

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
MANUEL FERREIRA : ORDER OF REVOCATION
_____ : DOCKET NO: 0304-136

At its meeting of January 22, 2004, the State Board of Examiners (Examiners) reviewed a Petition of Appeal the State Board of Education had forwarded regarding Manuel Ferreira. The Pascack Valley Regional Education Association (Pascack) had filed a petition with the Commissioner of Education regarding tenure charges it had presented against Ferreira in the local district. The district board of education did not certify tenure charges against Ferreira and Pascack appealed. The Commissioner had dismissed the petition as moot because Ferreira had resigned from his tenured position in the district. Pascack appealed to the State Board of Education, which upheld the Commissioner's decision as to the tenure charges but transmitted the matter to the Examiners for its consideration. Ferreira currently holds a Teacher of French certificate, issued in June 1974, a Teacher of Mathematics certificate, issued in November 1978, a Principal/Supervisor certificate, issued in February 1985, a School Administrator Certificate of Eligibility, issued in June 1993 and a School Administrator certificate, issued in June 2004.

Pursuant to former *N.J.A.C.* 6:11-3.6, the Examiners ordered Pascack to serve its petition on Ferreira. Ferreira responded and, at its meeting of January 22, 2004, the Examiners considered both the petition and Ferreira's response.

In its petition, Pascack alleged that Ferreira had engaged in misconduct and acted inappropriately on a number of occasions. Among other things, Pascack alleged that Ferreira had spoken in an offensive manner to the school nurse while he was principal of Butler Township High School. Pascack also alleged that when Ferreira was principal at Verona High School he spoke to staff members in an abusive manner and actually pushed and shoved one staff member. Moreover, Pascack's petition claimed that several staff members of Pascack Hills High

School filed affirmative action grievances against Ferreira alleging that he had created a hostile working environment that constituted sexual harassment. In addition, the Pascack petition was replete with allegations of grievances Pascack staff members had filed against Ferreira while he was employed in the district, alleging defamation, harassment, inappropriate sexual behavior, intimidation and threatening behavior. In his response, Ferreira generally denied all of the allegations against him. Notwithstanding Ferreira's denials, the Examiners found probable cause to consider the suspension or revocation of Ferreira's certificates.

The Examiners transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Elinor Reiner heard testimony on December 7, 8, and 13, 2004 and February 7, 2005. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on July 5, 2005. *State Board of Examiners v. Manuel Ferreira*, Dkt No. EDE 3390-04 (July 5, 2005).

In that decision ALJ Reiner found that the Examiners had proven that Ferreira had engaged in unbecoming conduct by a preponderance of the credible evidence. (Initial Decision, slip op. at 45). ALJ Reiner found that the Examiners' witnesses provided testimony that was consistent with statements they had provided when the incidents occurred as well as testimony that was confirmed by the others as to the types of behaviors Ferreira exhibited. (Initial Decision, slip op. at 45-46). Moreover, the ALJ determined that Ferreira was often unable "to deny in any meaningful way that the incidents [the witnesses] described occurred." (Initial Decision, slip op. at 46).

After considering all the testimony, ALJ Reiner found that Ferreira's conduct was improper. The ALJ found that Ferreira had engaged in a pattern of using inappropriate language with colleagues, including profanity and sexual references. (Initial Decision, slip op. at 46-52). She also found that in one instance, Ferreira had tried to push or pull a teacher into his office

against that individual's will and after the teacher stated that he did not wish to continue their conversation without a union representative present. (Initial Decision, slip op. at 47-48). ALJ Reiner also noted that Ferreira admitted that he had been known to use the "f" word and profanity when speaking to colleagues. (Initial Decision, slip op. at 48). The ALJ also found that Ferreira acted inappropriately when he kissed a subordinate on the head at a retirement dinner and, on another occasion, pretended to pucker up his lips to kiss that individual for doing a good job. (Initial Decision, slip op. at 49). Furthermore, the ALJ was unconvinced by Ferreira's denial of specific allegations that he had rubbed the back, neck and shoulders of a female student in the cafeteria, since he admitted that he would have physical interactions with students in the cafeteria by putting his arms around them, hugging them or patting their backs. (Initial Decision, slip op. at 49-50).

