except for neglect, misbehavior or other offense and only in the manner prescribed by subarticle B of Article 2 of Chapter 6 of this title

TENURE CHARGES

TENURE CHARGE COUNT ONE: CONDUCT UNBECOMING

Mr. Baron is guilty of conduct unbecoming a public- school employee by way of the following:

1. At all times relevant, Mr. Baron has been employed by the District as a tenured custodian.
2. At all times relevant, Mr. Baron has been assigned to CCMS as Head Custodian.
3. At all times relevant, Mr. Baron has been responsible for directing CCMS custodial staff engaged in cleaning, repairing and maintaining areas such as the school grounds, facilities, and equipment.
4. At all times relevant, Mr. Baron has been responsible for providing leadership and direction to CCMS custodial staff.
5. At all times relevant, Donovan Rose (hereinafter referred to as “Mr. Rose”) has been employed by the District as a tenured custodian and assigned to CCMS under the direction of Mr. Baron, who serves as the Head Custodian.
6. At all times relevant, as a custodian, Mr. Rose reports directly to Mr. Baron even though he is not evaluated by Mr. Baron
7. Mr. Rose is a black male who was born in Jamaica.
8. During his employment with the District, Mr. Baron has engaged in a pattern of inappropriate, unprofessional, and offensive conduct with custodians.

9. On or about March 21, 2022, Mr. Baron locked Mr. Rose inside the supplies enclosure.
10. The supplies enclosure is made from chain link fencing which gives it the appearance of a cage. Custodians, among other staff in the District, call or describe the supplies enclosure as "the cage."
11. Mr. Baron used a stick or pole to lock Mr. Rose inside "the cage" after Mr. Rise entered it to retrieve supplies.
12. As a result of Mr. Baron's actions, Mr. Rose was unable to exit "the cage" for a period of time or remove the stick or pole used to lock the cage.
13. Mr. Baron was observed locking Mr. Rose in the supplies closet by various custodians.
14. Mr. Rose asked Mr. Baron why he was being locked in "the cage" to which Mr. Baron responded, "because you're black and you belong in a cage."
    15.Mr. Baron's conduct was unwelcomed, unwarranted, and inappropriate.
15. Mr. Baron failed to follow the standards of acceptable behavior expected from any employee of the District.
16. Mr. Baron engaged in harassing behavior.
17. Mr. Baron engaged in discriminatory behavior.
18. Mr. Baron's actions are sufficiently egregious to warrant termination.
19. Mr. Baron's actions demonstrate that he is not fit to serve as Head Custodian responsible for directing the work of CCMS' custodial staff.
20. Mr. Baron's actions are the type which the Commissioner of Education or an arbitrator would find to be inappropriate in determining that Mr. Baron is not fit to discharge the duties and functions of his custodian position. Mr. Baron's willful misconduct as described above constitutes Conduct Unbecoming a staff member sufficient to warrant dismissal from employment and/or reduction in compensation.

<u>TENURE CHARGE COUNT TWO: CONDUCT UNBECOMING</u>

1. The District repeats and reiterates the allegations as set forth above.

2. On numerous occasions when Mr. Rose complained to Mr. Baron that he did not like the manner in which Mr. Baron spoke to him or that he singled him out because of his race.

3. On numerous occasions, Mr. Baron mocked Mr. Rose and said words to the effect of "Who are they going to believe? You or me?"

4. On numerous occasions, Mr. Baron sought to intimidate Mr. Rose by indicating or threatening he would not recommend Mr. Rose for a promotion.

5. Mr. Rose felt demeaned, hurt, and saddened by the comments that Mr. Baron directed to his attention.

6. Mr. Baron's conduct was unwelcomed, inappropriate, unprofessional, and offensive.

7. Mr. Baron's actions are sufficiently flagrant and egregious to warrant termination.

8. Mr. Baron's actions demonstrate that he is not fit to serve as Head Custodian responsible for the supervision of CCMS' custodial staff or as a custodian in the District.

