

**STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION**

In the Matter of Tenure Charges Against
HUI-TZU (ISABELLA) CHEN

MORRIS BOARD OF EDUCATION

Petitioner,

Docket No.: 191-6/24

-and-

OPINION
AND
AWARD

HUI-TZU (ISABELLA) CHEN

Respondent.

Before: James McKeever, Esq., Arbitrator

APPEARANCES:

FOR THE PETITIONER:

PORZIO, BROMBERG & NEWMAN, P.C.

100 Southgate Parkway

Morristown, NJ 07962

FOR THE RESPONDENT

RICCI & FAVA, LLC

Ronald J. Ricci, Esq.

16 Furler Street

Totowa, NJ 07512

Pursuant to NJSA 18A:6-16, as amended by P.L. 2012, c.26

(“TEACHNJ”), the within tenure charges were filed by the Morris Board of

Education (“District” or “Petitioner”) against HUI-TZU (ISABELLA) CHEN (“Chen”

or “Respondent”).

Procedural History:

On June 12, 2024, the within charges were filed with the Office of Controversies and Disputes.

On June 13, 2024, Respondent filed an answer to the charges.

On or about July 18, 2024, Respondent filed a Motion to Dismiss.

On June 20, 2024, the Bureau of Controversies and Disputes referred the matter to the unsigned for a hearing and decision.

On July 29, 2024, the District filed its opposition to Respondent's Motion to Dismiss.

On August 1, 2024, Respondent filed a Reply to the District's opposition to the Motion to Dismiss.

On August 7, 2024, the undersigned entered an Order denying Respondent's Motion to Dismiss.

The hearings were held on October 4, 2024 and October 7, 2024.

The parties had a full and fair opportunity to examine and cross-examine witnesses, introduce documentary evidence and make arguments in support of their respective positions. The hearings were transcribed and all parties received a copy of the transcripts.

The parties submitted written closing statements on November 25, 2024 and the record was closed. All evidence and arguments were fully considered with respect to issuance of this Opinion and Award.

THE CHARGES

The following is a summary of the charging document:

Board Policy No. 3211, "Code of Ethics" provides that teaching staff members must "attain and maintain the highest possible degree of ethical conduct" and to "desire the respect and confidence" of their colleagues and students. Furthermore, the Policy requires that teaching staff members are required to "make reasonable effort to protect the student from conditions harmful to learning or to health and safety." Ms. Chen violated this policy by preventing J.H. from leaving her classroom and engaging in an inappropriate altercation with him, which was harmful to his learning, health and safety. Such behavior is anathema to the goal of earning the respect and confidence of one's students.

Board Policy No. 3217, Use of Corporal Punishment, clearly states that the Board of Education "cannot condone an employee's use of force or fear in the treatment of pupils, even those pupils whose conduct appears to be open defiance of authority. Each pupil is protected by law from bodily harm and from offensive bodily touching." It further prohibits touching a student "in an offensive way even though no physical harm is intended," and punishing a student in a "cruel or unusual" way. Even if Ms. Chen did not intend physical harm, she violated this policy by forcibly preventing J.H. from leaving her classroom during which she pushed him, struck his forearm and pushed herself against the door in order to block his way. When J.H. failed to comply with Ms. Chen's direction to stay after class and review his worksheet, Ms. Chen's decision to insist upon his staying and to physically prevent J.H. from leaving her classroom to go to lunch violated the prohibition against unusual punishment.

Board Policy No. 3281, "Inappropriate Staff Conduct" provides that "there exists a professional responsibility for all school staff to protect a student's health, safety and welfare. The Board strongly believes that school staff members have the public's trust and confidence to protect the well-being of all students attending the school district. In support of this Board's strong commitment to the public's trust and confidence of school staff, the Board of Education holds all school staff to the highest level of professional responsibility in their conduct with all students." The Policy further provides that "school staffs conduct in completing their professional responsibilities shall be appropriate at all times. School staff shall not make inappropriate comments to students or about students and shall not engage in inappropriate language or expression in the presence of students." Ms. Chen's decision to insist that J.H. remain in her classroom against his will, and the steps she took to prevent him from leaving, were inappropriate and violated her professional responsibility to protect his well-being, as was her comment that J.H. was a liar (when he said he would complete the worksheet during the next class).

Standard Three, "Learning Environments" of the New Jersey Professional Standards for Teachers requires teachers to collaborate with students to "build a safe, positive learning climate of openness, mutual respect, support, and inquiry" and to "establish positive and supportive learning environments." N.J.A.0 6A:9-

3.3(a)(3)(i)(1) & (iii) (1). Ms. Chen's interactions with J.H. did not engender a safe learning environment of mutual respect and support.

