

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
VINCENT SERPICO : ORDER OF SUSPENSION
_____ : DOCKET NO: 1819-177

At its meeting of March 8, 2019, the State Board of Examiners (Board) reviewed a tenure decision regarding Vincent Serpico. The Piscataway Township School District (Piscataway) certified tenure charges of unbecoming conduct and other just cause against Serpico, alleging that he used disrespectful language in the classroom, including racial slurs. Pursuant to *N.J.S.A.* 18A:6-16, the Arbitrator assigned by the Department of Education to hear the case, referred to the State Board of Examiners (Board) the tenure matter captioned *In the Matter of the Tenure Hearing between School District of the Township of Piscataway and Vincent Serpico*, Dkt. No. 144-6/18 (Arbitrator’s Decision, November 4, 2018).

In the tenure charges, Piscataway alleged that, over the course of his career with the district, Serpico had been “counseled, admonished and disciplined from time to time for disrespectful and demeaning statements to students.” Serpico was repeatedly cited for using sarcasm in his classroom, which was perceived by parents and students as demeaning and hurtful. In his 2009-2010 Summary Evaluation, Serpico was cited for his language, which stated and implied that his students were “stupid.” In addition, Serpico’s other performance deficits included lack of student progress on benchmark exams and his failure to participate actively in professional development and departmental meetings. As a result of that evaluation, the district placed Serpico on its “comprehensive mode” of evaluation for the 2010-2011 school year and withheld his increment.

The tenure charges further alleged that Serpico’s inappropriate behavior continued during the 2010-2011 school year. In February 2011, Serpico was cited for calling students “idiots,” removing a student from his classroom while she was sitting at her desk and telling that student to “shut up” when she entered the classroom laughing. Serpico remained on “comprehensive mode” for the 2011-2012 school year.

In the latest incident, on May 8, 2018, Serpico was in his classroom arguing with M.D., a male African-American student. In the middle of the argument, Serpico yelled at his students, asking why he

always had to hear “Nigger” (which he repeated several times) and “F-You.” A female African-American student, S.R., told Serpico she was upset at his use of the “N” word and asked to leave the classroom. When M.D. told a fellow student that he believed S.R. was going to report the incident, Serpico angrily accosted M.D. at his desk in an aggressive manner, cursing at M.D. and screaming that nothing was going to happen because no one cared what he (Serpico) did. Serpico also added that he was tired of working at the High School. Several students filmed Serpico’s outburst and video of the incident spread throughout the school community.

In his Decision (which is incorporated herein by reference), the Arbitrator found that Serpico was unhappy when he was transferred from the middle school to the high school starting in the 2009-2010 school year. Serpico was repeatedly denied a transfer back to the middle school and, as a result, was frustrated and resentful in his job. Serpico admitted that he “went ballistic” when M.D. joked that S.R. was going to report Serpico for his racial language. The Arbitrator also noted that Serpico blew his opportunity to express his remorse and an intention to improve by focusing on his goal of getting transferred back to the middle school.

Having reviewed the entire record, the Arbitrator determined that the district met its burden of showing unbecoming conduct to support Serpico’s termination. He noted that Serpico’s use of racial and foul language, not only upset student S.R. so much that she had to leave the classroom, but he compounded his misconduct by “going ‘ballistic’ in response to student M.D.’s amused reaction.” The arbitrator added that Serpico’s initial outburst-saying the words “nigger, nigger, nigger,” “fuck you,” and “suck my dick” to his class-served no legitimate pedagogical purpose as he was teaching a mathematics class and not an American literature class or a social studies class. The arbitrator found that Serpico’s use of those words to express his personal frustration was beyond inappropriate and simply “self-indulgent excrement.” He also concluded that Serpico’s enraged interaction with M.D. compounded his bad behavior. The Arbitrator also noted that the record contained no convincing expression of Serpico’s remorse or purpose to improve and held that the district had fully met its burden establishing just cause for its decision to terminate his

employment. Serpico was dismissed from his tenured employment with Piscataway as a result of the charges proven in the tenure proceeding.

Serpico currently holds a Teacher of the Handicapped, Teacher of Elementary School in Grades K-8 and Teacher of Mathematics certificates. After reviewing the above information, at its April 12, 2019 meeting, the Board voted to issue an Order to Show Cause to Serpico as to why his certificates should not be revoked. The Order was predicated on the charges that had been proven in the tenure hearing.

