

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOHN HOWARD : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-251

At its meeting of May 5, 2005, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed John Howard from his tenured position with the East Orange Board of Education for charges of unbecoming conduct. *In the Matter of the Tenure Hearing of John Howard*, Docket No. 140-02 (Commissioner's Decision, April 1, 2002). Howard currently holds a School Administrator certificate, issued in August 1990.

This case originated when the East Orange Board of Education certified tenure charges against Howard. Howard was the Superintendent of Schools in East Orange. The Board alleged, among other things, that Howard had work done at his private residence by Board employees during working hours, had changed the address of the contract owner on his Board-established annuity to his own home address; had requested withdrawals from the annuity unilaterally and deposited the checks he received into his personal account. The Board also alleged that Howard relocated his office at a cost of \$30,000 without giving the board notice or receiving authorization.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Maria Mancini La Fiandra heard testimony during July and August, 2001. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on February 6, 2002.

In that decision, ALJ La Fiandra found that the Board had proven that a Board electrician had performed work at Howard's home during work hours. (Initial Decision, slip op. at 11-14).

Additionally, the ALJ determined that Howard had engaged in deceptive behavior when he changed the address of the contract owner twice on his annuity. (Initial Decision, slip op. at 20). She also determined that Howard was deceptive when he made two unilateral withdrawals from his annuity, listing himself as the contract owner. (Initial Decision, slip op. at 20). ALJ La Fiandra further found that Howard engaged in deceptive and dishonest conduct when he endorsed and deposited both annuity checks into his own account. (Initial Decision, slip op. at 20). The ALJ also concluded that Howard had moved his office without giving the board notice or receiving its authorization. (Initial Decision, slip op. at 20-22).

After considering all the testimony, ALJ La Fiandra found that Howard's conduct was improper. The ALJ found that any of the proven charges, taken alone, would warrant Howard's termination. (Initial Decision, slip op. at 24-26). She also concluded that the Board had "sustained its burden of proving that Dr. Howard engaged in behavior which demonstrates a pattern of conduct unbecoming a teaching staff member so as to constitute cause for dismissal." (Initial Decision, slip op. at 26). Consequently, the ALJ ordered Howard dismissed from his tenured employment. (Initial Decision, slip op. at 26).

In a decision dated April 1, 2002, the Commissioner of Education affirmed, with modification that is not relevant to this matter, the ALJ's Initial Decision as to the tenure charges against Howard. (Commissioner's Decision, slip op. at 51). The Commissioner agreed with the ALJ that the local board had proven its case against Howard with regard to the sustained tenure charges of unbecoming conduct. (Commissioner's Decision, slip op. at 48). Accordingly, the Commissioner affirmed Howard's removal from his tenured employment with the East Orange Board of Education and transmitted the matter to the State Board of Examiners for appropriate action regarding Howard's certificate. Howard appealed to the State Board of Education, which,

on March 3, 2004, affirmed the Commissioner's decision with some minor modifications. (State Board of Education Decision, slip op. at 5).

Thereafter, on May 5, 2005, the State Board of Examiners issued Howard an Order to Show Cause as to why his certificate should not be suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board sent Howard the Order to Show Cause by regular and certified mail on May 18, 2005. The Order provided that Howard's Answer was due within 30 days. Both copies were returned as undeliverable and the Motor Vehicles Commission could not provide a current address for him. Accordingly, the Order to Show Cause was published in two New Jersey newspapers on August 14 and 17, 2005. Howard did not respond to the published notice.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Howard's conduct and his subsequent loss of tenure constitute conduct unbecoming a certificate holder. Since Howard did not respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. *N.J.A.C. 6A:9-17.7(c)*. Since Howard's conduct, as set forth in the Order to Show Cause, is admitted, the Board of Examiners must now decide whether that constitutes a sufficient basis to act against his certificate pursuant to *N.J.A.C. 6A:9-17.7(c)*. The Board finds that it does.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9-17.5*. Furthermore, 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). “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. There can be no dispute that Howard’s conduct falls far short of behavior this tribunal expects of its certificate holders. Howard’s repeated disregard for proper standards of behavior and his dishonesty and deception in his interactions with his own district board negates any claim he can have to being a role model. As ALJ La Fiandra noted: “if teachers are held to a stringent standard of behavior, the standard for high administrative personnel must be even more stringent. ...Accordingly, since the Superintendent is the highest administrative officer in the District, he must be held to the most stringent standard of behavior.” (Initial Decision, slip op. at 12) (citation omitted). This Board entirely agrees and thus, the only proper response to Howard’s breach is revocation.

Accordingly, it is therefore ORDERED that John Howard’s School Administrator certificate be revoked on this 8th day of December 2005. It is further ORDERED that Howard return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, PO Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: DECEMBER 20, 2005

Appeals may be made to the State Board of Education pursuant to the provisions of *N.J.S.A.* 18A:6-28.