In particular, Ms. Chen endangered the health, safety, and well-being of a young high school student with her aggressive, violent, and frightening and fear-inducing conduct. This conduct had a significant impact on the student who felt his only recourse was to summon the School Resource Office to come to his aid and to stop his unauthorized detention, and the verbal abuse, and physical assaults of pushing and hitting which Ms. Chen inflicted upon him.

Based on the aforementioned behavior, Ms. Chen engaged in conduct unbecoming a teaching staff member. Accordingly, Ms. Chen's unprofessional behavior on March 13, 2024, at Morristown High School, that occurred in the presence of students and the district's SRO, constitutes conduct unbecoming a teaching staff member in violation of N.J.S.A. 18A:6-10 requiring that her employment with the Morris School District Board of Education be terminated.

BACKGROUND

Respondent is a tenured Mandarin teacher employed by the Morris School District since 2017.

On March 13, 2024, an incident occurred between Respondent and a student named J.H., who was a freshman in Respondent's Mandarin class. Specifically, it is alleged that Respondent directed J.H. to stay after class to review a worksheet she had assigned because Respondent suspected that J.H. had copied the assignment from another classmate. According to the charges, J.H. told Respondent that he wanted to leave the classroom and go to lunch instead. Respondent denied J.H.'s request to leave and insisted that he remain in the classroom. Respondent then confronted J.H. about copying the assignment and physically blocked him from leaving the classroom. It is alleged that Respondent then struck J.H. on his forearm when J.H. attempted to leave the classroom. Further, it is alleged that Respondent observed other students standing outside of the classroom looking in to see what

was happening between Respondent and J.H. Respondent then pulled the “magnet” from the door, which is used during lock downs, to locked the door from the inside and to prevent anyone from entering the classroom. Respondent then stood in front of the door to prevent students on the outside from looking through the window on the door to see what was occurring inside of the classroom. At or around this point, J.H. called his friend J.W. for help. When J.W. arrived, Respondent let him into the classroom. While in the classroom, J.W. reported that he observed Respondent “grabbing and hitting” J.H. J.H. then asked J.W. to get SRO Officer Christopher Little to help him leave the classroom (“SRO Little”). SRO Little arrived and reported that he observed Respondent yelling and physically blocking the interior view of the locked classroom door in order to prevent anyone from looking into the classroom and to prevent J.H. from leaving the classroom. Once he was able to enter the classroom, SRO Little stated that he informed Respondent that she could not keep J.H. in the classroom and that J.H. must be allowed to go to lunch. SRO Little then told J.H. he could leave the classroom. At this point Respondent tried to block the door again in order to prevent J.H. from leaving the classroom. SRO Little then instructed Respondent a second time to allow J.H. to leave the classroom. SRO Little reported that at this time he heard J.H. tell Respondent that he would finish the assignment on Friday, and that Respondent replied that “that he was a liar and that she did not believe him.” Thereafter, J.H. left the classroom.

Subsequently, the incident was reported to Mark Manning, who is the High School Principal (“Principal Manning”). Later that same day, Principal Manning

met with Respondent and her immediate supervisor, as well as Respondent's Union representative to discuss the incident. During the meeting with Principal Manning, Respondent admitted that she prevented J.H from leaving her classroom by blocking the door with her body. Respondent also stated that she "may have" slapped J.H. on his forearm when he attempted to leave the classroom. In a letter memorializing this meeting, Principal Manning reported that Respondent actually demonstrated how she struck J.H. on the arm. Principal Manning also noted that Respondent did not express any remorse for the incident. Consequently, Principal Manning substantiated the within allegations and Respondent was removed from the classroom.

On March 15, 2024, Respondent submitted a letter to Principal Manning wherein she denied slapping or striking J.H. However, Respondent admitted that she had blocked J.H. from leaving the classroom, and she claimed that any physical contact that may have occurred between she and J.H. would have happened when she was trying to prevent J.H. from leaving classroom and when she was closing the door.

After the alleged incident, J.H. provided a written statement wherein he reported that Respondent kept him after class in order to redo his assignment and then blocked the door in order to prevent him from leaving. J.H. also reported that Respondent started "hitting his arm/forearm" when he tried to leave the classroom and that he was not allowed to leave the classroom until SRO Little arrived.

J.W. also submitted a written statement wherein he reported that he observed Respondent yelling and hitting J.H. in her classroom on the subject date.

