

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
PAUL VARANO : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-326

At its meeting of November 14, 2002, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Paul Varano from his tenured position with the Irvington Board of Education for charges of unbecoming conduct, incapacity and other just cause. *In the Matter of the Tenure Hearing of Paul Varano*, Docket No. EDU 3087-02 (Commissioner's Decision, July 1, 2002). Varano currently holds a Teacher of Industrial Arts certificate, issued in July 1981.

This case originated on February 20, 2002 when the Irvington Board of Education certified tenure charges against respondent, Paul Varano. The district alleged that Varano had failed to provide regular educational instruction during class hours, that he was chronically late to work, that he violated safety protocol by failing to properly supervise students using dangerous equipment, that he failed to communicate effectively with parents, students, administrators and teachers and that he exhibited various bizarre behaviors.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Ken R. Springer heard testimony on April 17, 18, and 22, 2002. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on May 17, 2002.

In his decision ALJ Springer found that Varano had "sat idly by" while students in his class were routinely wild and disruptive. (Initial Decision, slip op. at 6). He also found once when Varano's students were being disruptive, Varano merely sat at his desk reading a newspaper. (Initial Decision, slip op. at 6). ALJ Springer also found that Varano failed to prepare adequate lesson plans, failed to put assignments on the board and did not interact with his students. (Initial Decision, slip op. at 7). ALJ Springer noted that Varano's supervisors

found in their evaluations of Varano that no learning was occurring in his classroom. (Initial Decision, slip op. at 7).

ALJ Springer also noted that Varano was habitually late to work during the 1997-98 academic year, despite receiving numerous prior warnings. (Initial Decision, slip op. at 7). The ALJ found that Varano's chronic lateness "set a poor example for his students and forced the Board to incur unnecessary expense to provide temporary coverage for his classes." (Initial Decision, slip op. at 7).

ALJ Springer also held that Varano isolated himself from his colleagues, students and their parents. He often ignored colleagues or would turn his back on the assistant principal when she tried to talk to him. (Initial Decision, slip op. at 8).

After considering all the testimony, ALJ Springer found that the district had sustained the tenure charges against Varano. (Initial Decision, slip op. at 10). The ALJ found that Varano was incapable of performing the duties of a shop teacher. (Initial Decision, slip op. at 10). ALJ Springer also noted that "overwhelming evidence establishes that Varano has not been providing proper instruction to his class for a period of two years." (Initial Decision, slip op. at 11).

The ALJ therefore concluded that the Board had sustained its tenure charges against Varano. (Initial Decision, slip op. at 12). Thus, based on his review of the entire record, the ALJ concluded that Varano's breach was too substantial to allow for his continued employment in the district. (Initial Decision, slip op. at 12). Consequently, the ALJ ordered Varano dismissed from his tenured employment. (Initial Decision, slip op. at 12).

In a decision dated July 1, 2002, the Commissioner of Education affirmed the ALJ's Initial Decision as to the tenure charges against Varano. (Commissioner's Decision, slip op. at 1). The Commissioner agreed with the ALJ that the local board had proven its case against Varano with regard to the tenure charges of unbecoming conduct, incapacity and other just cause. (Commissioner's Decision, slip op. at 1). Accordingly, the Commissioner affirmed

Varano's removal from his tenured employment with the Irvington Board of Education and transmitted the matter to the State Board of Examiners for appropriate action regarding Varano's certificate. (Commissioner's Decision, slip op. at 1).

Thereafter, on November 14, 2002, the State Board of Examiners issued Varano an Order to Show Cause as to why his certificate should not be suspended or revoked. The Order was predicated on the tenure charges that had been proven in the tenure hearing.

The Board sent Varano the Order to Show Cause by regular and certified mail on August 10, 2004. The Order provided that Varano's Answer was due within 30 days. Varano filed an Answer on September 8, 2004. In his Answer, Varano stated that he had a lawsuit pending against the Irvington school district. (Answer, ¶ A). He added that he had never met some of the witnesses who made complaints about his lack of teaching and said that his attendance record was not as negative as the principal alleged. (Answer, ¶ B). Varano also alleged that the lumber supply in his room was not properly stacked and that the classroom was unsafe. (Answer, ¶ C). Finally, Varano denied engaging in any bizarre behaviors. (Answer, ¶ E).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on May 13, 2005, the Board sent Varano a hearing notice by regular and certified mail. The notice explained that, since it appeared no material facts were in dispute regarding the tenure charges, Varano was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that, upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any.

Varano responded to the Hearing Notice on June 2, 2005. In that response, Varano claimed that the charge of unbecoming conduct was based on bad faith. (Hearing Response, ¶

1). He also stated that there was no basis for the Board of Examiners to suspend or revoke his teaching certificate. (Hearing Response, ¶¶ 1, 3).

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Varano's conduct and his subsequent loss of tenure constitute conduct unbecoming a certificate holder. At its meeting of July 21, 2005, the State Board of Examiners reviewed the charges and papers Varano filed in response to the Order to Show Cause. After reviewing his response, the Board of Examiners determined that no material facts related to Varano's conduct were in dispute since he could not effectively dispute the allegations in the Order to Show Cause. Accordingly, his actions regarding his chronic lateness, failure to teach his students and incapacity constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Varano's offense as set forth in the Order to Show Cause, represents just cause to act against his certificate pursuant to *N.J.A.C. 6A:9-17.5*. 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 Varano's behavior negates any claim he can have to being a role model for children. His lack of responsiveness to students, colleagues, parents and administrators speaks volumes about his continued fitness to teach. Indeed, he deprived students of an education and

furthermore, did not seem to care about the consequences of his actions. Clearly, the only proper response to Varano's breach is revocation.

Accordingly, it is therefore ORDERED that Paul Varano's Teacher of Industrial Arts certificate be revoked on this 21st day of July 2005. It is further ORDERED that Varano 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: SEPTEMBER , 2005

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