

BOARD OF EDUCATION OF THE	:	
EAST WINDSOR REGIONAL SCHOOL	:	
DISTRICT, MERCER COUNTY,	:	COMMISSIONER OF EDUCATION
PETITIONER,	:	
	:	DECISION
V.	:	
KIMBERLY GEURDS,	:	
RESPONDENT.	:	

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SYNOPSIS

The Board filed a petition in July 2012 asserting that the respondent – a tenured teacher in petitioner’s district – had failed to fulfill the requirements of a disciplinary sanction imposed upon her by the Commissioner in an August 2010 decision. This previous decision found that respondent’s unprofessional conduct – though sustained by a preponderance of the credible evidence – did not rise to a level that justified terminating her tenure, but did require disciplinary action. Specifically, the Commissioner ordered that the petitioner forfeit 120 days of salary and one year’s salary increment, and that – prior to the end of 2011 – respondent complete coursework in pedagogy which addressed her inappropriate behavior and classroom demeanor. The Board now contends that respondent did not complete this mandated coursework in a timely fashion, and further – when she did enroll in a course of study that was acceptable to the Board, in 2012 – respondent received a final grade of “F”, thereby failing the required course. The Board filed a motion for summary decision, seeking a determination by the Commissioner of the appropriate consequences for respondent’s non-compliance, and suggesting that the remedy be removal of tenure; if such consequence was not deemed appropriate, the Board requested that respondent be given a firm deadline for completion of the coursework, with termination as the ultimate result should she fail to comply.

The ALJ found, *inter alia*, that: there are no material facts in dispute and the matter is ripe for summary decision; it is inconceivable that the Commissioner’s 2010 directive to “complete” the required and approved course in pedagogy meant anything other than that respondent was expected to both complete and obtain a passing grade in the course; while respondent took an approved course in pedagogy, she failed to “complete” it. The ALJ concluded that the Board is entitled to summary decision, and that respondent should be given one last opportunity to save her status as a tenured employee. Accordingly, the ALJ ordered that respondent must submit a proposed course, including the earliest time frame in which the course is offered, to the Superintendent for approval no later than twenty days following the issuance of the Commissioner’s final decision. Further, upon approval by the Superintendent, respondent must take and complete the course at the earliest time available and must pass the course; any failure to do so, either by an “incomplete” or a failing grade, shall result in the loss of tenure.

Upon comprehensive review, the Commissioner rejected the Initial Decision of the OAL. In so doing, the Commissioner found that respondent’s astoundingly casual approach to the coursework requirements mandated by the Commissioner in August 2010, together with her prior inappropriate behavior, indicate that she is unfit to discharge the duties and functions of her position as a teacher. Accordingly, the Commissioner dismissed the respondent from her tenured position and transmitted the matter to the State Board of Examiners for action against her certificate(s) as that body deems appropriate.

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.
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March 27, 2013

OAL DKT. NO. EDU 10577-12  
AGENCY DKT. NO. 189-7/12

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.<sup>1</sup> This matter stems from the Commissioner’s August 27, 2010 decision (August 2010 decision) that required the respondent, Kimberly Geurds, to complete coursework in pedagogy to address her inappropriate behavior and classroom demeanor.<sup>2</sup> In the case at bar, the Board maintains that the respondent did not complete the mandated coursework in a timely fashion and further – when she did enroll in a course of study that was acceptable to the Board – she received an “F” as her final grade. The Administrative Law Judge (ALJ) found that the Board was entitled to summary decision but also determined that the respondent should be given an additional opportunity to save her status as a tenured employee by completing the coursework previously ordered in the August 2010 decision.

Upon a comprehensive review of the record, the Commissioner finds that the respondent’s astoundingly casual approach to the coursework requirements, coupled with her

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<sup>1</sup> The parties did not file exceptions to the Initial Decision.

<sup>2</sup> The respondent’s unbecoming conduct also resulted in the forfeiture of 120 days salary and the loss of an increment.

prior inappropriate behavior, indicates that she is unfit to discharge the duties and functions of her position as a teacher. The coursework requirement contained in the August 2010 decision was not merely a suggestion to be done at the respondent's leisure, but rather it was a mandate that was ordered to address the serious acts of poor judgment that the respondent displayed in the classroom. Moreover, the August 2010 decision clearly stated the nature of the coursework required and the timeframe for completion. Specifically, before the end of 2011, the respondent was ordered to:

complete coursework in pedagogy that addresses: 1) the differences in the social and psychological needs of children of different age and grade levels, 2) the boundaries between a teacher's instructional jurisdiction and issues properly in the province of parental guidance and control, and 3) professional classroom demeanor. [August 2010 decision at 9].

Additionally, the August 2010 decision provided a mechanism for the Board to seek further review from the Commissioner if the respondent did not comply with the order.

The Commissioner is particularly troubled by the respondent's disregard for the directives contained within the August 2010 decision in light of her prior disciplinary action. The respondent was afforded the opportunity to continue teaching in the East Windsor School District despite the poor judgment she displayed in the classroom, but instead of embracing that opportunity, she – at minimum – severely neglected the coursework requirements. Not only was the respondent given additional time beyond the 2011 time frame outlined in the August 2010 decision to complete the course work, she subsequently admitted that she received an “F” in the course when she eventually took it. As the ALJ correctly pointed out, it is a fact that “...the Commissioner's order does not include the word ‘successfully’ or any variant thereof with the direction to ‘complete’ the required and approved course in pedagogy. But it seems

inconceivable that the Commissioner of Education would have meant anything otherwise than that Geurds both complete the course and obtain at least a passing grade.” (Initial Decision at 3) The respondent’s prior record and present attitude demonstrate that she is simply unable to appreciate the seriousness of her conduct and, as a result, there is no evidence to suggest that she will not continue to evade her obligations and engage in a pattern of unprofessional behavior.

Accordingly, the Initial Decision of the OAL is rejected. The respondent is hereby dismissed from her tenured position with the East Windsor Regional School District. This matter will be transmitted to the State Board of Examiners for action against respondent’s certificate(s) as that body deems appropriate.

IT IS SO ORDERED.<sup>3</sup>

COMMISSIONER OF EDUCATION

Date of Decision: March 27, 2013

Date of Mailing: March 27, 2013

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<sup>3</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36. (*N.J.S.A.* 18A:6-9.1)