Relevant Testimony:

At the hearing, Respondent testified that she believed J.H. had copied the answers to the subject worksheet from another classmate and that she wanted J.H. to stay in the classroom and redo his assignment so he would not fall behind in his classwork. When J.H. told Respondent that he wanted to go to lunch instead, Respondent blocked the door with her body in order to prevent J.H. from leaving the classroom. Respondent testified that when J.H. attempted to leave the classroom, Respondent turned her body from the door and put her hands up in front of her as she was blocking the door with her back (Respondent demonstrated this gesture at the hearing). Respondent claims that during this movement, she may have hit J.H.'s forearm when she moved her hands in front of her body. Thereafter, Respondent testified that SRO Little entered the classroom and told her that she could not force J.H. to stay in the classroom and that she must allow him to go to lunch. However, Respondent confirmed that she did not immediately let J.H. leave the classroom and that she only moved away from the door when SRO Little warned her a second time that she could not hold J.H. against his will. With respect to the allegation that Respondent called J.H. a liar, Respondent testified that she could not remember whether she called J.H. a liar but testified that she believed that "J.H. does not keep his promises."

At the hearing, J.H. confirmed that Respondent kept him after class by blocking the door in order to prevent him from leaving the classroom to go to lunch. J.H. also testified that Respondent struck him with her fist on his forearm three times and that he was in shock that Respondent had hit him. J.H. further testified that he was not allowed to leave the classroom until SRO Little arrived and told Respondent that she could not keep him in the classroom.

J.W. testified that J.H. called him and asked for J.W. to come to Respondent's classroom because Respondent was preventing J.H. from leaving the classroom and because Respondent was hitting J.H. When J.W. arrived at Respondent's classroom, J.W. testified that he witnessed Respondent "scream" at J.H. and then hit J.H. and blocked the door with her body.

SRO Little testified that J.W. found him on the day of the incident and told him that J.H. needed his help. Specifically, SRO Little testified that J.W. told him that Respondent was hitting J.H. in her classroom. SRO Little testified that when he arrived at Respondent's classroom the door was locked so he had to knock on the door window to ask Respondent to unlock the door, which Respondent did not do immediately. SRO Little stated that it was only when he began to reach for his keys to unlock the door from the outside, that Respondent actually opened the door. SRO Little testified that when he entered the classroom, Respondent told him that J.H. was not allowed to leave the classroom until he finished his assignment. SRO Little testified that he informed Respondent that she was not allowed to confine J.H. to her classroom and that she needed to allow J.H. to go to lunch. SRO Little also

testified that when J.H. attempted to leave the classroom, Respondent again physically blocked the door. As such, SRO Little told Respondent a second time that she must allow J.H. to leave her classroom, at which point Respondent complied. However, as J.H. was leaving the classroom, SRO Little stated that he heard Respondent call J.H. a liar in response to J.H. stating the he would complete his assignment on another day.

Thereafter, SRO Little filed a police report about the incident because J.H. had told him that Respondent had hit his arm several times, which SRO Little believed constituted an assault by Respondent against J.H.¹

Principal Manning testified that he became aware of the incident when Assistant Principal Marietta Scorsune reported to him that J.H. “had been trapped in a classroom by Respondent and that J.H. was alleging that Respondent had slapped his arm.” Principal Manning testified that he then met with Respondent and her union representative wherein Respondent confirmed what had been reported to him, to wit: that Respondent blocked J.H. from leaving the classroom, and that when J.H. reached for the door, Respondent may have slapped him on the arm. Principal Manning also testified that Respondent actually demonstrated how she struck J.H. on his arm during that meeting. Additionally, Principal Manning testified that Respondent did not express any remorse for the incident.

With respect to prior discipline, Principal Manning testified that Respondent was previously found guilty of an incident wherein she made fun of a student for

¹ No charges were filed against Respondent.

being overweight in front of the other students in her classroom, which was a violation of the District's policy against "Harassment, Intimidation or Bullying ("HIB").

Superintendent Anne Mucci ("Superintendent Mucci") testified that Respondent's conduct was a breach of trust with respect J.H. and J.W., as well as the other students who were outside the classroom, and that Respondent's actions undermined the school's mission to provide a safe environment for all its students. Superintendent Mucci testified that she was very concerned that Respondent did not apologize for her actions and that Respondent failed to show any remorse, which is why she believes Respondent should not be permitted to continue to teach in the District.

Position of the Parties:

District's Position:

The District contends that Respondent's termination is warranted because the facts show that Respondent locked J.H. in her classroom and then struck J.H. on his arm, repeatedly, in order to prevent him from leaving the classroom, which was a serious violation of Respondent's role as a teacher. Specifically, the District contends that Respondent's conduct demonstrates that she engaged in "conduct unbecoming of a teacher" and that she violated the District's policy against the use of corporal punishment when she involuntarily confined J.H. to her classroom and then physically assaulted J.H. when he attempted to leave. The District claims that these facts show that Respondent engaged in conduct which adversely affected the

public's respect for the position of a teacher, who is expected to be the role model in the classroom, and that Respondent's actions jeopardized the health and safety of J.H. Additionally, the District submits that Respondent cannot be returned to the classroom because Respondent showed no remorse for this incident, which suggests that Respondent's conduct might reoccur, which is unacceptable.

