

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF: STATE BOARD OF EXAMINERS
NICHOLAS CIUFI : ORDER OF REVOCATION
_____ : DOCKET NO: 594-12/00-286

At its meeting of October 1, 2001, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Nicholas Ciufi from his tenured position with the Board of Education of Irvington for charges of unbecoming conduct. Ciufi currently holds Teacher of Elementary School and Principal/Supervisor certificates.

This case originated on May 20, 1994 when the Irvington Board of Education certified tenure charges against respondent, Nicholas Ciufi. Ciufi was employed as an assistant principal. The district charged him with unbecoming conduct for allegedly touching a student in an inappropriate manner.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Marylouise Lucchi-McCloud heard testimony on several days in October and December 1995. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on July 18, 1996.

In that decision ALJ Lucchi-McCloud found that the case turned entirely on the credibility of the witnesses. (Initial Decision, slip op. at 26.) After considering all the testimony, ALJ Lucchi-McCloud found that after arranging to be alone with her, Ciufi had told a student, N.M., that he got jealous when he “[saw] her with other guys.” (Initial Decision, slip op. at 28.) Ciufi then rubbed N.M.’s hand and prevented her from leaving the room. He also kissed her, placing his tongue in her mouth. Ciufi then placed N.M.’s hand on his pants, forcing her to feel his penis. (Initial Decision, slip op. at 29.) Both school officials and an investigator from the Division of Youth and Family Services (DYFS) investigated the matter. Although a criminal complaint was signed, a grand jury did not return a criminal indictment for Ciufi’s conduct. (Initial Decision, slip op. at 31.)

In her decision the ALJ concluded that the Irvington Board of Education had met its burden of proving the tenure charges by a preponderance of the evidence. She reiterated that she had had the opportunity to observe the witnesses first-hand and found that “[n]ot only was Ciufi’s testimony not credible, ...but his very demeanor added greatly to this determination.” (Initial Decision, slip op. at 31.) The ALJ emphasized that Ciufi had supervisory control over N.M. and violated the special bond of the pupil-teacher relationship. ALJ Lucchi-McCloud added that such egregious conduct would not be tolerated and that a single instance of inappropriate conduct, as demonstrated in this case, was sufficient to remove a teacher from a tenured position. (Initial Decision, slip op. at 32-33).

In considering the appropriate penalty, the Judge weighed the totality of the circumstances. (Initial Decision, slip op. at 33). Thus, based upon her review of the entire record, the ALJ concluded that Ciufi’s breach was too substantial to allow for his continued employment in the district. (Initial Decision, slip op. at 33). Consequently, the ALJ ordered Ciufi dismissed from his tenured employment.

In a decision dated September 3, 1996, the Commissioner of Education affirmed the ALJ’s Initial Decision as to the tenure charges against Ciufi. The Commissioner agreed with the ALJ that the local board had proven its case against Ciufi with regard to the tenure charges of unbecoming conduct. (Commissioner’s Decision, slip op. at 40.) In considering the penalty imposed, the Commissioner noted that Ciufi had an apparently unblemished record but determined that the charges against him were significant enough to warrant dismissal, especially since Ciufi, “as an assistant principal, ha[d] a higher responsibility as a building leader.” (Commissioner’s Decision, slip op. at 40). Accordingly, the Commissioner affirmed Ciufi’s removal from his tenured employment with the Irvington Board of Education and transmitted the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6 for appropriate action regarding Ciufi’s certificates.

Ciufi appealed from the Commissioner's decision to the State Board of Education. In a decision dated July 1, 1998 the State Board of Education affirmed the Commissioner's decision dismissing Ciufi from his tenured employment. (State Bd. Of Ed. Decision, slip op. at 2.) Ciufi then appealed to the Superior Court of New Jersey, Appellate Division. On January 21, 2000 the Appellate Division affirmed the State Board of Education's decision. IMO Tenure Hearing of Nicholas A. Ciufi, A-0412-98T3 (App. Div. Jan. 21, 2000.)

Thereafter, on December 7, 2000, the State Board of Examiners issued an Order to Show Cause to Ciufi as to why his certificates should not be or suspended or revoked. The Order was predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board mailed the Order to Show Cause to Ciufi by regular and certified mail on February 26, 2001. The Order provided that an Answer must be filed within 20 days. Ciufi filed an Answer on April 16, 2001. In his Answer Ciufi admitted that the district had brought tenure charges against him. He also agreed with the procedural history of his case as stated in the Order including the fact that his dismissal was affirmed at all levels of appeal. (Answer, ¶¶ 1-6). In the remainder of his Answer, Ciufi added that even if the allegations against him were true, they would not support the revocation of his certificates since he had heretofore had an unblemished record. (Answer, ¶ 7.) He argued that his termination from his tenured employment was a more than sufficient sanction for "what, at best, constitutes a slight accusation,..." (Answer, ¶ 8.)

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on May 23, 2001, the Board mailed a hearing notice to Ciufi by regular and certified mail. The notice explained that, since it appeared no material facts were in dispute regarding the tenure charges, respondent 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 certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any.

Ciufi responded to the Hearing Notice on June 22, 2001. In that response, Ciufi claimed that after the grand jury returned no bill of indictment against him he was returned to his former position. Ciufi claimed that he was inexplicably suspended on the very same charges on April 30, 1994. (Hearing Response, p. 2.). He also stated that the Board of Education's law firm had billed over \$600,000 in legal fees to prosecute the charges against him. Ciufi also argued that the witness against him failed to appear to testify against him in the criminal case and that a bench warrant was ultimately issued for her arrest. Ciufi therefore concluded that his hearing was inequitable since the ALJ gave greater weight to the testimony of this reluctant witness than to his own. (Hearing Response, p.3.) Finally, Ciufi argued that his request for oral argument was denied without notice and that he was "more of a victim than predator as the mishandling of this hearing indicates." (Hearing Response, p.3.)

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Ciufi's conduct, as set forth in the ALJ's findings of fact, constitutes conduct unbecoming a certificate holder. At its meeting of October 1, 2001, the State Board of Examiners reviewed the charges and papers Ciufi filed in response to the Order to Show Cause. After reviewing his response, the Board of Examiners determined that no material facts related to Ciufi's offense were in dispute since his arguments focused only on procedural issues regarding the tenure hearing which were beyond the scope of the Order. Thus, since Ciufi has not denied the charges in the Order to Show Cause effectively, his actions regarding the inappropriate touching of a student in his charge constitute conduct unbecoming a certificate holder.

The State Board of Examiners must now determine whether Ciufi's offense as set forth in the Order to Show Cause, represents just cause to act against his certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find 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. 6:11-3.4. Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. 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 Ciufi's conduct here negates any claim he can have to serving as a role model for children. His inability to accept responsibility for his actions by repeatedly demeaning the true victim and obfuscating the actual issues by focusing on legal costs is despicable. Calling the victim's charge that he forcibly kissed her and placed her hand on his genitalia "a slight accusation" speaks volumes about Ciufi's character. This individual does not belong in a classroom let alone in a school building as a leader. Thus, the only proper response to Ciufi's breach is revocation.

Accordingly, it is therefore ORDERED that Nicholas Ciufi's Teacher of Elementary School and Principal/Supervisor certificates be revoked on this 1st day of October 2001. It is further ORDERED that Nicholas Ciufi return his certificates to the Secretary of the State Board of Examiners, Office of Licensing, PO BOX 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Joan E. Brady, Secretary
State Board of Examiners

Date of Mailing: March 6, 2003

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