

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. Henley Graves
Resident Judge

SUSSEX COUNTY COURTHOUSE
THE CIRCLE
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January 23, 2004

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Date Submitted: December 8, 2003

Re: Michael K. Mulstay v. Board of Education of the Indian River School District
C.A. No. 03A-08-003 THG

Dear Counsel:

Michael K. Mulstay (Appellant) appeals a decision of the Board of Education of the Indian River School District (the Board) which, on the basis of immorality and misconduct in office, terminated Appellant's employment. The Board's decision to terminate the Appellant is affirmed.

Factual Background

Appellant worked as a special education teacher at Selbyville Middle School in the Indian River School District. As of the year 2002-2003, he had worked in the District for twelve years. In November 2003 he was placed on administrative leave pending an investigation of his

relationship with a Selbyville student, J. Smith.¹. Smith, an eighth grade student in the school, had been a student in Appellant's room in 2000-2001. Appellant had also served as an assistant basketball coach of Smith's team in 2001-2002. It was apparent that Smith and Appellant had a close relationship, each considering the other to be their favorite student or teacher. Even after she was no longer in Appellant's room, Smith would often spend a period of time, known as "prime time", at the end of each day in Appellant's classroom socializing with him and other students.

In November 2002, the Principal of Selbyville Middle School asked Appellant to accompany him to a conference room where Delaware State Police officers were waiting to speak with him. He was then questioned by the Police regarding his relationship with Smith and in particular an email that was sent by Appellant to Smith. The email read as follows:

J., I don't understand this. I reach out to you over a week ago to try and get this problem we are having settled and you haven't made an effort to come and talk to me. You say you love me and that you care for me yet your actions are speaking louder than words. I'm confused. I will tell you this, I will ALWAYS love you and care for you. My love for you is unconditional. I have never stopped caring for you and loving you. I will always be her for you if needed. My heart is pure when it comes to you. I have never lied to you and always have been straight with you. The relationship i [sic] thought we had takes work and effort. We are both in different places now and we need to get back together somehow if at all possible. The only way to do this if to find some time to sit and talk. Maybe YOU don't want to resolve this and talk. If that is the case than there isn't anything i [sic] can do about it. But if what you say is true and that you do love me and care for me then we have to resolve this. I am sure you are not happy and you know that i [sic] am not happy and haven't been for awhile. We need each other in our lives. It would be a shame if we let two plus years get away from us. Again i [sic] may be barking up the wrong tree and you don't care or don't want to talk and resolve this. I don't know what else to do but i [sic] want this settled as soon as possible. I miss you and want you back in my life and i [sic] think you miss me and want the same. We have too much

¹Name changed to protect identity.

invested in each other to give up. I love you, Poppop.²

Appellant explained the email by telling the Police it was written after he had confronted Smith at a school dance, telling her that her attitude was poor, her behavior was poor, that she needed to change her attitude and behavior, and that he had lost respect for her. After their confrontation, Smith stopped speaking to Appellant and he sent the email after she refused to talk with him.

During the investigation the Police recovered several other notes written by the Appellant to Smith. One note was written on the inside of a book of poetry, *Mottos to Live By*, given by Appellant to Smith. The note reads:

J., For the past three years we have grown a relationship that is very rare for two people. I know I can be (me) around you + not have to be Mr. Mulstay. I thank you for that. Not making me have to be “perfect” all the time. You have made this job a pleasure again. I have watched you grow and mature into a gorgeous young lady. People never really know how special someone else is until they leave, and sometimes it is important to leave so we are given a chance to see how special that someone else is. We came together as two separate individuals and when you leave we will be always together. I trust you so much with my friendship and what we have. If you ever need me for anything you will never have to reach for me because I’ll always be by your side. When you go I’ll think about all the words between us that never needed to be spoken. You mean the world to me and I’ll never stop loving you. Cause what you have given me I can never repay. And when we meet again someday, I will love you then as I do now cause you mean the world to me. I know soon it will be time to let you go so you can grow but I will hold your hand through times of trial + show you love through a hug and smile³.

Another handwritten note was found inside *Friends for Life*, also a collection of poems, which was given to Smith from Appellant in 2002. The note, written on the inside cover, reads:

J., When you are feeling down or sad just pick this book up + read a few poems. Remember what we will always have. You are very special + I’ll always remember you.

