

**STATE OF NEW JERSEY – DEPARTMENT OF EDUCATION  
BUREAU OF CONTROVERSIES AND DISPUTES**

In the Matter of Tenure Hearing of Ronald Becker:

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**MONROE TOWNSHIP SCHOOL DISTRICT,  
GLOUCESTER COUNTY**

-And-

**RONALD BECKER**

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Case No. 211-8/19

**OPINION  
AND  
AWARD**

Before:

Edmund Gerber, Arbitrator

Appearances:

For Monroe Township School District  
Board of Education:  
Robert A. Muccilli, Esq.  
Capehart Scatchard, P.A.

For the Respondent:  
Carol M. Smeltzer, Esq.  
New Jersey Principals and Supervisors Association

The Monroe Township School District, Gloucester County, has brought tenure charges against Ronald Becker, an Assistant Principal. I was designated Arbitrator pursuant to the procedures of the State of New Jersey, Department of Education.

Prior to the commencement of the hearings in this matter, the Respondent, Ronald Becker filed a Motion to Dismiss the tenure charges alleging that the Petitioner's Statement of Evidence as sworn to by Interim Superintendent of Schools Dr. Richard Perry was deficient and failed to comply with N.J.S.A. 18A:6-11 and N.J.A.C. 6A:3-5.1b1. Specifically, Perry did not witness the alleged incidents forming the basis of these tenure charges nor did he participate in the investigation conducted by the District related to this incident. Further, the District investigators' reports although signed were not sworn to. The Motion was dismissed in a decision issued on October 16, 2019. See Appendix A.

Hearings were conducted on November 20, 2019 and November 25, 2019. Both parties submitted briefs which were received by December 20, 2019.

## **ISSUE**

Did Ronald Becker, a tenured vice principle in the Monroe Township School District engage in unbecoming conduct?

If so, does such unbecoming conduct warrant dismissal from the Board or some lesser penalty?

The charges against Mr. Becker consisted of:

1. On March 29, 2019, Mr. Becker engaged in unbecoming conduct by making the following threat on the life of Aramark employee, John Sebastiano: "If you call me an amigo again, I will fucking kill you."

2. In connection with the March 29, 2019 incident, describing above paragraph 1, Mr. Becker also engaged in unbecoming conduct making the following racist comment: Mr. Becker was upset at being called a "lazy Mexican."

3. Mr. Becker's unbecoming conduct in making the threat on Mr. Sebastiano's life and in making the racist comment violated District Policy 3351, entitled Healthy Workplace Environment and District Policy 3281 entitled Inappropriate Staff Conduct.

## **TESTIMONY**

Ronald Becker is employed as Assistant Principal of Athletics and Activities and has held this position for ten years and has consistently received positive evaluations. He testified that he was never disciplined before, but on cross-examination admitted that he was found to have acted inappropriately with another staff member. His duties include oversight of all game fields and practice fields in the District.

The District contracts out the maintenance of the fields to the Amarark Corporation. Becker was concerned about the condition of the baseball field and the district contracted with a turf specialist to evaluate the fields. A meeting was held to review the turf specialist's recommendations between Aramark's General Manager, John Baer, the District's Facilities Director, Walter Berglund and Becker on March 29, 2019. The three men were meeting on the baseball field when John Sebastiano approached on an all-terrain vehicle. Sebastiano is an employee of Aramark who maintains the playing fields and is Becker's point of contact with Aramark. Becker testified that he had raised concerns about Sebastiano's grounds keeping knowledge with Baer several times in the past.

As Sebastiano approached the group he said, "Hey, it's the three amigos." According to Becker, it was said in a sarcastic and demeaning way. Becker admits that he responded "if you ever call me an amigo again, I will fucking kill you" and said it multiple times. Becker testified when Sebastiano made the comment he thought of the movie "The Three Amigos" where the three characters were fools who were laughed at throughout the movie. Becker testified that he never meant that he wanted to literally "kill" Sebastiano, but the term "kill" was used as a child would use it to mean fight. Becker maintained that in fact he would never fight Sebastiano.

Baer testified that he did not hear what Sebastiano said but heard Becker say "I don't work for you and if you ever call me an amigo again, I will fucking kill you." Baer testified that Becker said this multiple times but there was no physical contact between Becker and Sebastiano. According to Baer, Becker was in a rage and shouting, his face was red and his arm was extended full length and pointed at Sebastiano as he walked towards him yelling at the top of his lungs. The entire incident lasted no more than 90 seconds. Baer acknowledged that Sebastiano later told him that he did not hear what Becker had said.