9. Mr. Baron's actions are the type which the Commissioner of Education or an Arbitrator would find to be inappropriate in determining that Mr. Baron is not fit to discharge the duties and functions of his custodian position.

Mr. Baron's willful misconduct as described above constitutes Conduct Unbecoming a staff member sufficient to warrant dismissal from employment and/or reduction in compensation.

TENURE CHARGE COUNT THREE: CONDUCT UNBECOMING

1. The District repeats and reiterates the allegations as set forth above.
2. Nearly on a daily basis, Mr. Baron referred to Mr. Rose as "darkness."
3. One custodian reported to the Superintendent that, on several occasions, when Mr. Baron saw Mr. Rose come into work, he described or referred to Mr. Rose as "my little nigger" or "here comes my monkey."
4. Since at least 2018, on numerous occasions, Mr. Baron commented to Mr. Rose "[custodian] does not like you because you are black."

5. On numerous occasions, Mr. Baron described or referred to Mr. Rose as "my shadow."
6. On at least occasion, Mr. Baron said to Mr. Rose, "Why are you doing this overtime, so you can get a street in Jamaica under your name?"
7. On another occasion, Mr. Baron said to Mr. Rose that he should take discarded furniture and computers back to Jamaica because they had no supplies in the schools
8. On numerous occasions, Mr. Baron said to Mr. Rose that he was working overtime so he could build a mansion in Jamaica.
9. Mr. Baron's conduct was unwelcomed, inappropriate, unprofessional, and offensive.
10. Mr. Baron's actions are sufficiently flagrant and egregious to warrant termination.
11. Mr. Baron' actions demonstrate that he is not fit to serve as Head Custodian responsible for the supervision of CCMS' custodial staff or as a custodian in the District.
12. Mr. Baron's actions are the type which the Commissioner of Education or an arbitrator would find to be inappropriate in determining that Mr. Baron is not fit to discharge the duties of his custodian position.

Mr. Baron's willful misconduct as described above constitutes Conduct Unbecoming a staff member sufficient to warrant dismissal from employment and/or reduction in compensation.

TENURE CHARGE COUNT FOUR: CONDUCT UNBECOMING

1. The District repeats and reiterates the allegations as set forth above.
2. At all times relevant, the District has maintained Policy 4351 entitled Healthy Workplace Environment.
3. Mr. Baron's conduct violated District Policy 4351.
4. Mr. Baron's conduct was unwelcomed, inappropriate, unprofessional, and offensive.
5. Mr. Baron's actions are sufficiently flagrant and egregious to warrant termination.

6. Mr. Baron's actions demonstrate that he is not fit to serve as Head Custodian responsible for the supervision of CCMS' custodial staff or as a custodian in the District.

7. Mr. Baron's actions are the type which the Commissioner of Education or an arbitrator would find to be inappropriate in determining that Mr. Baron is not fit to discharge the duties of his custodian position.

Mr. Baron's willful misconduct as described above constitutes Conduct Unbecoming a staff member sufficient to warrant dismissal from employment and/or reduction in compensation.

TENURE CHARGE COUNT FIVE: JUST CAUSE

1. The District repeats and reiterates the allegations in all the charges as set forth above.
2. All the foregoing Charges, Counts and the facts alleged in the statement of charges above are incorporated by reference as if fully set forth herein. The acts of misconduct described above, jointly and severally, demonstrate a series of ongoing infractions over an extended period of time, constituting a pattern of conduct unbecoming and/or just cause warranting Mr. Baron's dismissal and or/reduction in compensation.

Mr. Baron's willful misconduct as described above constitutes Just Cause and Conduct Unbecoming a staff member sufficient to warrant dismissal from employment and/or reduction in compensation.

The charges stated herein are based upon my personal knowledge, information and belief derived from personnel and other files and records maintained by the District, and information imparted to me by and from staff members.

