

EDU #6022-94
C # 371-96
SB # 69-96

IN THE MATTER OF THE TENURE :
HEARING OF NICOLAS CIUFI, SCHOOL : STATE BOARD OF EDUCATION
DISTRICT OF THE TOWNSHIP OF : DECISION
IRVINGTON, ESSEX COUNTY. :

Decided by the Commissioner of Education, September 3, 1996

For the Petitioner-Respondent, Schwartz, Simon, Edelstein, Celso & Kessler
(Nicholas Celso, III, Esq., and Joseph R. Morano, Esq., of Counsel)

For the Respondent-Appellant, New Jersey Principals & Supervisors
Association (Wayne J. Oppito, Esq., of Counsel)

On April 29, 1994, the Board of Education of the Township of Irvington (hereinafter "Board") certified tenure charges of unbecoming conduct against Nicholas Ciufi (hereinafter "respondent"), a tenured teaching staff member serving as an assistant principal. Those charges alleged that respondent had kissed a student, N.M., in his office and placed her hand on his genitals.

On July 18, 1996, an Administrative Law Judge ("ALJ") found that the Board had demonstrated the charges by a preponderance of the credible evidence. The ALJ concluded that respondent's conduct was sufficiently flagrant to warrant his dismissal from his tenured employment.

On September 3, 1996, the Commissioner of Education adopted the findings and conclusions of the ALJ and directed that respondent be dismissed from his tenured

position. The Commissioner also directed the Board to review and update, where necessary, its policy and procedures concerning allegations of child abuse and neglect.

Respondent filed the instant appeal to the State Board.

After an exhaustive review of the record, including the transcripts of the hearing held in the Office of Administrative Law in this matter, we affirm the decision of the Commissioner for the reasons expressed therein. In so doing, we concur fully with the ALJ that the student, N.M., was a credible witness and note, in addition, that there was testimony from both a student and members of the school's staff that N.M. was visibly upset, shaking and crying after the incident. Tr. 10/11/95, at 45, 85; exhibit P-15, in evidence, at 23.

Consequently, we agree with the Commissioner that the Board met its burden of demonstrating the tenure charges against respondent by a preponderance of the credible evidence, and, under the circumstances, we affirm the Commissioner's determination to dismiss respondent from his tenured employment.

Sam Podietz did not participate in deliberations in this matter.

July 1, 1998

Date of mailing _____