

#452-10 (OAL Decision: Not yet available online)

IN THE MATTER OF THE TENURE :
HEARING OF ENRICA MERCORELLI, COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF :
LINDEN, UNION COUNTY. DECISION
_____:

SYNOPSIS

The petitioning Board filed tenure charges of conduct unbecoming, insubordination and other just cause against respondent Enrica Mercorelli – a tenured health teacher – alleging that her conduct in the presence of students on November 19, 2009 failed to comport with the reasonable expectations of behavior for a tenured employee. The charges stem from a spontaneous lecture delivered by respondent to her middle school health class which aimed to teach students that the use of inappropriate and obscene words was demeaning to the user as well as the recipient, and that the use of such words was disrespectful to both parties. In the course of this lesson, respondent allegedly used words that were unacceptable for a teacher to say in a classroom, in the presence of students. The petitioning Board sought revocation of respondent’s tenure and termination of her employment.

The ALJ found, *inter alia*, that: on November 19, 2009, respondent – in the context of an unplanned lecture prompted by the rudeness of some of her students – recited a list of words that have no place in the classroom; respondent had no proper basis to advocate against the use of four-letter words, anatomical words, and slang references to same by actually stating each word or phrase to her students; though her goal may have been worthwhile, respondent’s behavior clearly went beyond the boundaries of her professional responsibilities and constitutes unbecoming conduct. The ALJ concluded that, while her conduct was certainly unprofessional, it did not rise to a level that would justify terminating her tenure and career. Accordingly, the ALJ ordered that respondent forfeit 120 days of pay and one year’s salary increment, and that she complete coursework in pedagogy that addresses the boundaries between a teacher’s instructional jurisdiction and issues properly in the province of parental guidance and control, as well as professional classroom demeanor.

Upon independent review of the record, the Commissioner concurred with the ALJ’s findings and adopted the Initial Decision of the OAL as the final decision in this matter.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

October 27, 2010

OAL DKT. NO. EDU 3192-10
AGENCY DKT. NO. 41-3/10

IN THE MATTER OF THE TENURE :
HEARING OF ENRICA MERCORELLI, : COMMISSIONER OF EDUCATION
SCHOOL DISTRICT OF THE CITY OF :
LINDEN, UNION COUNTY. :
_____ :
: DECISION

Tenure charges were brought against respondent Mercorelli, a tenured health teacher, in the wake of her decision to instruct her class about the demeaning effect of certain language used by students in the district's schools. In the course of instruction, she specifically articulated the offending words, disconcerting several students and their parents.

The Acting Commissioner agrees with the Administrative Law Judge (ALJ) that respondent's behavior was a breach of professionalism which, however, does not warrant termination and loss of tenure. Similarly, the Acting Commissioner concurs with the penalty which the ALJ recommended be imposed upon respondent. Accordingly, respondent will forfeit 120 calendar days of pay pursuant to *N.J.S.A. 18A:6-14*, forego an increment for the 2010-2011 school year and successfully complete pedagogical coursework – before the end of 2011 – that addresses classroom demeanor and the proper boundaries between school instruction and parental guidance. Such coursework shall be subject to reasonable review and approval by the petitioning Board of Education.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 27, 2010
Date of Mailing: October 27, 2010

¹ This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*)