²Edited only to remove the victim’s name.

³Edited only to remove the victim’s name.

(s) Popop.⁴

Further, a birthday card sent from Appellant to Smith. This note written in this card reads:

J., J., J., J.. What do I say to you that I haven't already? You are so special to me and in my life. If you listened to the words on "Tarzan" you will understand that others just won't get our relationship + how we feel about each other + the bond we have. Friendships + relationships like ours can be measured only by time + the trials that we go through. No matter where you go or what you do I will always be part of your life as you will be in mine. You have a huge part of my heart. I will forever cherish our days here at SMS together. Even tho [sic] the daily visits will come to an end + the physical presence I will have you in my thoughts + prayers + 4ever in my heart. NO ONE means as much to me as you! We were put together for some reason. For your B'day my gift to you is simple but everlasting. I give you my love, my arms to hold you, my shoulder to cry on, my strength to help you through my time +my effort. I give these things to you 4 always + ever. I do truly love you + wish you the best. Happy B'day. J.. (s) Poppop 4Ever⁵

Additionally, an unsent email from Appellant to Smith was found on Appellant's computer. The email reads:

J., I don't know if you realize just how deeply i [sic] care for you. I thought we had a relationship that transcended [sic] wo[]. You asked me a week or so ago if i [sic] was alright [sic] and i [sic] said no but that we would talk about it later. You sensed th[] was something bothering me. You never came back. Then you tell me your teachers won't let you go early come and see me at the end of the day. next thing i [sic] know i [sic] turn around and your [sic] coming out of the 7th grade hallway. I guess they let you go early huh? I truly thought you were different. For over two years i [sic] have put my h[] and soul into you and cared for you like no other. I don't know what to think or do. Before you know it this year be over. I have no idea when you will read this but it will be hard enough as it is to have you leave when we are fighting or ignoring each other let alone to see you leave when we are like this.⁶

During the investigation, Detectives interviewed Appellant and the District reviewed his personnel record. Smith was interviewed by Detectives as well as by a psychological expert. In addition, the Director of Personnel for the District sat in on an interview of Smith. The District

⁴Edited only to remove the victim's name.

⁵Edited only to remove the victim's name.

⁶Edited only to remove the victim's name.

then determined there was sufficient evidence to warrant the issuance of a notice of termination to Appellant on the grounds of immorality and misconduct in office as described in § 1411 of the Teacher Tenure Act of the Delaware Code.

A due process hearing was held in June and July of 2003. At the hearing, testimony was heard from various parties. Smith testified that in the beginning she enjoyed the special privileges, extra attention, and confidence-boosting compliments the Appellant gave her. However, she also testified that as time went on, she became increasingly uncomfortable with the attention Appellant gave her. Smith also testified about an incident where Appellant offered to drive her home to get her basketball jersey before a game. Smith stated that while she was grateful to get her jersey, she was uncomfortable riding with him in the car and feared he would try to enter her house. Smith also testified that she continued to visit Appellant's classroom after basketball season had ended. During this time, Smith testified that Appellant would often hug her and tell her he loved her. Smith also stated that Appellant often reminded her that he would miss seeing her once she left the school and his "obsession" distressed her. Smith further detailed a number of other incidents. One involved Appellant attempting to initiate a "sex talk" with Smith, though the word sex was never used. Further, before a school dance when Smith and her friends were in his room, Appellant mentioned a comment of a sexual nature written in the boys' bathroom relating to Smith. Additionally, Smith testified regarding the birthday card given to her by Appellant for her thirteenth birthday. All three incidents were upsetting to Smith, as she described her feelings as disturbed, upset, and uncomfortable. Finally, in an affidavit, Smith described an occasion when Appellant gave her a prolonged frontal hug while rubbing her back and whispering that he loved her, which Smith said made her feel uneasy.

