

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
NICHOLAS C. BROWN : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 1213-219

At its meeting of September 20, 2013, the State Board of Examiners (Board) reviewed a tenure decision regarding Nicholas Brown, after the Bridgeton Board of Education (Bridgeton) had certified tenure charges against him. Pursuant to *N.J.S.A.* 18A:6-16, the Arbitrator assigned to hear the tenure case referred the matter captioned *In the Matter of the Tenure Hearing of Nicholas Brown*, Dkt. No. 5-1/13 (Arbitrator's Decision, April 13, 2013) to the Board. According to the Arbitrator, Bridgeton had demonstrated that Brown had engaged in unbecoming conduct, including accessing pornography on his school-issued laptop, communicating with female track athletes using obscene and inappropriately suggestive language, making and engaging in inappropriate comments to female students and using profanity with students while they were under his supervision as a track coach. *Id.* at 24. The Arbitrator also concluded that Brown's conduct warranted his dismissal from his tenured employment. *Id.* at 25.

Brown was dismissed from his tenured employment with Bridgeton as a result of the unbecoming conduct proven in the tenure proceeding and the Arbitrator transmitted the matter to the Board for its review. Brown currently holds a Teacher of Physical Education Certificate of Eligibility With Advanced Standing, issued in July 2009, a Teacher of Students With Disabilities Certificate of Eligibility, issued in October 2009, a Teacher of Physical Education certificate, issued in January 2011 and Teacher of Health and Physical Education and Teacher of Driver Education certificates, both issued in January 2013. After reviewing the above information, at its

November 1, 2013 meeting, the Board voted to issue an Order to Show Cause to Brown as to why his certificates should not be revoked.

The Board sent Brown the Order to Show Cause by regular and certified mail on November 12, 2013. The Order provided that Brown must file an Answer within 30 days. Brown submitted an Answer on December 11, 2013. In that Answer, he denied that he had used his school computer to access pornographic websites because he was not issued the computer until the end of the period alleged for the access. (Answer, ¶ 3). Brown stated that certain websites were transferred to his school computer “accidentally and not knowingly” when he accessed his personal Google Chrome account on his school computer. (Answer, ¶ 3). Brown did admit to accessing Facebook one time on his school computer but denied that he ever saved or maintained pictures of scantily clad women on the computer. He stated that the photos were recovered from him visiting friends via Facebook. (Answer, ¶ 3). Brown also denied accusations that he had inappropriate conversations with students or used profanity with students while they were under his supervision as a track coach. (Answer, ¶ 3). He did admit to telling the girls’ Track team that they ran like “pussies” after they lost a track meet. (Answer, ¶¶ 3, 4). Brown stated that he never used the word in a sexual manner and he apologized for its use. (Answer, ¶ 4). Brown claimed that there was no cause to revoke his certificates as there were no students harmed in this matter. (Answer, ¶ 7). Since there were material facts in dispute, the matter was then transmitted to the Office of Administrative Law for hearing.

On May 22, 2015, Administrative Law Judge (ALJ) Bruce M. Gorman issued an Initial Decision in which he determined that, because the Board’s motion for summary decision was unopposed it should be granted and that Brown’s “appeal” of the revocation of his certificates

should be dismissed. *In the Matter of the Certificates of Nicholas C. Brown*, Dkt. No. EDE 1577-14 (Initial Decision, May 19, 2015). Neither party filed Exceptions to the Initial Decision.

At its meeting of June 26, 2015, the Board remanded this matter to OAL for further proceedings regarding the “legal rationale behind the decision.” On January 25, 2016, ALJ Gorman issued an Initial Decision on Remand, in which he granted the Board’s motion for summary decision. *In the Matter of the Certificates of Nicholas C. Brown*, Dkt. No. EDE 10506-15 (Initial Decision On Remand, January 25, 2016). The ALJ concluded that “since the respondent has failed to show cause why all certificates and credentials he holds should not be revoked, the Board of Examiners is now free to impose revocation of respondent’s certificates and credentials.” *Id.* at 2. ALJ Gorman added that, by defaulting on the motion, Brown “placed himself in the same position as if he had never responded to the Board’s Order to Show Cause.” *Ibid.* ALJ Gorman therefore determined that had Brown initially failed to respond to the Order to Show Cause, the Board would have been free to impose revocation on his certificates. *Ibid.*

The Board must now determine whether to adopt, modify or reject the Initial Decision On Remand in this matter. At its meeting of March 3, 2016, the Board reviewed the Initial Decision On Remand. After full and fair consideration of the Decision and based upon the particular facts of this matter, the Board voted to adopt the Initial Decision On Remand.

“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. 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). In this case, Brown’s proven conduct of accessing pornography

on his school-issued laptop, communicating with female track athletes using obscene and inappropriately suggestive language, making and engaging in inappropriate comments to female students and using profanity with students while they were under his supervision as a track coach certainly satisfies and, in fact, exceeds that requirement. Brown's conduct demonstrates that he is incapable of being a role model for students and that conduct warrants revocation. The Board therefore adopts the Initial Decision On Remand in its entirety.

Accordingly, on March 3, 2016, the Board voted to adopt the Initial Decision On Remand and ordered to revoke Brown's certificates. On this 14th day of April 2016, the Board formally adopted its written decision to adopt the Initial Decision On Remand in this matter, and it is therefore ORDERED that Nicholas C. Brown's Teacher of Physical Education Certificate of Eligibility With Advanced Standing, his Teacher of Students With Disabilities Certificate of Eligibility, and his Teacher of Physical Education, Teacher of Health and Physical Education and Teacher of Driver Education certificates are hereby revoked, effective immediately. It is further ORDERED that Brown return the revoked certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, 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

RRH/MZ/th

Date of Mailing:

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