

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
EMANUEL HENDERSON : ORDER OF REVOCATION
_____ : DOCKET NO: 0910-155

At its meeting of October 28, 2010, the State Board of Examiners (Board) reviewed information it had received from the State-Operated School District of the City of Newark (Newark) regarding Emanuel Henderson. Pursuant to *N.J.A.C. 6A:9-17.4*, Newark reported that Henderson had retired from his teaching position in July 2009 after tenure charges were filed against him for unbecoming conduct and other just cause. Specifically, Newark reported that Henderson had reported to work on two occasions under the influence of cannabinoids and cocaine, which was confirmed by urine drug screen tests. Henderson holds a Teacher of Health and Physical Education certificate, issued in January 1984 and a Teacher of Elementary School certificate, issued in December 1986. Upon review of the above information, at its December 9, 2010 meeting, the Board voted to issue an Order to Show Cause to Henderson as to why his certificates should not be revoked.

The Board sent Henderson the Order to Show Cause by regular and certified mail on December 16, 2010. The Order provided that Henderson must file an Answer within 30 days. Henderson responded on January 31, 2011. In his Answer, Henderson denied that he was under the influence of drugs during his employment in Newark and stated that his “conduct towards his students and his instruction was professional.” (Answer, ¶¶ 4, 5). He added that during his career in Newark he had educated many students without any incidents or disciplinary infractions. (Answer, ¶ 6C). Henderson claimed that he was under a lot of stress beginning in 2007 when first his mother was diagnosed with lung cancer and then his brother was diagnosed with diabetes, as he became their primary caretaker, travelling to South Jersey three times a week. (Answer, ¶ 6E). Henderson added that Newark requested that he undergo a physical in April 2008 and in September and October 2008 because he had been absent from work for numerous weeks. (Answer, ¶¶ 6F-H). Henderson stated that Newark told him he had tested positive for drugs, but claimed that he had never seen the results of any drug test. (Answer, ¶¶ 6G, H). In asking the

Board not to revoke his certificates, Henderson noted that he had a long unblemished career before the two incidents that led to the tenure charges. (Answer, ¶ 6H(1)). He reiterated that he was under “personal, medical and family stress necessitating medical treatment between April and November 2008.” (Answer, ¶ 6H(4)). He added that no administrator, student or parents ever alleged that he failed to teach his students or was under the influence of anything which inhibited him from performing his duties. (Answer, ¶ 6H(5)). Finally, Henderson requested that he be allowed to retain his certificates because the “stressors existing during April and November 2008 no longer exist” and the revocation or suspension of his certificates would be too harsh a penalty. (Answer, ¶ 6H(6)).

Since there were material facts in dispute, on February 23, 2011, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. Administrative Law Judge (ALJ) Evelyn Marose heard the matter on October 20, 2011. The record closed on February 29, 2012 and the ALJ issued an Initial Decision on August 30, 2012. *In the Matter of the Teaching Certificates of Emanuel Henderson*, Dkt. No. EDE 02059-11 (Initial Decision, August 30, 2012).

In that decision, ALJ Marose found that while employed at Newark, Henderson submitted to a urine test on April 2, 2008 after he had been in the presence of students that day. (Initial Decision, slip op. at 2). Henderson’s drug screen test came back positive for cannabinoid and cocaine. *Ibid.* On November 21, 2008, Henderson was teaching students before submitting to a urine drug screen test at Newark’s request. *Id.* at 3. That test came back positive for cocaine. *Ibid.* The ALJ also found that Henderson was asked to submit to a drug screen test because he appeared to be “under the influence” on both dates in question. *Id.* at 3-4. Henderson was cooperative and non-confrontational when submitting to both exams. *Id.* at 4. ALJ Marose found that when Henderson was transferred from teaching grammar school students to high school students in 2004 he found the change of position difficult. *Id.* at 8. This position change combined with the stress of his mother’s and brother’s illnesses, caused Henderson a tremendous amount of stress and he began using illegal drugs. *Ibid.* When Henderson tested positive for drugs in April 2008, he took a medical leave and attended a one-month drug treatment program in Florida. *Ibid.* He returned to teaching in late May 2008. *Ibid.* After his second positive drug test in November 2008, Henderson

agreed to retire and never teach in Newark again. *Ibid.* Henderson admitted that he came to school “under the influence” on both April 2, 2008 and November 21, 2008 and acknowledged that he had used drugs on more than those two occasions. *Id.* at 7. He also agreed that stress was not an excuse for drug use and that coming to school “under the influence” was conduct unbecoming a teacher. *Ibid.*

After assessing the evidence, ALJ Marose concluded that “the Board of Examiners has met its burden of proof that Henderson conducted himself in a manner unbecoming a teacher.” *Id.* at 10. While the ALJ acknowledged Henderson’s long career, she recognized that he had difficulty teaching at the high school level, especially after the stresses of his personal life increased dramatically. *Id.* at 12. Moreover, ALJ Marose noted that Henderson did not submit any evidence of rehabilitation other than his own statement that he had been drug free since November 2008: “after testing positive on that November day, he did not attend a drug treatment program, obtain counseling or join a support group.” *Ibid.* The ALJ made further note of Henderson’s age of 56 when he tested positive for drugs: “his decision to turn to drugs on numerous occasions to reduce his stress level, even while he was reporting to teach cannot be viewed as a foolish, immature one-time incident.” *Ibid.* All of these factors led ALJ Marose to conclude that revocation of Henderson’s certificates was warranted. *Id.* at 13. The ALJ concluded that Henderson’s behavior was totally unacceptable and that he might be “overwhelmed by life’s stressors” if he were to be employed as a teacher again. *Ibid.* Accordingly, the ALJ ordered Henderson’s certificates revoked. *Ibid.* Neither party submitted Exceptions in the case.

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of September 21, 2012, the Board reviewed the Initial Decision. After full and fair consideration of the Decision, the Board voted to adopt the Initial Decision.

“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. Moreover, 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 (1943), *aff’d*, 131 *N.J.L.* 326 (E & A 1944). In this

case, ALJ Marose noted that “Henderson exhibited egregious conduct, unbecoming a teacher, when he reported to work...on at least two occasions to teach “under the influence” of cannabinoid/marijuana and/or cocaine.” The ALJ concluded that this behavior warranted the revocation of Henderson’s certificate. The Board agrees. Henderson’s conduct does not display the role model behavior expected of a teacher. Furthermore, his rationale that these mistakes were due to the stress caused by his job transfer and the caretaking demands of his personal life does not give the Board any assurance that this behavior would not recur if he were to teach again. The Board therefore adopts the Initial Decision to revoke Henderson’s certificates.

Accordingly, on September 21, 2012, the Board voted to adopt the Initial Decision and revoke Henderson’s certificates. On this 30th day of November 2012, the Board formally adopted its written decision to adopt the Initial Decision in this matter, and it is therefore ORDERED that Emanuel Henderson’s Teacher of Health and Physical Education and Teacher of Elementary School certificates be hereby revoked immediately. It is further ORDERED that Henderson 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.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing:

Appeals may be made to the Commissioner of Education pursuant to *N.J.S.A.* 18A:6-38.4.