

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
BRIAN TAYLOR : ORDER OF REVOCATION
_____ : DOCKET NO: 0910-146

At its meeting of December 2, 2009, the State Board of Examiners (Board) reviewed a decision forwarded by the Commissioner of Education that had dismissed Brian Taylor from his tenured position with the East Orange School District (East Orange) for charges of unbecoming conduct. *In the Matter of the Tenure Hearing of Brian Taylor*, Docket No. 307-09 (Commissioner's Decision, September 21, 2009). Taylor currently holds a Teacher of Elementary School Certificate of Eligibility, issued in July 1998 and a Teacher of Elementary School certificate, issued in September 1999. At its meeting of January 7, 2010, the Board voted to issue Taylor an Order to Show Cause as to why his certificates should not be revoked.

This case originated in September 2008 when East Orange certified tenure charges against Taylor alleging unbecoming conduct and/or other just cause. East Orange alleged that Taylor had engaged in inappropriate behavior toward students, inappropriate treatment of colleagues, insubordination to administrators and inappropriate treatment of parents.

After receiving Taylor's response to the tenure charges, the Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Irene Jones heard testimony on several days during March and April, 2009. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on August 4, 2009. *In the Matter of the Tenure Hearing of Brian Taylor*, Dkt. No. EDU 11914-08 (Initial Decision, August 4, 2009).

In that decision, ALJ Jones found that Taylor had engaged in a verbal altercation with a female special education student in which he became abusive and called her an "untamed beast."

Id. at 4-5. The ALJ also found that Taylor was insubordinate toward his supervisor by attempting to block his entry into Taylor's classroom when he came to evaluate Taylor and by directly disobeying his supervisor's directive not to take a class to the school book fair so that Taylor might be evaluated on his lesson plan. *Id.* at 5. ALJ Jones also determined that Taylor was insubordinate when he stormed out of an administrative meeting on two occasions, inappropriately slamming the door, and inappropriate when he made disparaging remarks about his supervisor in front of other teachers and students. *Id.* at 6-7. The ALJ found that Taylor left his class unattended and, upon returning and finding his supervisor in the doorway, attempted to push him aside. *Id.* at 7-8. Taylor was also found to have engaged in unbecoming conduct when he called another student "stupid and retarded" and then refused to acknowledge or address the student's parent in a conference arranged to address the issue. *Id.* at 8-9. ALJ Jones also found that, on other occasions, Taylor approached his principal in a hostile and threatening manner, violated district policy by distributing a flier at a Superintendent's convocation, exhibited aggressive and inappropriate behavior toward another staff member in the presence of students, and initiated a physical altercation with a fellow faculty member. *Id.* at 9-14.

Based on the totality of the charges, ALJ Jones concluded that Taylor was guilty of unbecoming conduct. *Id.* at 14. The ALJ determined that Taylor "failed to control his temper, exercised poor judgment, made disparaging remarks about students and allowed his feelings of frustration and anger to overwhelm his professional demeanor." *Ibid.* The ALJ was not persuaded that Taylor deserved a second chance even though his behavior might possibly have been caused by depression. *Ibid.* Rather, ALJ Jones stated that Taylor's "single act of physical assault against a fellow teaching staff member, in the presence of students and staff, rises to the level of an act significantly alarming as to warrant dismissal." *Id.* at 14-15. That act, coupled

with Taylor's other behaviors caused other staff members to feel physically threatened. *Id.* at 15. ALJ Jones therefore concluded that East Orange's determination "to remove respondent was reasonable and necessary in order to insure the safety and well being of the students and staff." *Ibid.* Accordingly, the ALJ affirmed Taylor's dismissal from his tenured position. *Ibid.*

In a decision dated September 21, 2009, the Commissioner of Education concurred with the ALJ's factual findings in the case: "Upon a reasoned review of the record..., the Commissioner is satisfied that the ALJ's recitation of testimony is both accurate and thorough, and that she carefully measured its relevance to the charges, conflicts, inconsistencies, potential biases, and the plausibility of its content in deciding which testimony to credit in reaching her findings of fact." Commissioner's Decision, slip op. at 7. The Commissioner further concurred with the ALJ that East Orange had sustained its burden of proving 12 out of the 13 charges of unbecoming conduct against Taylor by a preponderance of "the competent, relevant and credible evidence." *Ibid.* In assessing the appropriate penalty, the Commissioner considered Taylor's service in East Orange, as well as "the stresses and strained relationships that may exist in any employment relationship whether in the public or private sectors." *Id.* at 10. Those factors, however, were outweighed by Taylor's demonstrated "pattern of improper conduct toward students, staff and parents alike." *Ibid.* The Commissioner stated that, "based on this record, it cannot be said that respondent's behavior is an aberration; nor can it be said that it is more likely than not that such conduct would not be repeated in the future." *Id.* at 11. Under those circumstances, the Commissioner could not "entertain the prospect of respondent's return to the District and the resultant potential for the perpetration of an unhealthy educational environment." *Ibid.* Accordingly, the Commissioner sustained the tenure charges of unbecoming conduct and affirmed Taylor's removal from his tenured employment. *Id.* at 12. The Commissioner