In considering the appropriate penalty, ALJ Reiner examined the current case law regarding unbecoming conduct and revocation. (Initial Decision, slip op. at 52-55). ALJ Reiner determined that Ferreira had demonstrated an inability to deal with conflict in a civilized manner or maintain his self-control. (Initial Decision, slip op. at 55-56). He also had engaged in a pattern of sexually suggestive and harassing conduct and evidenced a lack of judgment and disregard for the sensibilities of others. (Initial Decision, slip op. at 56). Thus, based on her review of the entire record, the ALJ concluded that Ferreira's breach was too substantial to allow for his continued licensure as a teacher or administrator. (Initial Decision, slip op. at 57-58). Consequently, the ALJ ordered the revocation of all of Ferreira's instructional and administrative certificates. (Initial Decision, slip op. at 58).

Ferreira submitted exceptions to the Initial Decision and the Deputy Attorney General (DAG) representing the Examiners submitted reply exceptions. In his exceptions, Ferreira argued that the behavior necessary for a finding of revocation must be more egregious than that

needed for tenure removal and therefore, his conduct did not rise to that level. (Exceptions, pp. 1-5). Ferreira also argued that there was no evidence in the record to support the ALJ's contention that he had engaged in sexual harassment of his colleagues or sexually inappropriate conduct with a female student. (Exceptions, pp. 7-14). Finally, Ferreira opined that even if he should be subject to discipline that should extend only to his administrative certificates since the conduct at question occurred while Ferreira was acting as an administrator and "in no way implicates his fitness to serve as a teacher." (Exceptions, pp. 14-16).

In response, the DAG argued that the State Board never ruled that revocation presupposes a finding of more outrageous conduct than that needed for tenure proceedings, but rather had held that "in a revocation/suspension proceeding, the Examiners' decision is distinct from that of the Commissioner's determination in a tenure case." (Reply Exceptions, p.2). The DAG also asserted that Ferreira's conduct was a sufficient predicate for a finding of revocation since he was the supervisor of the employees he had threatened and had done it directly to their faces. (Reply Exceptions, pp. 3-5). The DAG further argued that contrary to Ferreira's assertion, the testimony regarding his inappropriate behavior with a female student was not hearsay, but rather behavior the witness had directly observed. (Reply Exceptions, pp. 5-6). Moreover, the DAG noted that Ferreira's sexual comments to his female subordinates embarrassed them and compromised his role as a school administrator. The DAG asserted that such conduct was insufficient justification for the revocation of all Ferreira's certificates. (Reply Exceptions, pp. 7-8). Finally, the DAG argued that Ferreira's conduct was not that of an administrative professional, "much less the conduct expected of a teacher." (Reply Exceptions, p.10). Accordingly, the DAG stated that the Examiners' should revoke all of Ferreira's certificates. (Reply Exceptions, p. 10).

The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. At its meeting of September 22, 2005, the State Board of Examiners reviewed the Initial Decision, exceptions and reply 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. Furthermore, the Board of Examiners agrees with the ALJ that Ferreira engaged in unbecoming conduct when he repeatedly intimidated and threatened employees, made repeated sexual comments to female subordinates and pushed a male colleague during the course of a discussion. The Board cannot countenance this lack of restraint from an experienced teacher and administrator. Moreover, as noted by ALJ Reiner, Ferreira's conduct included sexual innuendos directed toward a female student. Clearly, Ferreira's actions amounted to conduct unbecoming a teacher, pursuant to *N.J.A.C. 6A:9-17.5*. Accordingly, the remaining decision for this Board is one of penalty.

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 Ferreira's conduct over the course of his administrative career in three separate school districts negates any claim he can have to be a role model for teachers. Moreover, his behavior demonstrates his lack of control and precludes his effectiveness as a teacher as well.

His volatility does not belong in any classroom. Thus, the Board agrees with the ALJ that the only proper response to Ferreira's breach is revocation.

Accordingly, it is therefore ORDERED that Manuel Ferreira's Teacher of French, Teacher of Mathematics, Principal/Supervisor, School Administrator Certificate of Eligibility and School Administrator certificates be revoked on this 22nd day of September 2005. It is further ORDERED that Manuel Ferreira 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.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: October 13, 2005

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