Berglund testified that he heard Sebastiano's comment about the three amigos and said that it was made in a jovial way. Becker said, "Are you talking to me?" while pointing at Sebastiano and "started going at it." Berglund immediately turned around, walked away, got into his truck and drove away. He didn't hear anything after that because he was walking away to his truck. Berglan had never seen Becker react the way before.

When Acting Superintendent of Schools Richard Perry heard of the incident, he directed two Assistant Superintendents Greg Capello and Lynn Di Pietropolo to investigate this incident. They interviewed Becker and the witnesses to this incident as well as Becker's supervisor Assistant Principal Caroline Yoder.

Yoder was Becker's immediate supervisor at this time. She testified that she first became aware of the incident, when on Monday, April 1, 2019 she spoke with Mr. Bear about what happened. According to Yoder, Bear said that he did not want the matter to go any further, he did not want her to investigate and that he had taken care of the matter. She then talked to Becker about the incident but in light of Bear's assurance that he took care of the matter, she took no further action.

Yoder was subsequently interviewed by the two investigators. Their report indicates that in Yoder's conversations with Becker, Becker said that he was enraged at Sebastiano because he called him a "lazy Mexican." However, Yoder testified that Becker never actually said "lazy Mexican." She only assumed that was what was inferred by Sebastiano when he called the three men the three Amigos. She never saw the movie "Three Amigos" and thought the movie portrayed Mexicans in a disrespectful light. When she told the investigators that Becker was upset at being called "a lazy Mexican" she was referring to the fact he was upset at being called one of the "three Amigos." Yoder testified that she told Dr. Perry that Becker did not literally say he was upset at being called a lazy Mexican. On cross-examination, Yoder acknowledged that she and Becker are friends.

The investigators issued their report on May 22, 2019. They concluded that Becker violated Board Policy 3351, Healthy Workplace Environment and Policy 3281, Inappropriate Staff Conduct as well as Regulation 3150 entitled Discipline which includes, inflictions of abuse such as use of derogatory remarks, insults, verbal or physical conduct that a reasonable person would find threatening, intimidating or humiliating. They recommended by way of discipline that Becker be denied an increment and submit to sensitivity training. The District had Becker submit to a psychiatric evaluation to determine if he had anger management problems. The Psychiatrist's report indicates that Becker did not suffer from such a problem.

Acting Superintendent Perry, after reviewing the investigators' recommendations, determined that the conduct charged against Becker merited the filing of the instant tenure charges for dismissal. He believed Becker's statements were repeated and egregious and was alarmed by Becker's comment that he was upset about being called a lazy Mexican. Perry testified that up to ten percent of the District's students are Hispanics or students of Mexican descent included in that group.

## **ARGUMENT**

**The Board argues** that the testimony of both Bear and Berglund was credible and consistent in establishing that Becker charged at Sebastiano in an unprovoked rage and threatened to fucking kill him if he ever called him an amigo again. There was no basis or justification for Becker's conduct. Sebastiano's three amigos comment was made in a jovial and inoffensive way and Sebastiano remained silent through most of the incident. Becker's conduct was unbecoming under any definition and qualifies as unacceptable under Policy 3351 Healthy Workplace Environment. It was verbal abuse, combined with physically aggressive conduct that a reasonable person would find threatening, intimidating or humiliating. The fact that Becker engaged in the conduct against someone who is not an employee of the District does make the conduct less unbecoming or less severe.

The evidence suggests that Becker's actions reveal that he was upset because he believed he was being called a lazy Mexican, a term he considered derogatory. Although Yoder tried to change her story at the hearing, she admitted that she told the Assistant Superintendent investigating the matter that Becker was PO'd (because he was upset at being called a lazy Mexican). Dr. Perry corroborates this; Yoder reported the same thing to him. The District has a significant Hispanic population with many students being of Mexican descent and the "lazy Mexican" comment motivated his actions on March 29.<sup>th</sup> The comment violated the spirit of Policy 3281, Inappropriate Staff Conduct, as well as the District's reasonable expectation of appropriate conduct from a tenured teaching staff member with direct responsibilities with supervision of students.

Becker's testimony is suspect because he did not tell the truth before this arbitrator. He was asked on direct-examination whether he had any

negative interactions with staff or students in any of the years of employment and he responded he did not. When questioned on cross-examination, Becker admitted that a grievance filed against him by a staff member resulted in a finding that he violated the District's Health Workplace Environment Policy, the same Policy involved in these charges. Becker attempted to deceive the arbitrator. His credibility is compromised in that he was not forth right with this tribunal.