transmitted the matter to the State Board of Examiners for appropriate action regarding Taylor's certificates.¹ *Ibid.*

Thereafter, on January 7, 2010, the State Board of Examiners issued Taylor an Order to Show Cause as to why his certificates should not be revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board sent Taylor the Order to Show Cause by regular and certified mail on January 13, 2010. The Order provided that Taylor's Answer was due within 30 days. Taylor responded on January 26, 2010. In that response, Taylor stated that the tenure allegations and the Commissioner's tenure decision were "self-explanatory." (Answer, ¶¶ 3-4.) He added that there was no basis to revoke his certificates. (Answer, ¶ 6.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on February 5, 2010, the Board sent Taylor a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Taylor was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against his certificates. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if the charges proven in the tenure matter warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Taylor was also provided the opportunity to appear before the Board to testify on the sanction issue. After granting Taylor's request to hold the matter in abeyance pending the

¹ Taylor appealed from the Commissioner's decision to the Appellate Division. In a decision issued on November 1, 2010, the Appellate Division affirmed the Commissioner's decision. *In the Matter of the Tenure Hearing of Brian Taylor*, Dkt. No. A-1082-09T2 (App. Div. November 1, 2010) (Unpublished Opinion).

resolution of his appeal, the Board received Taylor's response to the Hearing Notice on February 8, 2011.

In his response, Taylor denied that any "relationship difficulties with parents of students were the result of his actions." (Hearing Response, p. 2). He also included with his response, a report from a psychiatrist, Dr. James Cowan, who indicated that Taylor was suffering from Depression Disorder. (Hearing Response, p. 2). Taylor claimed that "[d]espite Dr. Cowan's recommendation for further psychological testing and counseling, the [district] failed to take any steps at all in follow up." (Hearing Response, p. 2). Taylor stated that since the district took no steps to address his condition, it shared some of the responsibility "in the events that occurred." (Hearing Response, p. 3). Taylor reiterated his claim that if he was given training in anger management, conflict resolution and handling difficult and disruptive students, he could again satisfactorily handle his teaching responsibilities. (Hearing Response, p. 3). Finally, Taylor argued that suspending or revoking his certificates was premature since he could still be given the opportunity to address his psychological and behavioral issues. (Hearing Response, p. 3).

The threshold issue before the Board in this matter is whether Taylor's conduct and his subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of June 16, 2011, the Board considered the Order to Show Cause, Taylor's Answer and his response to the Hearing Notice. The Board determined that no material facts related to Taylor's offense were in dispute since he did not deny that he had lost his tenured position as a result of the tenure proceedings brought against him. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The Board must now determine whether Taylor's conduct, as set forth in the Order to Show Cause, represents just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that it does.

The Board may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9-17.5*. "Teachers ... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." *Tenure of Sammons*, 1972 *S.L.D.* 302, 321. There can be no dispute that Taylor's ongoing conduct in verbally abusing students and embarrassing them in front of their classmates, being disruptive at meetings, acting rude and disrespectfully to parents and administrators, engaging in threatening and aggressive behavior towards colleagues and in one instance, initiating a physical altercation, amply demonstrates his inability to be a role model for students. Moreover, his continued insistence that his actions were instigated by others' behavior and his refusal to accept responsibility for his own conduct speaks volumes about his unfitness to be a teacher. Psychological counseling and treatment may well be warranted in this case, but the Board does not owe Taylor the right to re-enter the classroom, especially given the pattern of egregious behavior in this matter. The Board therefore concludes that the only appropriate response to Taylor's breach is the revocation of his teaching certificates.

Accordingly, on June 16th, 2011, the Board voted to revoke Brian Taylor's Teacher of Elementary School Certificate of Eligibility and his Teacher of Elementary School certificate. On this 28th day of July 2011 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Taylor's certificates be effective immediately. It is

further ORDERED that Taylor return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing: , 2011

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.