Appellant presented testimony from several coworkers. Majorie Orendorf, who taught with Appellant from 1992 through 2000, praised Appellant's relationship with his students. However, she also stated, when shown the communications between Appellant and Smith, that

she would have concern with the use of the word love and the references to their special relationship, though she wouldn't be concerned once she knew they were from Appellant. Orendorf admitted that the letters did not relate directly to academics and that she would have warned Appellant that the words he used were too strong. Mark Smith, another teacher, also acknowledged that the letters from Appellant to Smith would have concerned him as a parent, had he not known Appellant sent them. A third teacher, Michael Lingenfelter, stated that he had often heard Appellant and students say "love you" or "I love you" and had observed Smith and Appellant exchange hugs, though he said they were not sexual in nature. When shown the communications between Smith and Appellant, Lingenfelter stated that he had no concern when he knew they came from Appellant. Tim Clausen, who shared a room with Appellant for four years, testified as to the close relationship between Smith and Appellant, stating that she came to Appellant for a hug after losing a class election and she would stop by to see him. Clausen also stated that based on the contents of the communications, he would be concerned by the language used. Clausen, like the other teachers who testified, only expressed his lack of concern when he took into account the authorship of the letters.

In light of the testimony and exhibits that were before it, the Board found that substantial evidence existed to terminate Appellant on the grounds of immorality and misconduct in office. Appellant appeals that determination.

Appellant's Arguments

Appellant raises two issues on appeal. First, appellant argues that the Board erred in concluding that the alleged acts were sufficient as a matter of law to constitute immorality, and the record did not contain substantial evidence to support his termination. Second, appellant

argues that the Board erred in their determination that the alleged acts were sufficient as a matter of law to constitute misconduct in office and that the record did not contain sufficient evidence to support his termination.

A. Termination for Immorality Was in Error and Unsupported by Record

Appellant states that the Board's conclusion that the written communications were personal, not related to the educational function of the school district, and contained inappropriate, offensive, intimate and sexually suggestive language, rendering Appellant unfit as a teacher, was erroneous. Appellant argues that the Board's view of the student/teacher relationship is too narrowly constrained and runs contrary to the Mission Statement of the School District. Additionally, Appellant argues that this view defies the reality of teaching in the middle school setting. Further, Appellant criticizes the Board's reading of the communications between Appellant and Smith. Appellant points out that the written note in *Friends for Life* does not contain inappropriate, offensive, intimate or sexually suggestive language. Appellant further criticizes the use of an unsent email from Appellant to Smith. Appellant also states that the communications should not be taken out of context.

Appellant then argues that the results of the police investigation, which were given to the District, were incomplete, included a statement by Smith that there was no physical contact between Appellant and herself, and that Appellant's fellow teachers were not interviewed. Appellant also cites the fact that his prior performance appraisals were all positive and there had been no complaints or allegations of inappropriate conduct with students. Rather, Appellant states his prior reviews had all been positive.

Appellant next argues that, based on Delaware case law, the record is insufficient to

prove immorality or that Appellant lacks effectiveness or fitness as a teacher. Appellant argues that the record clearly indicates Appellant's effectiveness as a teacher, both in the eyes of his peers and former students, and that he took an active interest in his students. Appellant states that while at worst he may have shown less than sound judgement, his conduct in no way could have reasonably been found to impair his effectiveness as a teacher.

B. Termination for Misconduct in Office Was in Error and Unsupported by Record

Appellant argues that the Board erred in their determination that the alleged acts were sufficient as a matter of law to constitute misconduct in office and that the record did not contain sufficient evidence to support Appellant's termination. Appellant takes issue with the definition of misconduct used by the School Board, as well as the evidence cited by the Board as evidence of his misconduct. Appellant argues that the evidence cited by the Board does not show him acting inappropriately or unprofessionally, but only as a concerned teacher and friend who may have shown poor judgement.

The Board's Position

The Board argues that it properly applied the standard of immorality and had substantial evidence to support its decision to terminate Appellant on the grounds of immorality. The Board contends that Appellants actions render him unfit as a teacher, violates the common mores of society, impairs his effectiveness as a teacher, and constitutes immorality under Chapter 14 of Title 14 of the Delaware Code. The Board states that the School District properly reached its conclusions based on the communications sent by Appellant to Smith, as well as the testimony of witnesses, including two experts and two administrators. The Board contends that Appellant's actions were not aimed at morale boosting but subtle seduction and had no legitimate teaching

purpose.

The Board further argues that its determination to terminate Appellant for misconduct in office was supported by substantial evidence and was correct as a matter of law. The Board argues that substantial evidence of Appellant's violations of District and school policies were presented. Finally, the Board argues that Appellant's words, actions, and failure to take responsibility for his actions were unacceptable and warranted termination to protect other students in the District from the emotional harm already suffered by Smith.

