

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
JOHN RADZIK : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 1213-131

At its meeting of September 20, 2013, the State Board of Examiners (Board) reviewed a tenure decision regarding John Radzik a tenured teacher at the Avenel school in Woodbridge Township. Pursuant to *N.J.S.A. 18A:6-16*, the tenure matter captioned *In the Matter of the Arbitration of Certified Tenured Charges Between Woodbridge Bd. Of Ed. and John Radzik*, Dkt. No. 368-12/12 (Arbitrator's Decision, April 17, 2013), was referred to the Board by the Arbitrator the Department of Education had assigned to hear the case.

Woodbridge had certified tenure charges against Radzik alleging unbecoming conduct during his administration of the New Jersey Assessment of Skills and Knowledge (NJASK) in 2010 and 2011. Specifically, Woodbridge alleged that, with respect to the 2010 and 2011 NJ ASK tests, Radzik had: discussed and disclosed secure test items both before and during the test administration, influenced examinees' responses and provided feedback, including hints about examinees' responses. In addition, Woodbridge alleged that Radzik had enticed, solicited, promoted and/or otherwise encouraged the participation of a newly hired young teacher, Stephanie Klecan, to interfere with students' work on the tests through the use of non-verbal cues; and had engaged in a pattern of unbecoming conduct and/or other just cause warranting dismissal.

In his Decision, the Arbitrator concluded that Woodbridge had proven that during the 2010 NJ ASK test, Radzik allowed the students to speak openly and discuss the test and interact with each other during the administration of the test. Radzik also repeated the correct answer to a particular question when a student, on a least one occasion, blurted it out, making a comment such as "you can't tell the class the answer [to] number six is C."

The Arbitrator also found that during the 2010 NJ ASK test, Radzik had told stories to his students on the day of testing, just prior to the test, and encouraged his students to remember the stories.

During the test itself, after reading the writing prompt, Radzik alluded to the precise stories to be used by the students in response to the question.

The Arbitrator also found that credible witness testimony and circumstantial evidence proved that immediately prior to a particular section on Day One of Math testing in 2010, Radzik drew a shape on the board and discussed two different ways smaller shapes could be assembled into the larger shape he had drawn. One of the math problems in that section on the Day One Math test required students to assemble two small shapes into one larger one by way of two different combinations. The larger shape on the test was the exact one Radzik had drawn on the board for his class.

The Arbitrator also sustained Woodbridge's allegation that during the 2010 NJ ASK test Radzik read numerous consecutive "sample" questions to his students and provided answers to the class in the beginning of each Math section. The Grade 3 Examiner Manual provided only one sample question in each new section of the Math test. The Arbitrator found that this charge was proven both by direct testimony and several hearsay statements admitted under the residuum rule of evidence wherein witnesses noted that Radzik either gave students the answers or helped them on the test.

The Arbitrator also sustained Woodbridge's charge that Radzik "enticed, solicited, promoted and/or otherwise encouraged the participation of Stephanie Klecan, a newly hired, young teacher who happens to be his cousin, which resulted in her interference with students' work on tests through the use of non-verbal cues." The Arbitrator found that Klecan had formed a belief based on her lack of training in administering the NJ ASK that active proctoring by tapping on students' desks was acceptable. Radzik's comment to her during the spring of 2011, to the effect that if she wanted to keep her job she needed to make sure her students passed the test, followed by a tapping motion, had Radzik acting like a *de facto* supervisor and was improper.

Radzik was dismissed from his tenured employment with Woodbridge as a result of the unbecoming conduct proven in the tenure proceeding and the Arbitrator transmitted the matter to the Board for its review.

Radzik currently holds Teacher of Elementary School and Teacher of Preschool Through Grade 3 Certificates of Eligibility With Advanced Standing, both issued in July 2004, Teacher of Elementary School and Teacher of Preschool Through Grade 3 certificates, both issued in July 2005, a Supervisor certificate, issued in June 2009 and a Principal Certificate of Eligibility, issued in February 2011. After reviewing the above information, at its November 1, 2013 meeting, the Board voted to issue an Order to Show Cause to Radzik as to why his certificates should not be revoked.

The Board sent Radzik the Order to Show Cause by regular and certified mail on November 12, 2013. The Order provided that Radzik must file an Answer within 30 days. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Thereafter, on December 27, 2013, the Board sent Radzik another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. Radzik submitted an Answer on January 8, 2014. In that Answer, Radzik admitted that Woodbridge had certified tenure charges against him. (Answer, ¶ 3). He denied that he had “engaged in the conduct attributed to him by the Arbitrator” and stated that “the content of the Arbitrator’s decision speaks for itself.” (Answer, ¶¶ 3-5, 7-9). Radzik admitted that he was dismissed from his tenured position as the result of the Arbitrator’s decision. (Answer, ¶ 10). The matter was then transmitted to the Office of Administrative Law for hearing.