Respondent's Position:

Respondent contends that this case only involves an isolated lapse of judgment from a well-intentioned teacher who made a mistake while trying to keep her student from falling behind in his studies. Specifically, Respondent contends that there is no credible evidence to support a finding that Respondent intentionally slapped or struck J.H., and that any contact that may have occurred between Respondent and J.H. happened when Respondent was holding the door closed in her classroom, which was inadvertent and did not rise to the level of corporal punishment.

Additionally, Respondent claims that the penalty of termination is inappropriate because the District's claim that Respondent showed no remorse for her actions is unfair because the District's witnesses never actually asked Respondent if she was remorseful or how she felt about the incident. To the contrary, the one meeting that the District held with Respondent was only to ascertain whether Respondent had any physical contact with the student. Nevertheless, Respondent testified that she knew she did something wrong and Respondent claims that the evidence shows that she was remorseful at the hearing.

Accordingly, Respondent requests that she be returned to the classroom because this was an isolated incident and because subject conduct is not comparable to the type of conduct which has been found to justify revocation of tenure and termination.

Decision:

After considering the entire record, including my assessment of the witnesses' credibility, I find that the District has established just cause for termination.

First, there is no dispute that Respondent locked J.H. in the classroom when she knew J.H. wanted to leave to go to lunch, which was clearly inappropriate and a violation of the District's policy which required Respondent to establish a positive and supportive learning environment. Significantly, Respondent admitted to this misconduct. Moreover, the record shows that even after Respondent was told by SRO Little that she must allow J.H. to leave the classroom, Respondent blocked the door a second time, which does not show that Respondent had any insight into how wrong her conduct actually was.

Additionally, I do not find that Respondent was a credible witness with respect to the issue of assaulting J.H. and with respect to the issue of whether Respondent called J.H. a liar.

Regarding the assault, Respondent testified that she may have had some physical conduct with J.H. when she blocked the door and J.H. attempted to leave, but she did not admit to striking at J.H. on his forearm. However, Principal Manning testified that at the meeting he had Respondent shortly after the incident

occurred, Respondent specifically told him that she struck J.H. on his arm and that Respondent actually demonstrated how she did it. Additionally, J.W., who came to the classroom to help J.H. get out of the classroom, testified that he actually observed Respondent yelling and hitting J.H. in the classroom. Moreover, J.H. testified, very credibly, that Respondent struck him on his forearm with her fist, repeatedly, when he attempted to leave the classroom. Thus, based on these facts, I do not credit Respondent's claim that any physical contact she may have had with J.H. was inadvertent. To the contrary, I find that the evidence supports a finding that Respondent intentionally struck J.H. on his arm with her fist, more than once, in order to prevent J.H. from leaving her classroom, which was clearly a violation of the District's policy against the use of corporal punishment.

Further, I also find that Respondent called J.H. a liar in the midst of this altercation, and in front of SRO Little. Specifically, I credit SRO Little's statement on this point wherein he reported that he heard J.H. tell Respondent that he would finish his assignment on Friday and that Respondent replied that J.H. was a liar and that she did not believe him. Significantly, I find that SRO Little had no reason to fabricate these facts. Further, I find Respondent's assertion that she could not remember whether she called J.H. a liar, but believed that "J.H. does not keep his promises," was not credible but simply an attempt to minimize her misconduct. Thus, I find that Respondent also called J.H. a liar, which was a violation of the District's policy which required Respondent to create an environment of mutual respect and support in her classroom.

Finally, I find that termination is warranted in this case because despite the wrongful confinement and the physical assault against J.H., as well as the verbal abuse when she called J.H. a liar, Respondent refused to truly acknowledge the severity her misconduct. Respondent also failed to express any remorse for what occurred. Critically, I find Respondent's defense that she did not express any remorse because "no one had asked her" if she was in fact remorseful, troubling and unpersuasive as it does not inspire any confidence that Respondent would not repeat this type of conduct in the future. Specifically, I am not convinced that this conduct would not happen again if Respondent were to be returned to the classroom because Respondent has not reflected on the seriousness of her misconduct. Moreover, I find that the physical contact that Respondent used against J.H. was intentional and that it was designed to punish J.H. for having the temerity to leave the classroom when Respondent told him not to do so. This is unacceptable. Thus, I find that the penalty of termination is warranted.

AWARD

1. The District has proven the charged misconduct.
2. The District has demonstrated just cause for termination and revocation of Respondent's tenure.

Dated: January 6, 2025

James McKeever

James McKeever, Esq., Arbitrator

Affirmation

State of New York }
 ss:
County of New York }

I, James McKeever, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my award.

Dated: January 6, 2025

James McKeever
James McKeever, Esq., Arbitrator

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