DISCUSSION AND ANALYSIS

The Clifton School Board terminated Head Custodian David Baron for conduct unbecoming a Clifton School Board employee following an investigation precipitated by a complaint filed by Donovan Rose, a

Custodian under his supervision at the Christopher Columbus Middle School. Mr. Rose initially complained to management following a verbal altercation between Complainant and Respondent on July 20, 2022 involving Mr. Rose's coming to the school to attend to a weekend fire alarm on July 19, 2022. Complainant Rose felt he had been treated unfairly by Mr. Baron after coming in off-duty, and complained to his Christopher Columbus Middle School Building Principal, perhaps as Mr. Baron alleged, to avert being disciplined for cursing at his supervisor during their argument.

While describing the verbal altercation, Complainant also told his Principal of a series of racially charged prior incidents involving statements he alleged Respondent had made, including referring to him as "the Black one" and demeaning him for being Black. The Building Principal referred Complainant to the Head of the Department of Building and Grounds for further investigation. In his interview with Building and Grounds Department management, Complainant Rose reiterated his recitation of multiple instances of racist and derogatory statements by Respondent.

The racist and demeaning language described by the Complainant in his initial interview with his Building Principal and reiterated to the Head of the Department of Building and Grounds and other District leaders precipitated an investigation by the Board during which

Complainant's allegations were corroborated and amplified during interviews with other Custodians. These Custodians were called by the Employer to testify during the arbitration hearings. With the exception of one witness, who contradicted himself, the witnesses testified credibly. (The testimony of one Custodian, Mr. Co…, was inconsistent between direct and cross-examination and thus inherently unreliable. His testimony has been discounted entirely.)

Respondent contended that the witnesses called by the Employer falsified their testimony either out of animus toward Respondent or for the purpose of achieving some professional advantage if Respondent were removed. No persuasive proofs have been submitted by Respondent that diminish or invalidate testimony offered by his Custodian colleagues describing Respondent's unprofessional, abusive conduct toward Complainant over an extended interval. No reason was demonstrated for these multiple witnesses to lie. In addition, Complainant Rose was working at a different District school when the arbitration hearings began.

The testimony adduced during the arbitration hearings was supplemented by a surveillance video recording the March 21, 2022 incident when Respondent locked Complainant in a chain link supply room cage for thirty-three seconds by inserting a wooden rod into the metal hasp on the cage door to prevent opening the door from the inside.

The evidentiary record describing Respondent's conduct on multiple occasions mandates a finding that Respondent's conduct violated School Board policy, applicable law, and generally acceptable principles of conduct in the workplace, particularly for a public employee.

The investigation conducted by the managers of the Building and Grounds Department that preceded the submission of the Tenure Charges by the Board was less than ideal compared to more thorough investigations conducted by trained Human Resources investigators, particularly the failure to interview Respondent Baron before the charges were filed. Nevertheless, the Board reasonably relied on the substance of these allegations to propound the Tenure Charges that precipitated Respondent's appeal, as did the subsequent decision of the Commissioner of Education to approve this arbitration proceeding under the TeachNJ statute. The Employer's failure to interview Respondent before filing charges was a procedural defect cited in his defense. However, this omission did not automatically invalidate the Tenure Charges, as Respondent was afforded a full opportunity to refute the allegations after he was placed on notice of the substance of the charges and again during his testimony at the de novo arbitration hearings.

Although Respondent vigorously disputed the adverse testimony offered at the arbitration hearings, the clear thrust of the credible testimony supported the descriptions of Respondent's racist remarks regarding Complainant made either to his face or about him to his co-workers on school property during work hours. As a supervisor, Respondent Baron was obligated to comply with Board policies and applicable statutes prohibiting discrimination and harassment in the workplace and not to abuse his authority as Head Custodian by belittling and humiliating a subordinate co-worker.

Respondent's testimony that the conduct unbecoming alleged by the Employer did not occur or merely consisted of horseplay or common pranks among custodians who were friends at work and outside of work did not ring true. Even if Respondent believed his pattern of conduct was simply horseplay about which no one complained to him, the defenses alleging horseplay or reciprocal behavior do not excuse the egregious prohibited conduct in which he repeatedly engaged. This was not a unique slip of the tongue or an instantly regretted angry retort. The testimony portrayed a chronic pattern of racist comments to and about the only Black custodian under Respondent's supervision.

