

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
GEORGE ZOFCHAK : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 0506-102

At its meeting of September 22, 2005, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed George Zofchak from his tenured position with the Trenton School District (Trenton) for charges of unbecoming conduct. *In the Matter of the Tenure Hearing of George Zofchak*, Docket No. 512-12/01 (Commissioner's Decision, October 15, 2002). Zofchak currently holds Teacher of General Business Studies and Secondary School Teacher of English certificates, both issued in April 1970, and a Secondary School Teacher of Social Studies certificate, issued in April 2005.

This case originated in December 2001 when Trenton certified tenure charges against Zofchak with the Commissioner of Education alleging that he was guilty of negligent instruction, making defamatory statements to or about students, physical abuse, poor classroom management, unprofessional conduct, insubordination and conduct unbecoming a teacher. The Commissioner transmitted the case to the Office of Administrative Law (OAL) on January 15, 2002.

Administrative Law Judge (ALJ) Joseph Martone heard testimony on several days in April and May, 2002. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on August 26, 2002.

In that decision ALJ Martone found that Zofchak had given his students busy work that he neither graded nor used in any other fashion. (Initial Decision, slip op. at 39). In addition, Zofchak would engage in arguments with his students during which no

learning could take place. (Initial Decision, slip op. at 39). The ALJ found that Zofchak's packets of educational materials and "his methods of instruction were such as to provide no teaching." (Initial Decision, slip op. at 39). ALJ Martone also found that Zofchak had at various times told students they were acting like monkeys and gorillas, referred to students as "fucking pigs" and "fucking animals" and stated that White Castle should be called Black Castle when students were discussing a recent raid there for illegal drugs. (Initial Decision, slip op. at 41). The ALJ also determined that Zofchak's teaching style promoted class disruptions, that his students were rarely doing what they should have been, and that Zofchak ignored their inattentive conduct. (Initial Decision, slip op. at 46).

Of greater concern to the ALJ was the testimony and evidence which demonstrated that "from 1994 through 2000, respondent left his class unattended and unsupervised on a number of occasions." (Initial Decision, slip op. at 46). In fact, Zofchak admitted that he would leave his class when he did not feel safe. (Initial Decision, slip op. at 47).

ALJ Martone also determined that Zofchak had engaged in unprofessional conduct when he had walked into a classroom that he was assigned to later in the day while another teacher's class was in session and started yelling that her students were "disturbing his papers and teaching materials." (Initial Decision, slip op. at 47-48). When asked to leave the classroom, Zofchak did not leave but continued yelling in the classroom. (Initial Decision, slip op. at 48).

Zofchak also engaged in unprofessional conduct when he told another teacher to "shut up and sit down" when that teacher suggested that Zofchak should visit other

classrooms to see what teaching methods might help him in controlling his class. (Initial Decision, slip op. at 48). Finally, the ALJ found that Zofchak was guilty of conduct unbecoming for his failure “to discipline and control the students in his charge, [and] the failure...to teach his students in an effective manner, or in this case, any manner whatsoever....” (Initial Decision, slip op. at 51).

After considering all the testimony, ALJ Martone determined that “it is not in the best interest of the students of the Trenton School District that respondent remain as a teacher.” (Initial Decision, slip op. at 52). The ALJ found that although Zofchak had made efforts to teach the children, “he has, over an extended period of time, clearly and consistently failed to teach the children of the school district.” (Initial Decision, slip op. at 52-53). Consequently, the ALJ ordered Zofchak removed from his tenured employment. (Initial Decision, slip op. at 53).

In a decision dated October 15, 2002, the Commissioner of Education modified the ALJ’s Initial Decision as to the tenure charges against Zofchak. (Commissioner’s Decision, slip op. at 58-59). The Commissioner determined that many of the tenure charges were based on inefficiency and that Trenton had not complied with the procedural requirements for such a charge. (Commissioner’s Decision, slip op. at 58-59). Instead, the Commissioner found that “based on the totality of record before him, the Board” had established that Zofchak had engaged in unbecoming conduct. (Commissioner’s Decision, slip op. at 60-61). The Commissioner held that “respondent has demonstrated a pattern of improper conduct toward students and staff alike. He has been duly warned on many occasions over a number of years that his behavior was not consistent with the professional conduct that is expected of a teacher.” (Commissioner’s

Decision, slip op. at 62). Accordingly, the Commissioner affirmed Zofchak's removal from his tenured employment with the Trenton School District and transmitted the matter to the State Board of Examiners for appropriate action regarding Zofchak's certificates. (Commissioner's Decision, slip op. at 62-63). Zofchak appealed from the Commissioner's Decision to the State Board of Education, which, on June 4, 2003, affirmed the Commissioner's decision "for the reasons expressed therein. (State Board of Education Decision, slip op. at 1). In rendering its decision, the State Board of Education noted its agreement with the Commissioner's determination "that the pattern of improper conduct exhibited by the respondent constitutes unbecoming conduct and warrants his dismissal." (State Board of Education Decision, slip op. at 1). Of particular concern were the incidents where Zofchak left his classroom unattended. (State Board of Education Decision, slip op. at 1).

The Board of Examiners voted to issue Zofchak an Order to Show Cause at its meeting of September 22, 2005. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing. After several unsuccessful attempts at serving the Order on Zofchak's former attorney, the Board sought a current address from the Motor Vehicles Commission. The MVC had no record on file for Zofchak. Accordingly, the Order was published on August 13 and 14, 2006. Zofchak did not respond to the published Order.

At its meeting of November 2, 2006, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since there was no response, the Board of Examiners determined that no material facts related to Zofchak's offense were in dispute since he had never denied that he had engaged in the conduct. It is therefore ORDERED

that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The issue before the State Board of Examiners in this matter, therefore, is whether Zofchak's conduct and his subsequent loss of tenure, as set forth in the Order to Show Cause, represent just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

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 Zofchak's conduct negates any claim he can have to being a role model for students. His volatility and inappropriate behavior toward students and staff speaks volumes about his character and fitness to remain a teacher. Moreover, his inability to teach effectively the students in his charge mandates that he no longer retain the authorization that allows him to teach. Clearly, this individual does not belong in any classroom. Thus, the only proper response to Zofchak's breach is revocation.

Accordingly, on November 2, 2006, the Board voted to revoke Zofchak's certificates. On this 7<sup>th</sup> day of December 2006 voted to adopt its formal written decision

and it is therefore ORDERED that the revocation of George Zofchak's Teacher of general Business Studies, Secondary School Teacher of English and Secondary School Teacher of Social Studies certificates be effective immediately. It is further ORDERED that Zofchak return his certificates 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.

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Robert R. Higgins, Acting Secretary  
State Board of Examiners

Date of Mailing: DECEMBER , 2006

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