

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOSE DACOSTA : ORDER OF REVOCATION
_____ : DOCKET NO: 1213-221

At its meeting of November 1, 2013, the State Board of Examiners (Board) reviewed a tenure decision regarding Jose DaCosta. Pursuant to *N.J.S.A. 18A:6-16*, the tenure matter captioned *In the Matter of the Tenure Hearing of Jose DaCosta and State-Operated School District of the City of Newark*, Dkt. No. 352-11/12 (Arbitrator’s Decision, April 1, 2013), was referred to the Board by the Arbitrator the Department of Education had assigned to hear the case.

Newark had certified tenure charges against DaCosta alleging unbecoming conduct, stating that DaCosta had been involved in multiple inappropriate incidents involving female students during the 2010-2011 and 2011-2012 school years. Specifically, Newark alleged that DaCosta had gotten into an argument with a student, A.M., telling her that she should be on a “daily” and later saying “that why you have a gap.” When A.M. responded to DaCosta, he said “Fuck You” to her. Newark also alleged that DaCosta got into a fight with a female student, K.W., telling her in front of the class that she was not going to be anything, stating that K.W.’s mother was still living with her own mother and also stating that he saw K.W.’s mother at a night club. DaCosta began laughing at K.W., which was followed by the class laughing at her. DaCosta also told one of his classes he didn’t “give a fuck about” their grades and used other profanity in class. He also said that he could get more girls than they could in the school. DaCosta also allegedly called a student, D.M., at home and told her he was her worst nightmare. He also allegedly called other students on their cell phones. DaCosta also showed up at D.M.’s house at 8 p.m. on a school night. DaCosta also visited student S.W.’s house to discuss her classroom behavior even though a classroom conference was already scheduled to address the issue.

Newark also alleged that DaCosta made a reference to his genitals in class when students were discussing a video for the song “Sexy and I Know It.” DaCosta also allegedly phoned the Newark Police to complain about the behavior of two of his students, resulting in an unnecessary police visit to the

school. Newark also stated that DaCosta had promoted the use of his website to students in his classes; in addition to educational information, his website contained photos of children as well as pictures of DaCosta in casual and partial clothing.

Newark also alleged that DaCosta violated district policy regarding attendance when he was assigned to a regional Office of the district beginning on April 12, 2012. The policy required employees who were assigned to a regional location to remain there for the day and to sign in and out of a log book as well as submit to fingerprint scanning whenever they arrived for the day, went out and returned from lunch, and left for the day. Although DaCosta would enter into the log book the time he arrived in the morning, the time he left and returned from lunch and the time he left at the end of the day, he never scanned out during lunch. Rather, DaCosta regularly was seen leaving his building after scanning in in the morning and returning to his location just before he was to sign out for the day even though he was physically entering into the log book that he was present at the location throughout the day. DaCosta continued this behavior even after repeated warnings that the continuation of such conduct would result in disciplinary action.

In his Decision, the Arbitrator concluded that DaCosta had continuously and repeatedly engaged in conduct unbecoming a tenured high school teacher. The Arbitrator found that DaCosta's repeated confrontations with students in his classes using vulgar language, particularly with female students, revealed an arrogant personality not suited to motivate students. The Arbitrator also recounted fifteen written warnings and memoranda about DaCosta's behavior from his current supervisors. The Arbitrator concluded that the record unmistakably revealed that DaCosta was not likely to correct his self inflicted confrontational behavior and ongoing insubordination. DaCosta was therefore found guilty of unbecoming conduct and the Arbitrator determined that DaCosta's conduct warranted his dismissal from his tenured employment. DaCosta was dismissed from his tenured employment with Newark as a result of the unbecoming conduct proven in the tenure proceeding. The Arbitrator transmitted the matter to the Board for its review.

DaCosta currently holds a Teacher of Chemistry Certificate of Eligibility, issued in November 2004, a Teacher of Chemistry certificate, issued in July 2006 and a School Business Administrator certificate, issued in November 2013. After reviewing the above information, at its December 6, 2013 meeting, the Board voted to issue an Order to Show Cause to DaCosta as to why his certificates should not be revoked.

The Board sent DaCosta the Order to Show Cause by regular and certified mail on December 12, 2013. The Order provided that DaCosta must file an Answer within 30 days. DaCosta submitted an Answer and the matter was transmitted to the Office of Administrative Law for hearing.

In her Initial Decision, Administrative Law Judge (ALJ) Ellen S. Bass determined that the Board was entitled to judgment as a matter of law as it had met its burden of proof that DaCosta had engaged in unbecoming conduct. *In the Matter of the Teaching Certificate(s) of Jose DaCosta*, Dkt. No. EDE 01895-14 (Initial Decision, December 2, 2014). Accordingly, ALJ Bass ordered that DaCosta's Instructional certificates should be revoked. *Id.* at 9. Neither party filed Exceptions to the Initial Decision.

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of March 12, 2015, the Board reviewed the Initial Decision. After full and fair consideration of the Decision and based upon the particular facts of this matter, the Board voted to adopt the Initial Decision.

"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. Unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 N.J.L. 369, 371 (Sup. Ct. 1943), *aff'd*, 131 N.J.L. 326 (E & A 1944). In this case, DaCosta's many instances of unprofessional behavior in front of students certainly satisfy and, in fact, exceed that requirement. DaCosta's conduct demonstrates that he is incapable of being a role model for students and that conduct warrants revocation. The Board therefore adopts the Initial Decision in its entirety.

Accordingly, on March 12, 2015, the Board voted to adopt the Initial Decision and ordered to revoke DaCosta's Instructional certificates. On this 17th day of April 2015, the Board formally adopted its written decision to adopt the Initial Decision in this matter, and it is therefore ORDERED that Jose DaCosta's Teacher of Chemistry Certificate of Eligibility and his Teacher of Chemistry certificate are hereby revoked, effective immediately. It is further ORDERED that DaCosta return the revoked 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:

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