In order to accept Respondent's testimony that the disputed behavior was good natured and inoffensive or did not actually occur, the Arbitrator would have to conclude that multiple Custodians engaged in a

concerted effort to fabricate from whole cloth the gross misconduct upon which the decision to terminate Respondent's employment was predicated. The evidentiary record did not support a finding of collusion among witnesses or demonstrate that multiple witnesses independently fabricated their testimony for such improbable reasons as personal animus toward Respondent, seeking professional advantage, or avoiding discipline.

Respondent's Counsel asserted that the four-month delay between Respondent's alleged misconduct locking Complainant Rose in the supply cage on March 21, 2022 and Complainant's July 20, 2022 reports to his Building Principal and to the Director of Building and Grounds substantially diminished the credibility of Complainant's claim, especially given multiple occasions at which Complainant and Respondent interacted collegially on school property and at an outside social event. Complainant's delay in reporting Respondent's misconduct did not necessarily diminish the reliability of Complainant's accusations, as he may have been afraid to confront Respondent, who not only was his direct supervisor when these events occurred, but also served as President of the Clifton Custodians Association.

Victims of hostile work environments are often reluctant to confront the person responsible, especially if the harasser is their supervisor or otherwise wields power over their work situation.

Complainant's fear of retribution at his job may have exacerbated his reluctance to report the chronic abuse he apparently endured. Moreover, the proof of Complainant's allegations does not rely solely on his accusations, as many incidents of Respondent's alleged misconduct were also described in sworn credible testimony by other Custodians. Consequently, no adverse inference regarding the veracity of Complainant's allegations is justified based on his delay in reporting the multiple incidents that precipitated the Tenure Charges.

Complainant's testimony did not describe in detail many of the racist or demeaning comments described by the Employer's other witnesses, as these comments were often made outside his presence. Nevertheless, the testimony by other witnesses, combined with Complainant's credible testimony regarding repeated utterances of racist comments by Respondent, constituted proof by a preponderance of the evidence, the statutory standard in tenure revocation cases, mandating a finding that the Employer reasonably interpreted Respondent's actions as conduct unbecoming a Head Custodian that justified imposing substantial discipline, up to and including termination of employment and loss of tenure.

The evidentiary record includes video footage of Respondent placing a stick into the hasp of the door to a supply storage area constructed of chain link fencing known as "the cage". This action on March 21, 2022 placed Complainant Rose in a helpless situation for

thirty-three seconds during which he could not exit the cage until Respondent removed the wooden rod. Complainant Rose credibly averred that when he asked Respondent why he had locked him in the "cage", Respondent replied that he did so because Mr. Rose is Black and deserved to be in a cage. There is no persuasive basis to discount this testimony as fabricated or exaggerated; it has the ring of truth and Complainant has been consistent in his description of this incident.

Respondent asserted that video recording depicting Mr. Rose working in the close proximity to him immediately after coming out of the cage supported Respondent's claim that he did not utter these words and that, even if he did, Mr. Rose's outwardly calm demeanor demonstrated that he knew Respondent was just teasing him. Although the video submitted in evidence did not have sound and Respondent is facing away from the camera, his body motions clearly depict him speaking to Complainant through the cage door. In addition, testimony of witnesses who were in the room at the time of this event verified statements the Complainant attributed to the Respondent during this incident.

Although the interval in the cage was relatively short, the emotional impact of locking him in, compounded by the Respondent's racist comment credibly established by the testimony of Mr. Rose and other Custodians, supported the Employer's determination that Respondent was not fit to perform the duties of a Head Custodian for the

Clifton School Board or to supervise subordinate employees. Such statements, and many others credibly described by employees under oath, were completely inappropriate with a supervisor's fulfilling a leadership role in the District.

