

Bloomfield – Teacher Termination

STATE OF NEW YORK
STATE EDUCATION DEPARTMENT
OFFICE OF EMPLOYER – EMPLOYEE RELATIONS

In the Matter of the

DISCIPLINARY CHARGES BROUGHT PURSUANT TO SECTION
3020a of the *Education Law*, by the HOOSICK FALLS
CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION,

Complainant,

-against-

Decision of the Hearing
Officer (SED #15,256)
John T. Trela

Xxxxxxx Xxxxxxx., as a Tenured Teacher,

Respondent.

[omitted]

Discussion and Opinion

Based upon a preponderance of the evidence the undersigned has determined that Respondent is guilty of the charges where stated below. Those charges that are stated to be unproven are dismissed. (See p.32.)

The undersigned dismisses any and all allegations that Respondent is guilty of any charge whatsoever regarding "sexual harassment". Based upon testimony and evidence at hearing, while some of Respondent's statements or actions may not have seemed to be appropriate to some, the undersigned believes that they clearly do not constitute "intentional" sexual harassment, nor was any type of "pattern" of sexual harassment during his career substantiated at hearing.

Many of the specifications preferred against Respondent either individually or standing alone, would not rise to the level of just cause for discipline under Section 3020a of the *Education Law*. These allegations however, were made in a collective set of charges and constitute a pattern of unsatisfactory behavior in a number of areas of Respondent's performance. The District has proven that this case does not involve a few isolated incidents, but rather a continuing series of events.

The most serious problem is that the record shows Respondent's inability to maintain his composure in the classroom and that he frequently lost his temper and yelled at his second grade students. The record demonstrates that Respondent engaged in a pattern of screaming which at times brought a seven-

year-old student to tears. This action clearly establishes conduct unbecoming a teacher and very serious problems with overall general classroom management.

Mr. Bloomfield who is an expert in the education field testified that Respondent's techniques are intolerable and worthy of dismissal and that Respondent's actions provided a negative model for the students. He further stated that Respondent "...doesn't have the type of professional restraint that is required of teachers, particularly with impressionable second graders." The behavior that Respondent admitted to raised Bloomfield's initial concerns about Respondent's appropriateness for being in the classroom. Respondent seems to repeatedly demean students. They become tearful. These are traumatic events in young students lives (Complainant Brief, p.22). [Italics and Highlight added]

The record shows that the District has made much effort to assist Respondent during his teaching career both verbally and in written counseling memorandum. He has previously been advised of his inappropriate behavior and counseled (D-11) for his behavior by the District. Exhibit D-11 dated May 13, 2008 states in relevant part;

This counseling memorandum is written as a result of your inappropriate behavior on May 6, 2008. After investigating this matter I understand the pertinent facts to be as follows 1. At approximately 9:45 a.m. on May 6, 2008 you were observed by Amy Netti to be screaming uncontrollably at a student; 2. When screaming at this student you were within inches of his face; 3. The words you were screaming at this student were: "What are you doing?"; "Get out."; "I said get out."...

"As a teacher you set an example for your students. Your eruption is evidence that you were not in control of your classroom (or your emotions) and you certainly did not set a proper example for your students. This conduct will not be tolerated in the future and if a similar event occurs in the future I shall recommend further disciplinary action, including termination."

Respondent was also provided with a job performance memorandum (D-6) dated March 26, 2009 where many concerns of the District were once again brought to Respondent's attention regarding: inappropriate behavior, ineffective classroom management, inappropriate use of the computer lab, walking arm in arm with a female student in the hallway, safety concerns of the students leaning back in their chairs, and an overabundance of disciplinary referrals in the classroom. The author of the instrument, Ms. Netti went on to say:

"Throughout our conversation you indicated that you would work to make the changes necessary to create a positive, stable educational environment for your students. I suggested establishment and posting specific classroom rules to review daily with your students. I also mentioned the importance of reviewing and practicing behavioral expectations for all areas of the school environment, including the hallway. I offered to come into your classroom to help you establish the structure, but you declined my support at this time and you desired to attempt the changes alone initially. You also stated that you would seek support from the administration if needed. You did agree to observe two other classroom teachers, Mrs. Nevins and Mrs. Fleming for additional ideas. I will arrange this for you. Mr. Daley and I encourage you to seek support from your second grade team as well.