The Board sent Serpico the Order to Show Cause by regular and certified mail on April 16, 2019. The Order provided that Serpico's Answer was due within 30 days. Serpico filed his Answer on May 14, 2019.

In that Answer, Serpico denied that he knowingly made racial slurs. Rather, he alleged that the language he used was repeating and regurgitating what was said to show students the ridiculousness of the language being used. (Answer ¶ 2). He stated that he is subjected to constant inappropriate language in the high school, but that the racial slurs were not directed towards students. Further, he denies that he has ever been sarcastic or disrespectful with his students. (Answer ¶ 4). He believes the students fabricated this allegation. He also denies that he called students "stupid." (Answer ¶ 5). He argues that he was never provided with names of the students who he allegedly called "idiots," nor was he provided information and when and where this incident occurred. *Id.*

Serpico also indicates that he sought transfer from the high school and that he was bullied and made to feel uncomfortable instead of being transferred. (Answer ¶ 7). Finally, Serpico states that his math student, M.D., would goad, mock, and taunt him and that these behaviors were a daily occurrence. (Answer ¶ 8). Serpico also submitted letters from colleagues and former colleagues to support his position and show his character, dedication, and devotion to students.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on September 6, 2019, the Board sent Serpico a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute. Thus, Serpico was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause provided just cause to take action against his

certificate as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against his certificate. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if Serpico's offense warranted action against his certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Serpico was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. After extension, Serpico filed a written response on August 1, 2019. Serpico also asked to appear before the Board.

In his Hearing Response, Serpico explained the incident that occurred on May 8, 2018, wherein a student heard him use racial slurs. (Hearing Response, p. 1). Serpico stated that he was frustrated by the language used by the students and repeated the language indicating that he was tired of hearing such language. He also stated that one student, S.R., who was recently placed in his class, asked for a pass because "[s]he wanted to tattletale on me to get me in trouble..." *Id.* Further, he stated that student M.D. continued to try and goad him after S.R. left the room, stating that S.R. was going to get him fired or suspended. (Hearing Response, p. 2). Serpico indicated that M.D. was a constant behavior problem for him for 2 years.

Serpico believes that his employer retaliated against him by failing to support him after he attempted to restore order in his classroom. He also believes the school had him on their radar for many years. *Id.* He alleges that his employer did not do a proper investigation of the incident and favored the student's position from the start. Serpico provides numerous documents he believes support his arguments.

In testimony before the Board, Serpico reiterated much of what he submitted in his Answer and papers. He explained his concerns regarding the failure to transfer him as requested and the impact that this lack of transfer had on him professionally. Finally, Serpico asked the Board for leniency in its decision-making in his case.

The threshold issue before the Board in this matter, therefore, is whether Serpico's conduct constitutes incapacity of a certificate holder. At its meeting of November 1, 2019, the Board considered the allegations in the Order to Show Cause as well as Serpico's Answer, Hearing Response and testimony.

The Board determined that it was constrained by collateral estoppel to accept the facts as found in the tenure hearing and therefore no material facts related to Serpico's offense were in dispute. *See In the Matter of the Certificates of Richard Barnes-Bey*, Dkt. No. 1314-194 (Bd. Of Examiners September 17, 2015) (Collateral estoppel applies to facts established in a prior tenure hearing for Board revocation proceedings). Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*.

The Board must now determine whether Serpico's conduct, as set forth in the Order to Show Cause and proven in the tenure hearing, represents just cause to act against his certificate pursuant to *N.J.A.C. 6A:9B-4.5*. The Board finds that it does.

The Board 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:9B-4.4*. In this case, the record established several incidents of concerning conduct by Serpico. However, the Board believes that the conduct does not warrant a revocation, but rather a suspension of his certificates. Further, the length of the suspension is mitigated by the difficulty Serpico had in obtaining a transfer and feeling under supported professionally. Nevertheless, the Board finds that Serpico's conduct is inappropriate and warrants a two-year suspension of his certificates.

Accordingly, on November 1, 2019, the Board voted to suspend Vincent Serpico's certificates for two years. On this 13th day of December 2019 the Board voted to adopt its formal written decision and it is therefore ORDERED that Serpico's certificates are hereby suspended for two years, effective immediately. It is further ORDERED that Serpico return his 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.

Rani Singh, Secretary
State Board of Examiners

Date of Mailing:
Via certified and regular mail

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