The testimony of exculpatory witnesses called by Respondent must be discounted because they testified only that they had never heard improper statements by Respondent to or about Complainant. These witnesses were not present for the cage incident, nor did they refute the credible testimony of the other Custodians. Complainant Rose's initial and subsequent statements to Board officials created a sufficient record of misconduct for the Board reasonably to conclude that his emotional response to having been barricaded in the cage for whatever length of time was exacerbated by racist comments directly to him, specifically that he deserved to be kept in a cage because he was Black. Given the clear visual recording depicting the Complainant's being prevented from exiting the cage and Respondent apparently speaking to Complainant before releasing him from the cage, the video evidence that Complainant did not overtly protest and continued to converse with Respondent immediately after the event does not preclude the Employer from considering this incident as conduct unbecoming by Respondent.

The witnesses' cumulative testimony established that Complainant Rose was, more probably than not, repeatedly treated in a demeaning manner that was inappropriate and improper for a supervisor in any workplace. Mr. Rose's credible testimony was corroborated and supplemented by other Custodians who had no demonstrated reason to exaggerate their testimony, much less fabricate it as Respondent explicitly alleged.

Respondent's Counsel sought to place Respondent's conduct in the most favorable possible context and to characterize the remarks attributed to him as fictitious or within the scope of horseplay in the course of a years-long working relationship. However, the occurrences of misconduct that formed the basis for the Employer's decision to file and certify Tenure Charges revoking Respondent's tenure as a Head Custodian and to terminate his employment have been established by a preponderance of the evidence, the standard of proof imposed by applicable statute governing the Board and the Arbitrator. This standard requires a determination whether it is more probable than not that the conduct for which Respondent was disciplined occurred. The evidentiary record in the instant case mandates such a finding.

Any deficiencies in the less than professional investigation conducted by Department of Building Grounds managers who initially interviewed the Complainant and the other Custodians who testified for and against Respondent did not undermine the witnesses' subsequent credible testimony on direct and vigorous cross-examination at the arbitration hearings. Consequently, their allegations were reasonably construed initially by the Board, and subsequently by the Arbitrator, to be credible in describing Respondent's history of racist comments to and about Complainant Rose on multiple occasions. Complainant's testimony about the racist words Respondent spoke to him after Respondent barricaded the cage door with a stick and the barrage of racist comments made by Respondent over an extended interval was also credible.

To absolve Respondent and dismiss these Tenure Charges as unfounded, the Arbitrator would have to ignore all this credible testimony, which far outweighed the testimony of several Custodians who sincerely stated that they never witnessed the conduct for which Respondent was disciplined. Absent any evidence of a sinister motive for Employer witnesses to fabricate testimony, either in their own self-interest or as retribution toward Respondent, the evidentiary record must be interpreted as establishing persuasively by a preponderance of the evidence that Respondent David Baron is no longer fit to perform any

supervisory duties for the Clifton School Board.

At issue is whether his employment should be terminated. Respondent's counsel argued that a penalty short of summary discharge would be appropriate for a long-service Board employee such as Respondent. Stringent progressively severe discipline is appropriate if an employee has not been placed on notice that certain conduct will not be tolerated and will jeopardize his employment. It is, however, disingenuous in the contemporary workplace for Respondent to contend that explicitly racist comments, even ostensibly said in jest, did not cross well-recognized boundaries governing workplace conduct, even among peers. Claiming innocent intent does not obviate the harm to the target of the remarks or mitigate the corrosive effect of such remarks on the workplace. Such egregious conduct by a supervisor with authority and responsibility to manage the custodian staff of a school was particularly deleterious. In addition, Respondent's locking Complainant in the supply cage, albeit for a short time, coupled with subsequent racist comments would have created cause for severe discipline even for a co-employee without supervisory responsibility.