Yoder has been protecting Becker. There is no harm in being someone's friend; however, Yoder never reported the March 29<sup>th</sup> incident to the Superintendent or Assistant Superintendent despite having knowledge of Mr. Becker's highly aggressive behavior. Becker should be dismissed given his aggravating circumstances surrounding his egregious conduct. Becker's conduct was not provoked by Sebastiano, rather the incident was initiated and escalated by Becker. He reacted suddenly, unpredictably and explosively to an innocuous comment made in a jovial manner. As to the psychiatrist evaluation, the psychiatrist did not observe Becker's enraged conduct nor did he review the evidence presented at the hearing which details the scope and intensity of Becker's behavior that day. Becker's comment involved a threat to kill. This is not simply a case of one employee hurling an insult against another.

The New Jersey Supreme Court has held that "progressive discipline can be bypassed when an employee engages in severe misconduct." In Re Herrmann, 192 N.J. 19, 33 (2007). Progressive discipline is not applicable when misconduct is severe or when it is unbecoming to the employee's position. Particularly when the employee's position involves safety and the misconduct causes risk of harm to persons. Some infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. In Re Stallworth, 208 N.J. 182, 196 (2011). The totality of aggravating circumstances here makes it unnecessary to follow progressive discipline. Becker should be dismissed from his employment. The aggravating factors attendant to his conduct demand imposition of a lengthy suspension without pay in the event Becker is not dismissed.

**The Association argues** that the Employer bears the burden of proof in a tenure dismissal case. In order to avail, a Board must prove that it has just cause for termination of the employment of a tenured staff member. Just cause requires that the penalty not be disproportionate

given the totality of the circumstances, including mitigating factors. The punishment must fit the crime. Progressive discipline is an integral part of the just cause concept. The charges against Becker state both that he made the statement to Sebastiano “if you call me an amigo again, I will fucking kill you” and that he made a racist comment, telling Yoder that he was upset being called a lazy Mexican. The two incidents, constitute a violation of District principles. The Petitioner did not call Sebastiano as a witness although he was the recipient of Becker’s remarks on March 29<sup>th</sup>. Nor did the Petitioner call the Assistant Superintendents Capello and DiPietropolo despite the fact that they investigated the allegations, on which the tenure charges were based and issued a report of their investigative findings and recommendations. Further, they did not call Caroline Yoder, despite the fact she is the only person with first hand knowledge of the racist comment allegedly made by Becker.

In Hoskins-Nnakwe v. State Operated School District of Newark (Agency Dkt. No. 125-6/17 (Decided 1/17) there were allegations of unbecoming conduct against a teacher including a teacher made disparaging and hurtful comments to students, used derogatory word like “stupid when referring to students, yelled at students, and spoke negatively about their ability to speak English fluently.” The tenured charges were dismissed in their entirety primarily because neither the students who submitted written statements about the teacher’s conduct nor the principal who instructed the students to prepare the written statements were presented by the school district to testify in the proceedings. The District did not provide a reason why these persons could not testify. Since they were not presented as witnesses, the teacher did not have an opportunity to cross-examine them. In the decision dismissing the tenure charges, the arbitrator noted “the District relied primarily on hearsay evidence to carry its burden of proving these charges.” In the present case, neither the affected person Sebastino nor the persons who investigated the allegations against Becker testified.

Becker was unable to cross-examine Sebastino as to what, if anything, he heard on March 29<sup>th</sup> or anything else. Nor was Becker able to examine the Assistant Superintendents as to exactly how they conducted their investigation. The failure of the District to present Sebastino and the Assistant Superintendents at the hearing without any justification for their absence constitutes a violation of Becker’s due process rights and accordingly the tenure charges against him must be dismissed.

