

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
RICHARD BARNES-BEY : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-194

At its meeting of April 4, 2014, the State Board of Examiners (Board) reviewed a tenure decision regarding Richard Barnes-Bey. Pursuant to *N.J.S.A. 18A:6-16*, the tenure matter captioned *State-Operated School District of the City of Newark and Richard Barnes-Bey*, Dkt. No. 270-11/13 (Arbitrator's Decision, January 22, 2014), was referred to the Board by the Arbitrator the Department of Education had assigned to hear the case.

Newark had certified tenure charges against Barnes-Bey alleging unbecoming conduct. Specifically, Newark alleged that, Barnes-Bey had struck a four year old pre-kindergarten student, Q.G., twice on the buttocks with an open hand in the presence of a classroom of students.

In his Decision (which is incorporated herein by reference), the Arbitrator concluded that while visiting one of the schools under his supervision, Assistant Superintendent Mitchell Center heard loud yelling from a classroom. He heard someone say "Come to school like a man-got to get a beating like a man." When Center opened the classroom door, he saw Barnes-Bey pulling Q.G. by the arm out of his chair. Center then saw Barnes-Bey hit Q.G. hard on his buttocks twice. Center immediately removed a crying Q.G. from the classroom and called a security guard, who took the child to the school nurse. Barnes-Bey did not have his aide in the classroom that day.

After concluding that Barnes-Bey was not a credible witness, the Arbitrator determined that Barnes-Bey had struck Q.G. twice on the buttocks with force. The Arbitrator also concluded

that Barnes-Bey's conduct was not justified under any of the exceptions to the ban on corporal punishment pursuant to *N.J.S.A. 18A:6-1*.

After evaluating all of the evidence and testimony in the record, the Arbitrator determined that Newark had proven the tenure charges that Barnes-Bey had engaged in conduct unbecoming a teaching staff member, which warranted discipline. The Arbitrator concluded that Barnes-Bey's conduct, coupled with his refusal to take responsibility for his actions, warranted his removal from the district. Barnes-Bey was dismissed from his tenured employment with Newark as a result of the unbecoming conduct proven in the tenure proceeding and the Arbitrator transmitted the matter to the Board for its review.

Barnes-Bey currently holds a Teacher of Preschool Through Grade 3 Certificate of Eligibility, issued in December 2001 and a Teacher of Preschool Through Grade 3 certificate, issued in November 2005. After reviewing the above information, at its May 22, 2014 meeting, the Board voted to issue an Order to Show Cause to Barnes-Bey as to why his certificates should not be revoked.

The Board sent Barnes-Bey the Order to Show Cause by regular and certified mail on May 28, 2014. The Order provided that Barnes-Bey must file an Answer within 30 days. Barnes-Bey submitted an Answer on June 27, 2014. In that Answer, he denied that he engaged in conduct unbecoming and denied that his removal from his tenured position was warranted. (Answer, ¶ 6). The matter was then transmitted to the Office of Administrative Law for hearing.

In his Initial Decision, Administrative Law Judge (ALJ) Jesse H. Strauss determined that the Board was entitled to summary judgment on the facts as found in the arbitrator's decision based on the doctrine of collateral estoppel. *In the Matter of the Certificates of Richard Barnes-Bey*, Dkt. No. EDE 09863-14 (Initial Decision, April 8, 2015). In addition, ALJ Strauss

determined that Barnes-Bey had participated in several volunteer programs for children and “had never been accused of inappropriately touching a child in any school or extra-curricular setting.” *Id.* at 4. The ALJ concluded that Barnes-Bey’s conduct was conduct unbecoming a teacher “as it breached an implicit standard of good behavior.” *Id.* at 5. Although ALJ Strauss complimented Barnes-Bey for his “prior unblemished record, his efforts to better educate himself professionally, his contributions to the community beyond the school setting, and his compassion for his profession and his students,” the ALJ determined that as a result of Barnes-Bey’s unbecoming conduct the revocation of his certificates was warranted. *Ibid.* ALJ Strauss concluded that Barnes-Bey impermissibly used excessive and unnecessary force to discipline a student of a tender age. *Id.* at 5-6. Moreover, the fact that the discipline occurred in front of other young and impressionable students acted as an aggravating factor. *Id.* at 6. The ALJ therefore determined that “this singular act was neither justifiable nor excusable, and it overwhelms the otherwise exemplary career of Barnes-Bey.” *Ibid.* Accordingly, ALJ Strauss ordered the revocation of Barnes-Bey’s certificates. *Ibid.* Neither party filed Exceptions to the Initial Decision.¹

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of July 30, 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,

¹ Prior to the Board’s deliberation on the merits of the case, it asked the parties to brief the issue of collateral estoppels as applied to this matter. After consideration of the parties’ submissions, the Board determined to leave ALJ Strauss’ ruling on the issue undisturbed.

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, Barnes-Bey's unwarranted and harsh physical discipline of a four-year-old child in front of other students certainly satisfies and, in fact, exceeds that requirement. Barnes-Bey'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 July 30, 2015, the Board voted to adopt the Initial Decision and ordered to revoke Barnes-Bey's certificates. On this 17th day of September 2015, the Board formally adopted its written decision to adopt the Initial Decision in this matter, and it is therefore ORDERED that Richard Barnes-Bey's Teacher of Preschool Through Grade 3 Certificate of Eligibility and his Teacher of Preschool Through Grade 3 certificate are hereby revoked, effective immediately. It is further ORDERED that Barnes-Bey 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

RRH/MZ/th

Date of Mailing:

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