

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
ANDREW ZANTOW : ORDER OF SUSPENSION  
\_\_\_\_\_ : DOCKET NO: 0607-126

At its meeting of December 7, 2006, the State Board of Examiners reviewed information received from the Edison School District regarding Andrew Zantow. Pursuant to N.J.A.C. 6A:9-17.4, Edison had reported that Zantow, a non-tenured teacher, had resigned after the district alleged that he had made inappropriate sexual comments to male and female students and used a racial epithet. According to Edison's information, Zantow had made a remark to a female student about a hickey on her neck, made reference to triple X and quadruple X ratings in relation to female students when teaching a math lesson, referred to two male students' behavior as "gay" and used the "N" word when speaking to a student. Zantow currently holds a Teacher of Mathematics Certificate of Eligibility With Advanced Standing, issued in June 2004 and a Teacher of Mathematics certificate, issued in July 2005.

Thereafter, on December 7, 2006, the State Board of Examiners issued Zantow an Order to Show Cause as to why his certificates should not be suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been alleged in the tenure charges.

The Board sent Zantow the Order to Show Cause by regular and certified mail on December 19, 2006. The Order provided that Zantow's Answer was due within 30 days. Zantow filed an Answer on January 5, 2007. In his Answer Zantow admitted that he had resigned from his position in Edison. (Answer, ¶ 3). He denied that he made inappropriate comments to female students and added that the female students joined in

that denial. (Answer, ¶ 3). Zantow also claimed that he never called two students gay and that rather than using a racial epithet as alleged, instead he challenged and chastised a student for using a racial epithet. (Answer, ¶ 3). Finally Zantow stated that his conduct was not unbecoming and requested that the Order to Show Cause be withdrawn or dismissed. (Answer, ¶ 4). Notwithstanding Zantow's claims, the Examiners found probable cause to consider the suspension or revocation of his certificates.

The Examiners transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Dennis Blake heard testimony on January 28, 2008. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on April 14, 2008. *In the Matter of the Certificate of Andrew Zantow*, Dkt No. EDE 459-07 (Initial Decision, April 14, 2008).

In that decision ALJ Blake found that there was no credible evidence in support of the charge that Zantow made racist remarks to a student in his math class. (Initial Decision, slip op. at 9-10). The ALJ found that the student, I.F., was not a credible witness and disliked Zantow even before the alleged incident because Zantow had ripped up an exam of his when another student was caught looking at it. (Initial Decision, slip op. at 10). I.F.'s grade in Zantow's class was his lowest grade in any course; his grade did not improve once Zantow was replaced. (Initial Decision, slip op. at 10). ALJ Blake also found that "the proofs are that respondent did use the term 'gay' when referring to the conduct of two students." (Initial Decision, slip op. at 10). Zantow explained that he was referring to "jerky or foolish" behavior the students were expressing. (Initial Decision, slip op. at 10). As to the remarks made to the two female students, the ALJ found that Zantow remarked about a hickey on one of the student's necks, but that she

did not take offense at the time. (Initial Decision, slip op. at 10). The same day, Zantow had a discussion in class about exponents and used language regarding a triple X rating. (Initial Decision, slip op. at 10-11). Neither female student took offense at the remark. (Initial Decision, slip op. at 11).

ALJ Blake concluded that the Board did not prove by a preponderance of the evidence that Zantow used a racial epithet in any discussion with I.F. (Initial Decision, slip op. at 12). He also concluded that none of Zantow's remarks were intended as solicitations and that the hickey remark and the comment about triple x ratings were made in class, in front of other students. (Initial Decision, slip op. at 13). ALJ Blake determined that Zantow's "gay" comment was also made in a classroom context. (Initial Decision, slip op. at 13). In commenting on Zantow's behavior with all four students, the ALJ noted that "in any other context, the remarks, although inappropriate, would be deemed harmless." (Initial Decision, slip op. at 13). However, because Zantow was a teacher, ALJ Blake held that he was held to a higher standard and had crossed a line "by engaging in banter that had a sexual connotation." (Initial Decision, slip op. at 13). The ALJ determined that Zantow's lack of judgment warranted disciplinary action and therefore ordered that his certificates be suspended for one year. (Initial Decision, slip op. at 13-14).

Both the Deputy Attorney General (DAG) representing the Board of Examiners and Zantow filed exceptions to the ALJ's decision. The DAG argued that the ALJ did not consider all the relevant testimony regarding the use of triple x ratings and that Zantow was referring to the female students when he used that terminology. (Exceptions, pp. 1-4). The DAG also claimed that the ALJ discounted other testimony which

corroborated I.F.'s statements that Zantow used a racial epithet in class. (Exceptions, pp. 4-5). Finally, the DAG argued that Zantow's conduct warranted a more stringent penalty than that imposed by the ALJ. (Exceptions, pp. 5-6).

In his exceptions, Zantow argued that since the ALJ did not find I.F. to be a credible witness, the only allegations the Board of Examiners could consider were the comments made to the two male students and the two female students. (Reply Exceptions, pp. 1-2.) Zantow claimed that his use of the word "gay" was an attempt to attract the male students' attention and get them to alter their offensive behavior. (Reply Exceptions, p. 2). He noted that the use of that word in that context did not warrant a suspension of his certificates. (Reply Exceptions, p. 2). Finally, Zantow stated that his comments to the two female students were in jest and taken by them in that spirit. (Reply Exceptions, p. 2). As Zantow noted, "[t]he comments, at worst, were injudicious and worthy of a reprimand but certainly not worthy of a suspension of Certificates and a (second) loss of a job." (Reply Exceptions, p.2).

The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. At its meeting of June 5, 2008, the State Board of Examiners reviewed the Initial Decision and Exceptions. After full and fair consideration of all the submissions, the Board voted to adopt the Initial Decision.

There is no doubt that the ALJ is in the best position to render credibility determinations in this matter. Accordingly, the Board will defer to those findings. Moreover, although the Board need not decide the issue of Zantow's use of a racial epithet, there is enough evidence in the record to support the ALJ's finding that some discipline is warranted here.

As ALJ Blake noted, “[t]he line between teacher and friend should be rigorously enforced.” (Initial Decision, slip op. at 13). Zantow crossed that line on at least three occasions in making inappropriate comments to the two female students and the two male students. While his behavior does not rise to a level egregious enough to warrant revocation, the ALJ’s imposition of a one-year suspension is a reasonable penalty under the circumstances. The Examiners agree with the ALJ’s conclusion that the allegations remaining in the Order to Show Cause have been proven and that a proper response to Zantow’s breach is the suspension of his certificates to teach. (Initial Decision, slip op. at 13-14).

Accordingly, on June 5, 2008, the Board of Examiners voted to adopt the Initial Decision and suspend Zantow’s certificates. On this 17th day of July 2008, the Board of Examiners formally adopted its written decision to adopt the Initial Decision in this matter, and it is therefore ORDERED that Andrew Zantow’s Teacher of Mathematics Certificate of Eligibility With Advanced Standing and Teacher of Mathematics certificate are hereby suspended for one year effective this day. It is further ORDERED that Zantow return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

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Robert R. Higgins, Secretary  
State Board of Examiners

**Date of Mailing: JULY 28, 2008**

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.A.C. 6A:4-1.3(b)*.