Discussion

Delaware law provides that a teacher may have his or her position terminated due to immorality and/or misconduct in office. 14 *Del. C.* § 1411, 1420. The Board's decision shall be final and conclusive unless the teacher appeals to the Superior Court within ten days after a certified copy of the decision is received by the teacher. 14 *Del. C.* § 1414.

The cause shall be determined by the Court from the record, which shall include a certified copy of the evidence, findings and decision of the board, without the aid of a jury. The Court shall decide all relevant questions of law and all other matters involved, and shall sustain any board action, findings and conclusions supported by substantial evidence. The Court may reverse, affirm or modify the decision of the board or remand the cause to the board for a rehearing.
14 *Del. C.* § 1414.

This Court must determine if the Board's findings were supported by substantial evidence as required by the Code. "Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Board of Education v. Shockley*, 155 A.2d 232, 243 (Del. 1959). The Board's duty is "to weigh evidence, determine the credibility of the witnesses, resolve issues of fact and draw its conclusions and inferences

therefrom.” *Id.* The power of the Court lies in determining “whether or not the findings of the Board are supported by substantial evidence. If there was presented substantial and credible evidence to support the charges and a fair administrative hearing was had, the Superior Court cannot substitute its judgement for the judgment of the school authorities.” *Id.* Upon appeal, the burden is on the appellant to demonstrate that the Board’s decision to terminate was not based upon substantial evidence. *Id.* at 244. The Delaware Supreme Court has cautioned that “[c]ourts should be reluctant to set aside findings of a Board of Education after public hearing unless the record clearly contains no substantial evidence supporting findings of the Board.” *Id.*

A. Appellant’s Termination for Immorality is Supported by Substantial Evidence

The Code does not define the term “immorality.” While no single definition has been given for immorality, the courts have said that it “refers to the common mores of society... [and that] the term will be construed in the context in which it appears... to refer to such immorality as may reasonably be found to impair the teacher’s effectiveness by reason of his unfitness or otherwise.” *Skripchuk v. Austin*, 379 A.2d 1142, 1143 (Del. Super. Ct. 1977).

It is helpful to look to the definition of immorality used by other jurisdictions in this same context. Pennsylvania’s courts have defined immorality as “such a course of conduct as offends the morals of the community and is a bad example to the youth whose ideals a teacher is supposed to foster and elevate.” *Dohanic v. Commonwealth of Pennsylvania, Department of Education*, 533 A.2d 812, 814 (Pa. Commw. 1987). Nebraska has said immorality may be like obscenity, difficult to define but obvious on sight. *Clarke v. Board of Education and School District of Omaha*, 338 N.W.2d 272 (Neb. 1983). The Court in *Clarke* cited California cases for the proposition that immoral behavior is “that which is hostile to the welfare of the general public

and contrary to good morals.” *Id.* at 276, citing *Palo Verde etc. Sch. Distr. v. Hensey*, 9 Cal. App. 3d 967, 972, 88 Cal. Rptr. 570, 573 (Cal. Ct. App. 1970).

The Court finds that the evidence in this case was sufficient to sustain the finding of the Board that Appellant was guilty of immorality. Appellant wrote numerous letters and notes to a young female student, proclaiming his love for her. Appellant does not deny he wrote or sent these communications, only that the Court should not read his love as a sexual love because he did not mean it that way. That Appellant is otherwise thought of as a good and caring teacher does not excuse away his actions. The Appellant’s own witnesses testified that they would be disturbed and concerned by the language in the communications and Smith’s mother testified as to her reaction to the letter, finding it strange, inappropriate, upsetting and frightening. The letters not only offend community standards as to the relationship between teachers and students but also set a bad example for other students, disturbing their moral and social orientation. Appellant’s letters and notes, as well as his statements and hugging of Smith had an additional detrimental effect on Smith’s relationship with other students in the school, which strengthens the Courts conclusion that Appellant’s actions were improper and immoral.

An informative, but not precedential, case is *Manheim Central Education Association v. Manheim Central School District*, 572 A.2d 31 (Pa. Commw. 1990), which concerned a tenured school teacher and athletic coach who wrote various love letters to two female students. In addition, he professed his love to one of the students in person. Unlike Appellant, who admits to hugging Smith, the teacher in *Manheim* did not have physical contact with the females. However, in both cases, peers teased the students and the students began to avoid situations that would result in their being alone with the teacher. In *Manheim*, the teacher’s actions, i.e. writing

of love letters, and seeking the affection of students, was enough to find immoral conduct.

