

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
BRUCE BASSETTI : ORDER OF SUSPENSION
_____ : DOCKET NO: 2021-103

At its meeting of December 10, 2020, the State Board of Examiners (Board) reviewed a tenure decision regarding Bruce Bassetti, a tenured teacher in the Penns Grove Carneys Point Board of Education (Penns-Grove). Penns Grove certified tenure charges against Bassetti for allegedly using a racial epithet in the presence of his 7th grade science students.

Following a remand of this matter after a prior arbitral award issued by another arbitrator was vacated, the tenure matter was assigned to a new arbitrator on March 24, 2020. On July 17, 2020, the new Arbitrator assigned to the case pursuant to *N.J.S.A.* 18A:6-16 found that Penns Grove demonstrated the truth of the charges and dismissed Bassetti from his tenured employment. *In the Matter of the Tenure Hearing of Bruce Bassetti*, Dkt. No. 75-4/19 (Arbitrator’s Decision, July 17, 2020). The tenure matter was referred to the New Jersey State Board of Examiners (Board) for review.

The new Arbitrator reviewed the stipulated record, and the transcripts of testimony from two days of hearing. The Arbitrator found that on February 27, 2019 Bassetti was teaching a science class at Penns Grove Middle School. Two students were frustrated by Bassetti’s attempt to retrieve a Chromebook, which was perched precariously on top of materials in front of one of the students. As Bassetti returned from his attempt to retrieve the Chromebook, “he uttered under his breath words to the effect that he ‘was done dealing with these niggers.’” *Id.* at p. 52. This remark was heard by students. Despite the inconsistency as to where Bassetti was when he made the statement, the time during class or the actual sentence he used, the Arbitrator found the testimony of students and their written statements were more credible than Bassetti’s assertions. *Id.* at p. 52-53.

In the Arbitrator's decision (which are incorporated herein by reference), the Arbitrator made credibility findings that substantiate Bassetti's use of the word "nigger" during a 5th period science class on February 27, 2019. (Arbitrator's Decision at p. 60). The Arbitrator further found that Bassetti's use of the racial epithet had "no legitimate pedagogical purpose and was evidently an expression of his annoyance at the misbehavior" of 2 students. Id. at p. 61. She further found that in using the racial epithet, Bassetti "modeled racism." Id. at p. 62. The Arbitrator found that Bassetti's use of the racial epithet violated Board Policies 4119.25, 4119.3, and 6121. Id.

Additionally, the Arbitrator found that Bassetti's conduct was well-known to the school community and that he "created a circumstance where public trust and confidence in the Board's ability to provide an educational environment which is free from racial slurs has been impaired." Id. at p. 68. Accordingly, Penns Grove met its burden of proving that Other Just Cause had been met.

Based upon Bassetti's conduct and its impact on student and the community, the Arbitrator found that his use of the racial epithet was "sufficiently flagrant" to warrant a penalty beyond the requirement of progressive discipline. Id. at p. 71. The Arbitrator directed the termination of Bassetti's employment. Id. at p. 76.

Bassetti currently holds a Teacher of Biological Science Certificate of Eligibility, and Teacher of Biological Science Certificate. After reviewing the above information, at its January 22, 2021 meeting, the Board voted to issue an Order to Show Cause to Bassetti as to why his certificates 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 Bassetti the Order to Show Cause by regular and certified mail. The Order provided that Bassetti's Answer was due within 30 days. Bassetti filed his Answer on February 22, 2021.

In that Answer, Bassetti admitted that Penns Grove brought tenure charges against him but denied using the “N” word. (Answer, ¶ 2). He also noted that the initial Arbitrator’s award found that Bassetti mumbled the “N” word under his breath to himself, did not recall using the word, and did not intend to be heard by students. Bassetti acknowledged that the second Award “says what it says and is final and binding under N.J.S.A. 18A:6-17.1(e).” *Id.* at ¶ 3. In paragraph 5 and 6 of his Answer, Bassetti indicates that some citations in the Order to Show Cause are incorrect, but again admits that the Arbitrator’s Award is final and binding and says what it says. *Id.* at ¶ ¶ 5, 6. He further states that he was a teacher with no prior discipline and good evaluations. *Id.* at ¶ 6. Bassetti also asserts six (6) affirmative defenses.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on March 9, 2021, the Board sent Bassetti a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute. Thus, Bassetti 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 certificates as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against his certificates. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if Bassetti’s offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Bassetti was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Bassetti filed a written response on April 7, 2021. Bassetti also asked to appear before the Board.

In his Hearing Response, Bassetti argued that Bassetti muttering the “N” word under his breath during class does not provide cause to revoke his certificates. Hearing Submission at p. 1. He further notes that the Arbitrator found that Bassetti had no prior discipline and good evaluations over a 15-year career. *Id.* There was no evidence that Bassetti was not a competent teacher. Moreover, he argued that prior Commissioner of Education decisions where the teacher used the “N” word resulted in a penalty less

than revocation. *Id.* at p. 4 and 5. He cites several cases which support his position. *Id.* at p. 6-7. He further states that he has already served a significant suspension, having served a 120-day suspension without pay, not having taught since April 18, 2019. *Id.* at p. 8.

In testimony before the Board, Bassetti's attorney, Keith Waldman, reiterated the arguments contained in the hearing submission. He noted that prior decisions of the Commissioner are instructive in this case. He cited several cases where the penalty for similar conduct was less than revocation. He stated that this was a single incident in a 15-year career; Bassetti was an engaging teacher, trying to motivate students. He requested that the penalty be less than revocation considering precedent. Bassetti did not make a statement to the Board.

The threshold issue before the Board in this matter, therefore, is whether Bassetti's conduct constitutes conduct unbecoming a certificate holder. At its meeting of July 30, 2021, the Board considered the allegations in the Order to Show Cause as well as Bassetti'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 Bassetti'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 Bassetti's conduct, as set forth in the Order to Show Cause and proven in the tenure hearing, represents just cause to act against his certificates 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 that Bassetti used a racial slur in the presence of students. Such conduct is unfitting of a role model. Nevertheless, this is a onetime incident, without previous discipline for similar conduct, or other inappropriate conduct in his employment history. Accordingly, the Board does not believe that revocation is appropriate. Rather, in light of his prior good record as a teacher, the fact that this was not repetitive behavior, the Board finds that the appropriate penalty is a one (1) year suspension of his educator certificates.

Accordingly, on July 30, 2021, the Board voted to suspend Bruce Bassetti's Teacher of Biological Science Certificate of Eligibility and his Teacher of Biological Science certificate. On this 17th day of September 2021, the Board voted to adopt its formal written decision and it is therefore ORDERED that Bassetti's certificates are hereby suspended for one (1) year, effective immediately. It is further ORDERED that Bassetti 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

RS/KAG/cf

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.