As a follow-up to this conversation, I will be conducting an observation of you in approximately 2 weeks. Please accept this counseling memo in which you are notified that you must conduct yourself in a professional manner at all times, establishing appropriate, clear, consistent rules, expectations and consequences for your students. The failure to adhere to the expectations of the Hoosick Falls Central School District as a teacher could lead to further discipline, up to and including termination."

Finally, the District prepared an "Educator Improvement Plan" (D-10) for Respondent to follow dated February 12, 2010. The plan included certain expectations and identified areas in need of improvement for Respondent.

However, as the record notes, Respondent, by his inaction, never agreed to participate in the "Educator Improvement Plan" presented by the District.

Respondent testified "*... that I wanted a lawyer to go over everything that I was signing from now on.*" (T. p.512), he was given the "Plan" on February 12, 2010).

While the undersigned appreciates Respondent's wanting an attorney to review this document, the "Plan" itself does not introduce any new requirements to Respondent that he was previously counseled for, either verbally or in writing. The District's "Educator Improvement Plan" was designed to help Respondent retain his position in the District and improve his performance. For whatever reason, Respondent did not move forward with this offered plan of remediation.

This refusal is telling, as had Respondent agreed to participate, the changes sought by the District might have been achievable for Respondent over the future course of his career. The District made many good faith efforts to help Respondent in the noted areas of deficiencies. Regrettably those recommendations for improvement were not embraced by Respondent during his career.

While the undersigned takes no pleasure in rendering the decision below, based upon a preponderance of the testimony at hearing and the evidence in the record, the District has proven its case.

The findings on the Charges and Specifications are as follows:

Specification 1 and 2: Misconduct: Guilty; Conduct Unbecoming a Teacher: Guilty;

Specification 3 and 4, Misconduct: Guilty; Incompetence: Guilty; Conduct Unbecoming a Teacher: Guilty;

Specification 5,6,7: Misconduct/Conduct Unbecoming a Teacher: **Charges dismissed;**

Specification 8 and 9 Misconduct: Guilty; Conduct Unbecoming a Teacher: Guilty;

Specification 10 and 11 and 13: **Charges dismissed;**

Specification 12,14,15,16,17: Misconduct: Guilty; Incompetence Guilty; Conduct Unbecoming a Teacher Guilty;

Specification 18: Misconduct: Guilty; Conduct Unbecoming a Teacher Guilty;

Specification 19, 20, 21, 22, 23: Misconduct: Guilty; Incompetence Guilty; Conduct Unbecoming a Teacher: Guilty;

Specification 24,25,26,27,28,28,29,30,31: Misconduct/Conduct Unbecoming a Teacher: **Charges dismissed;**

Specification 32,33, Incompetence: Guilty;

Specification 34: Misconduct: Guilty; Conduct Unbecoming a Teacher: Guilty;

Specification 35: Misconduct/Conduct Unbecoming a Teacher/Incompetence: **Charges dismissed.**

Decision of the Independent Hearing Officer

The undersigned, having heard the proofs and allegations herein, having considered the facts, evidence, and arguments for the charges and specifications against Respondent by the School District has determined that the District has "just cause" to terminate Respondent. *Accordingly the penalty is termination.*
[Italics and Highlight added]

In conformance with Section 3020a of the *Education Law* I find that none of the charges brought by the employing Board were frivolous as defined in Section 8303a of the CPLR.

March 7, 2011

S/ _____
John Thomas Trela
Hearing Officer

State of New York)
County of Albany)ss:

I, John T. Trela do hereby affirm my oath as Arbitrator/Hearing Officer that I am the individual described herein and who executed this instrument, which is my award.

March 7, 2011

S/ _____
John Thomas Trela
Hearing Officer