No supervisor in today's workplace can ignore with impunity the boundaries of racial and sexual harassment that have evolved in recent decades. Neither the excuse of "I was just kidding around" or "Boys will be boys" or "Custodians will be custodians" can insulate a supervisor

from culpability for the supervisor's abuse of his authority by engaging in a prolonged pattern of prohibited harassment. Respondent should have been aware that he was jeopardizing his employment by his repeated humiliation of Complainant by racist language.

The proofs did not portray an isolated slip of the tongue on a single occasion that might justify retraining and the imposition of progressively severe discipline. Rather, the Board and the Arbitrator were confronted with a lengthy history of abuse by Respondent. Although he record contains no assertion or evidence that any District managers were aware of Respondent's litany of abuse remarks until Complainant revealed them to his Building Principal on July 20, 2022, credible evidence established that at least one co-worker told Respondent such conduct was wrong.

Mr. Rose's delay in reporting the pattern of demeaning conduct to management may be explained by his admitted reluctance to confront his supervisor until his pent-up anger caused by Respondent's pattern of conduct was triggered by a trivial instance of disrespect regarding responding to an alarm signal. Respondent cannot, however, credibly contend that he did not know before and during this interval of four months that his derogatory statements and other demeaning conduct toward Complainant Rose were offensive and wrong or that it was unacceptable to restrain a fellow employee and tell him that the reason he should be in a cage is because he is Black.

Respondent was not warned about his conduct by the District because the District was unaware of his statements and actions. The absence of progressively severe discipline would be an impediment to summary discharge if an employee could not know that his actions, if discovered, might immediately jeopardize his job. There is no compelling basis to apply this standard in the instant case as Respondent knew, or reasonably should have known, that his utterances to and about Complainant created a hostile work environment and violated the law.

If these Tenure Charges were predicated on protracted inefficiency or inability to meet the performance standards of the Head Custodian job, then demotion to Custodian might present a viable alternative penalty. The derogatory utterances and gross misconduct alleged in the Tenure Charges and subsequently proved by the evidentiary record constituted conduct unbecoming that justified the Board's imposing more severe discipline than a lengthy suspension and thus preclude the Arbitrator from reinstating and permanently demoting Respondent.

The instant Tenure Charges alleging gross misconduct unbecoming a School Board employee have been established by a preponderance of the evidence submitted. Therefore, the Employer had just cause to revoke Respondent's tenure as a Head Custodian, to remove Respondent

from his position as a Head Custodian, and to terminate Respondent's

employment.

October 24, 2023 Daniel F. Brent, Arbitrator

STATE OF NEW JERSEY
COMMISSIONER OF EDUCATION

In the Matter of the Arbitration Between

DAVID BARON

and

CLIFTON BOARD OF EDUCATION, PASSAIC COUNTY, NEW JERSEY

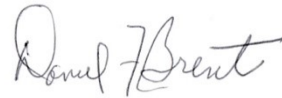
Agency Docket No. (324-11/22)

AWARD OF ARBITRATOR

The undersigned, having been designated as Arbitrator by the Commissioner of Education of the State of New Jersey and having been duly sworn, and having duly heard the proofs and allegations of the parties, AWARDS as follows:

The instant Tenure Charges alleging gross misconduct unbecoming a School Board employee have been proved by a preponderance of the evidence submitted. The Clifton Board of Education has thus demonstrated just cause to revoke the tenure of Respondent David Baron as a Head Custodian and to terminate his employment with the Clifton Board of Education for the reasons set forth in Tenure Charges One, Two, and Three.

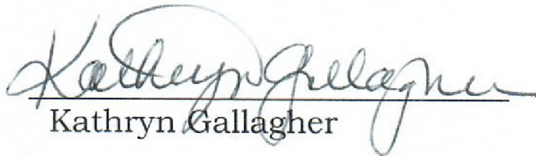
Therefore, the Tenure Charges are sustained and Respondent's appeal of the Board's revocation of his tenure and termination of his employment is hereby denied.



October 24, 2023 Daniel F. Brent, Arbitrator

State of New Jersey
County of Mercer

On this 24th day of October 2023 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
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 2/18/2026