After having previously decided that Radzik was estopped from relitigating the facts established in the Arbitrator’s decision, on January 29, 2016, Administrative Law Judge (ALJ) Gail M. Cookson issued her Initial Decision regarding possible mitigation of penalty. *In the Matter of the Certificates of John Radzik*, Dkt. No. EDE 02911-14 (Initial Decision, January 29, 2016). After reviewing the testimony presented, ALJ Cookson found that “there was a lack of genuine NJASK training until after this investigation on Woodbridge.” *Id.* at 16. She further found that “there was an atmosphere of NJASK test pressure at Avenel emanating from the principal and other higher administration personnel, including the use of verbal threats and verbal cues, to which some teachers were more susceptible than others.” *Ibid.* ALJ Cookson concluded that Radzik “was considered by both parents and the administration to be an excellent and a creative teacher, a positive influence on his students, and a professional who always went

above and beyond to help his classroom, his school and his community.” *Ibid.* However, the ALJ also found that, as an experienced teacher, Radzik understood the protocols of standardized testing. *Id.* at 16-17.

She nonetheless concluded “that the evidence in mitigation of revocation is substantial and far outweighs the evidence to the contrary.” *Id.* at 17. ALJ Cookson therefore determined that revocation was too harsh a penalty “in light of the totality of the record, respondent’s positive ratings and heart-felt contributions to teaching, the lack of training juxtaposed with a teach-to-the test do-anything-one-can school environment, and the Board’s actions in similarly situated cases.” *Id.* at 19. The ALJ concluded that Radzik deserved a lengthy suspension from the profession “but not a permanent revocation of his certificates.” *Id.* at 20. ALJ Cookson therefore ordered Radzik’s certificates suspended for four years, from the date of his discharge from Woodbridge. *Id.* at 21. The Deputy Attorney General (DAG or Deputy) representing the Board filed Exceptions to the Initial Decision and Radzik filed Reply Exceptions.

In her Exceptions, the DAG argued that ALJ Cookson erred when she found that Radzik’s transgressions involved only the 2010 NJASK. The DAG noted that the Arbitrator concluded that Radzik had encouraged Klecan, a new teacher (who was also his younger cousin), to actively proctor students’ test-taking by suggesting that if she wanted to keep her job she needed to make sure her kids passed by tapping if she saw wrong answers on the test. (Exceptions, pp. 6-7). The DAG also took exception to the ALJ’s analysis of the law in concluding that suspension and not revocation was warranted in response to Radzik’s actions, noting that “his conduct was an egregious violation of the rules governing standardized testing.” (Exceptions, pp.8-9). The DAG noted that prior test breach cases where teachers had their certificates revoked for acts similar to or even less severe than Radzik’s supported a penalty of revocation in this case. (Exceptions, pp. 9-18). The DAG also argued that ALJ Cookson failed to credit the Arbitrator’s findings regarding the potential negative impact of Radzik’s conduct on his students, their families and the district as a whole. (Exceptions, pp. 18-23). The DAG also took exception “to the ALJ’s apparent interpretation that the Board bears the burden of disproving Radzik’s proposed evidence of

mitigation or otherwise presenting witnesses during a penalty hearing.” (Exceptions, p. 24). To the contrary, the DAG argued that a mitigation hearing “affords a respondent the opportunity to present any mitigating evidence on his behalf, and he has burden (*sic*) of showing why this evidence should militate the penalty, if any, imposed for his conduct.” (Exceptions, p. 24). The Deputy also argued against the ALJ’s use of Radzik’s mitigation evidence to impose a penalty of anything less than revocation, noting that Radzik understood security protocols for the NJASK and never himself “alleged that he acted the way he did because he was succumbing to pressure from District administrators.” (Exceptions, pp. 25-29). The DAG also disputed ALJ Cookson’s “overbroad” finding that Radzik was considered by parents and administrators to be an excellent teacher based upon the testimony of a few witnesses who appeared on Radzik’s behalf. (Exceptions, pp. 29-30). The DAG urged that even if the Board agreed with the ALJ’s assessment, those qualities could not excuse his deceitful conduct. (Exceptions, p. 30). In her final Exception, the Deputy contested the ALJ’s proposed start date of Radzik’s suspension from the time he was dismissed from the district. (Exceptions, pp. 32-33). She noted that even during the pendency of the Order to Show Cause proceeding, Radzik had maintained his certificates and was free to use them. (Exceptions, p. 33). She also stated that “the Board does not issue retroactive suspensions, and Radzik’s dismissal from the District in April 2013 has no bearing on the length of a suspension that the Board may impose.” (Exceptions, p. 33).

