

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
PAUL ASH : ORDER OF REVOCATION
_____ : DOCKET NO: 0809-136

At its meeting of October 16, 2008, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Paul Ash from his tenured position with the Juvenile Justice Commission (JJC) for charges of unbecoming conduct, insubordination and neglect of duties. *In the Matter of the Tenure Hearing of Paul Ash*, Docket Nos. 134-4/03, 128-4/04, 131-4/06 (Consolidated) (Commissioner's Decision, July 10, 2008). Ash currently holds a Teacher of Health and Physical Education certificate, issued in February 1987.

This case originated when the JJC certified tenure charges against respondent, Paul Ash. The JJC charged him with unbecoming conduct for falsifying timesheets and attendance records, failing to prepare lesson plans, habitually arriving late and leaving early and being unprepared to teach. Ash was also charged with violating an order banning him from attending sports tournaments and giving a false statement to a police officer.

The Commissioner of Education transmitted the case to the Office of Administrative Law (OAL). Administrative Law Judge (ALJ) Israel Dubin heard testimony on several days in 2005, 2006 and 2007. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on May 30, 2008.

In that decision, ALJ Dubin found that the JJC had proven the allegations against Ash through credible testimony and documentation. (Initial Decision, slip op. at 6). He noted that the record reflected that Ash falsified numerous timesheets even after he

received memos and warnings on the issue. *Ibid.* The ALJ found that Ash neglected his teaching duties “by failing to prepare lesson plans, habitually arriving late and leaving early, and by being unprepared to teach.” *Ibid.* The ALJ also stated that Ash attended several sports tournaments “after specifically being directed not to attend.” *Ibid.* Finally, the ALJ found that Ash lied to a police officer to avoid a speeding ticket by telling the officer he was the Superintendent at Jamesburg and was rushing to the facility to deal with a suicide. *Ibid.* ALJ Dubin concluded that “all of this bespeaks an employee who disobeys orders and completely disregards his duties and responsibilities in order to do what he wants to do, at the expense of his students and colleagues.” *Ibid.*

Thus, based on his review of the entire record, the ALJ concluded that the only appropriate penalty for Ash’s behavior was removal. *Ibid.* Consequently, the ALJ ordered Ash dismissed from his tenured employment. *Id.* at 7.

In a decision dated July 10, 2008, the Commissioner of Education affirmed the ALJ’s Initial Decision as to the tenure charges against Ash. The Commissioner agreed with the ALJ that the JJC had proven its case against Ash with regard to the tenure charges of unbecoming conduct, insubordination and neglect of duties. (Commissioner’s Decision, slip op. at 1). The Commissioner found that Ash’s “dismissal from his tenured teaching position is warranted.” (Commissioner’s Decision, slip op. at 1). Accordingly, the Commissioner affirmed Ash’s removal from his tenured employment with the JJC and transmitted the matter to the State Board of Examiners for appropriate action regarding Ash’s certificate. (Commissioner’s Decision, slip op. at 1-2.)

Thereafter, on January 13, 2009, the State Board of Examiners issued Ash an Order to Show Cause as to why his certificate should not be revoked. The Order was

predicated on the charges of unbecoming conduct that had been proven in the tenure hearing.

The Board sent Ash the Order to Show Cause by regular and certified mail on January 14, 2009. The Order provided that Ash's Answer was due within 30 days. After securing a correct address for Ash's attorney, the Board re-sent the Order to Show Cause on January 26, 2009. Neither the certified mail copy nor the regular mail copy was returned. Ash did not file an Answer. Thereafter, on March 10, 2009, the Board sent Ash another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. Neither the certified mail receipt nor the regular mail copy was returned. Ash did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on May 6, 2009, the Board sent Ash a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Ash 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 the charges proven in the tenure matter warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Ash was also provided the opportunity to appear before the Board to testify on the sanction issue. Once again, neither the certified mail copy nor the regular mail copy was returned. Ash did not file a response.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Ash's conduct and his subsequent loss of tenure constitute conduct

unbecoming a certificate holder. Since Ash failed to respond to the Order to Show Cause or the hearing notice, at its meeting of March 25, 2010, the State Board of Examiners considered only the allegations in the Order to Show Cause. The Board of Examiners determined that no material facts related to Ash's offense were in dispute since he never denied that he had engaged in the conduct as alleged. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C.* 6A:9-17.7(h). It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether Ash's conduct as set forth in the Order to Show Cause, represents just cause to act against his certificate pursuant to *N.J.A.C.* 6A:9-17.5. The Board finds 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.* 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 (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 Ash's conduct in neglecting his duties, falsifying timesheets, lying to a police officer and violating an order of his administrators barring him from sporting events for six months negates any claim that he can have to being a role model for students. His inability to act professionally and

responsibly toward his students and colleagues speaks volumes about his unfitness to be a teacher. His continued disregard for his administrators' directives leaves no doubt that the only proper response to Ash's behavior is revocation.

Accordingly, on March 25, 2010, the Board of Examiners voted to revoke Paul Ash's Teacher of Health and Physical Education certificate. On this 29th day of April 2010 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Ash's certificate be effective immediately. It is further ORDERED that Ash return his certificate 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: _____, 2010

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

RRH:MZ:th