In a tenure proceeding, “the nature and gravity of the offenses under all circumstances involved, as well as any evidence as to provocation, extenuation or aggravation and any harm or injuries effect which the teacher’s conduct had on the maintenance of discipline and proper administration of the school system” must be considered. In Re Fulcomer, 93 NJ Super. 404, 422 (App. Div. 1967). Other factors to be considered include the impact on the teacher’s teaching career, Respondent’s teaching record and teaching ability and whether the Respondent had been disciplined in any manner by any Board prior to the date of the incidents involved in the charge. Tenure dismissal is reserved for the most serious of offenses committed by tenured teaching staff members typically involving a pattern of unbecoming conduct over an extended period of time and often involving inappropriate conduct towards a student (citations omitted). Conversely, tenure dismissal is not an appropriate remedy for single instances of lesser offenses not involving students. I/M/O Tenure Hearing of Hoskins-Nnakwe, *supra*. where a teacher verbally abused security guards, a reprimand was found to be appropriate remedy); I/M/O Tenure Hearing of Brenda Bruni v. Bernards Tp. A teacher fled the scene after being pulled over by police for speeding, a two-month suspension without pay found to be appropriate, 2/19/18 Dkt. No. 42-18 ; and In the Matter of the Arbitration of John McEntee, Jr. v. State Operated School District of Paterson, Dkt No. 374-17 (12/27/17) re a tenured staff member engaged in inappropriate interaction with vice-principal on one occasion including becoming verbally and physically aggressive a written warning found to be appropriate penalty). I/M/O Tenure Charges of Bruce Basetti, 8/23/19, Dkt. No. 75-4/19, the Petitioner Penns Grove-Carneys Point School District sought termination of a tenured teacher’s employment, alleging unbecoming conduct; alleging that on one occasion in the classroom in the presence of a 7<sup>th</sup> grade student, the teacher said to himself something to the effect of “I’m done with these niggers or I’m not trying to deal with these niggers” while walking away from certain students who were disruptive. The charges allege that the use of any racial epithet by a teacher is intolerable. There is no place in a school district for such conduct.” The arbitrator dismissed the tenure charges in their entirety and imposed no penalty since the charges were based on a single incident committed by a teacher with a 14-year unblemished record of service in the school district. The arbitrator held, in part, as follows: “the Arbitrator rejects the Board’s contention that Mr. Basetti cannot continue in his employment in a spotless record of 14 years with good evaluations. Balancing all these



factors, a discharge is too severe or appropriate for the offense.” Basetti did not engage in unbecoming conduct and Basetti is not a racist.

On the basis of the decisions cited above, termination of Becker’s employment is not warranted. If any discipline is warranted at all, such discipline should be limited to a written warning or reprimand. The charges in the present case pertain to a single verbal dispute for which Becker immediately apologized. Becker’s conduct had no impact on the maintenance of discipline or improper administration of the school. Becker’s termination would have a devastating impact upon his career.

## **DISCUSSION**

There is no question that Becker made the statement, “call me amigo again and I’ll fucking kill you.” Accordingly, the Respondent’s argument that the District’s failure to call certain witnesses is fatal to its case is without merit.

There is no justification for Becker’s outburst under any circumstances. However, the Board failed to prove its second allegation that Becker actually said he became upset because he was called a lazy Mexican. Yoder testified that she used that term when talking to the investigators because she misunderstood the nature of the movie the Three Amigos; she inferred that Becker was upset because he was called a lazy Mexican. Yoder testified that Becker never used that term. The Board has tried to discredit Yoder’s testimony, claiming that Yoder is lying to protect Becker, who is a friend. While Yoder may have had a reason to lie, such a possibility does not establish that she did testify falsely under oath. The burden is on the District to prove each of its allegations, I find it failed to prove that Becker said that he was called a “lazy Mexican.”

There is a dispute in the testimony between Berglund and Becker as to the tone in which Sebastino used the term “the Three Amigos”. While Berglund heard the phrase as jovial manner, joviality might be perceived as sarcasm. Regardless, Becker’s conduct under the circumstances was inexcusable. However, Superintendent Perry’s decision to bring tenure charges against Becker was based at least in part on the “dirty Mexican” comment which Perry believed was alarming. However since it has not

been shown that Becker ever used the term “dirty Mexican” a major reason for the tenure charges has not been established.

Given Becker’s ten year history of good evaluations and minimal prior disciplinary record<sup>1</sup>, Becker’s outburst, however egregious, is too isolated of an instance to warrant the loss of tenure. Becker underwent a psychiatric evaluation which did not find that Becker has anger management problems. This isolated, one-time outburst under these circumstances does not rise to an offense so unacceptable that a denial of tenure is warranted.

Nonetheless, Becker has to understand that this type of outburst is completely unacceptable. None of the arbitration awards cited by the respondent where discipline was reduced to a reprimand concerned conduct as serious as that of Becker’s. For example, discipline was reduced to a reprimand in In the John McEntee, Jr. v. School District of Paterson supra. In that matter, a teacher and a vice-principal engaged in a heated exchange with raised voices and aggressive posturing but there were no overt threats of violence. By contrast Becker threatened to fucking kill Sebastiano. Such an overt threat cannot be minimized. Becker must reflect on the nature of this outburst . Becker shall serve a 30-day suspension as a direct consequence of his conduct.

### **AWARD**

The Monroe Township School District failed to establish that Ronald Becker should be denied Tenure.

However Ronald Becker shall be suspended for a period of thirty (30) days

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Edmund G. Gerber, Arbitrator  
January 8, 2020

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<sup>1</sup> While there is some testimony concerning a charge brought against Becker concerning a staff member, which Becker failed to acknowledge on direct testimony it is unclear from the record how serious his conduct was and I cannot assume that it was anything but a minor misstatement on his part which I find to be of minor importance.