In his Reply Exceptions, Radzik argued that the only misconduct that was attributed to him regarding the 2011 NJASK was one conversation he had with Klecan regarding active proctoring and that ALJ Cookson acknowledged that in her decision. (Reply Exceptions, pp. 3-4). Radzik also disputed the DAG’s assertion that the ALJ misapplied prior cases regarding the appropriate penalty in this case, and relied on ALJ Cookson’s “comprehensive and well-reasoned analysis of the relevant precedent.” (Reply Exceptions, p.4). Radzik also challenged the Deputy’s assertion that the ALJ did not credit the Arbitrator’s factual findings regarding Radzik’s misconduct, noting that “Judge Cookson accepted the factual findings of the Arbitrator in their entirety.” (Reply Exceptions, p. 5). He also contested the DAG’s notion that he should be subjected to a more severe penalty “based not on any harm caused by

[him], but rather, based upon [the Deputy's] speculation of "potential" harm, which [she] did not even attempt to prove." (Reply Exceptions, pp. 5-6). Radzik also refuted the DAG's argument that he had failed to prove sufficient mitigation, arguing that the Deputy never attempted to rebut any evidence he introduced. (Reply Exceptions, pp. 6-7). He also stated that while he "might have known that [I] was not supposed to assist students with their answers, the lack of training and the 'teach to the test' atmosphere" diminished his understanding of and appreciation for the importance of following test security protocols. (Reply Exceptions, p. 7). It was for that reason, according to Radzik, that ALJ Cookson "correctly found that the lack of training and high-pressure, "teach to the test" atmosphere present in the Woodbridge Township School District constituted mitigating circumstances in this case." (Reply Exceptions, p. 7). Finally, Radzik argued that the DAG's assertion that "[t]he Board does not issue retroactive suspensions...." was not supported by any cited authority and therefore was deficient *per se*. (Reply Exceptions, p. 8).

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of April 14, 2016, the Board reviewed the Initial Decision, Exceptions and Reply Exceptions. After full and fair consideration of the Decision, Exceptions and Reply Exceptions and based upon the particular facts of this matter, the Board voted to modify the Initial Decision as to the penalty imposed.

"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, Radzik's established unbecoming conduct in committing a serious test breaches during the 2010 and 2011 NJASK cannot be denied and warrants a severe penalty. The Arbitrator noted that Radzik's examinees on the 2010 NJASK obtained extraordinary results. (Arbitrator's Decision, p. 15). Of the twenty students Radzik tested in 2010, eleven students received perfect scores on the Math Test; fifteen scored 95% or

higher; everyone scored 90% or higher. (Arbitrator's Decision, p. 15). In the fourth grade, the scores of those same students on the multiple-choice of the 2011 Math Test revealed precipitous declines. (Arbitrator's Decision, pp. 15-16). According to the vendor used to score student tests on a statewide basis, the probability of 45% of the third grade students at the Avenel Street School scoring a perfect score on the Math Test was one in one hundred million. (Arbitrator's Decision, p. 16). The Arbitrator extrapolated that the performance of Radzik's students in 2010, where 55% had a perfect score, had to be at least one out of one hundred million or greater, which was 100 times more unlikely than being struck by lightning. (Arbitrator's Decision, p. 16). The Arbitrator therefore concluded that "the circumstantial evidence in this case presents a viable reason to believe that something extraordinarily unusual or wrong had occurred in connection with the 2010 NJ ASK examination administered by Mr. Radzik." (Arbitrator's Decision, p. 16). Moreover, Radzik's claim that he acted in breach of test security only during the 2010 NJASK exam is belied by the fact that his directive on active proctoring for the 2011 exam influenced a young and impressionable new teacher who was also his cousin.

Radzik painted a portrait of himself as a school and community leader during his mitigation testimony. He cannot now reverse course and claim that he was a "mere pawn" caught up in the pressures of a "teach to the test" environment and oblivious to the ramifications of his actions. In fact, the Arbitrator found that not only did Radzik suggest the pairings of proctors and examiners during the 2010 and 2011 NJASK exams, he also took the lead in hiring and placing his cousin, Klecan. (Arbitrator's Decision, p. 22). Moreover, the Arbitrator also found that Radzik tried to control and influence both Klecan's and another teacher's interviews with OFAC, to the extent that he even conducted a mock interview with the other teacher, coaching his answers. (Arbitrator's Decision, pp. 22-23). That is not how a true leader behaves and it is certainly not how a role model behaves. Thus, the Board disagrees with the ALJ that the mitigation Radzik presented at his penalty hearing, when balanced against his offense, militates against revocation. Rather, the Board believes that revocation of his certificates is appropriate in this case to convey to both Radzik and the public the high degree of import the Board

places on test security and its need to rely on those professionals entrusted with this significant task. Consequently, the Board therefore modifies the Initial Decision as to the penalty imposed.

Accordingly, on April 14, 2016, the Board voted to modify the Initial Decision as to penalty and ordered to revoke Radzik's certificates, effective immediately. On this 14th day of April 2016, the Board formally adopted its written decision to modify the Initial Decision as to penalty, and it is therefore ORDERED that John Radzik's Principal Certificate of Eligibility, his Teacher of Elementary School and Teacher of Preschool Through Grade 3 Certificates of Eligibility With Advanced Standing and his Teacher of Elementary School, Teacher of Preschool Through Grade 3 and Supervisor certificates are hereby revoked, effective immediately. It is further ORDERED that Radzik return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

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Robert R. Higgins, Secretary  
State Board of Examiners

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Date of Mailing:

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