Another interesting case comes from the Appellate Court of Illinois, Fifth District. In *Board of Education of Sparta Community Unit School District v. The Illinois State Board of Education*, 577 N.E. 2d 900 (Ill. App. Ct. 1991), the defendant, Stull, was a tenured high school teacher and softball coach. Stull was charged with unprofessional and immoral conduct with regards to two female students. Among the charged conduct were giving unsolicited and uninvited kisses and hugs to the two females, presenting them with gifts, and writing numerous letters expressing his affection for and attraction. *Id.* at 901. Like Appellant, Stull argued that the actions with which he was charged did not occur as charged or there was an innocent interpretation. It is notable that the letters sent by the defendant are similar in language to the letters Appellant sent to Smith.⁷ A further similarity between the cases is how the students were

⁷Comparing the letters certain language should be noted for its similarity, notably: Illinois defendant to C.O.: “You’re a very pretty young woman and I really appreciate your looks, personality and maturity... What I feel for you won’t change. It hurts to think of the happiness I will miss.”

Illinois defendant to T.A.: “I want you to know that I’ll always be here for you. A shoulder to lean or cry on, a hand to hold[,] an ear to listen, I’m here... I care for you an awful lot.”

Another letter to T.A.: “I love you Lady. I think more than you will know.

“I am planning on being around. Even if something would come up. You {indecipherable} or me change jobs, you would still be a part of my life... I think about you a bunch. Probably too much, but I can’t keep my mind off you. “Please know that I am here for you. Whenever, wherever, or whatever you want, need, desire, call and I’ll do all I can to make your wish come true.”

Appellant’s note in *Mottos to Live By*: “I have watched you grow and mature into a gorgeous young lady... If you ever need anything you will never have to reach for me because I’ll always be by your side. You mean the world to me and I’ll never stop loving you. I know soon it will be time to let you go so you can grow but I will hold your hand through times of trial + show you love through a hug and a smile.

Appellant’s note in the birthday card: “No matter where you go or what you do I will always be part of your life as you will be in mine. You have a huge part of my heart... I will have you in my thoughts + prayers + 4ever in my heart... I give you my love, my arms to hold you, my shoulder to cry on, my strength to help you through, my time + my effort.

treated by their peers. The Court concluded that Stull's conduct had an adverse effect on his students and was potentially harmful to other female students in the school. *Id.* at 905. As the Court stated, "[t]he students looked to Stull for guidance. What they got was a come on." *Id.* at 904. The Court went on to say "[e]ven if one discounts entirely the testimony of the young women and the psychologist, the import of Stull's letters is all too clear. That such conduct has a profound harm on the students involved, the student body as a whole, and the very operation of the school's educational enterprise seems to us to be self-evident." *Id.* at 905.

Being a teacher involves not only the day to day activities of teaching and grading, but also includes the greater job of setting an example for students. “A teacher serves as a role model for his... students exerting a subtle but important influence over their perceptions and values” and “should present an example for their students to follow.” *Lawrence v. Board of Education of the Appoquinimink School District*, 1994 Del. Super. LEXIS 259, at *16 n.5 (1994); *Pryse v. Yakima School District No. 7*, 630 P.2d 60, 65 (Wash. Ct. App. 1981). Appellant’s conduct can in no way be described as setting a good example for his students or as meeting the standards expected of his profession. Appellant’s conduct can be interpreted as teaching his students that it is all right to engage in actions that are inappropriate, or emotionally harmful to others so long as you can excuse your actions away as part of your style or philosophy. Finally, Appellant’s actions have affected his effectiveness as a teacher of young, impressionable students, particularly in regards to his credibility, ability to teach and provide guidance. The bottom line is the Appellant is unable to recognize the boundary between students and teachers.

B. Appellant’s Termination for Misconduct is Supported by Substantial Evidence

As with immorality, the Code does not define “misconduct in office.” The Courts have in the past provided definitions for the term. Misconduct has been defined as: “(a) transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior willful in character, improper or wrong behavior.” *Rousak v. Board of Education of the Cape Henlopen School District*, 1987 Del. Super. LEXIS 1392, at *8 (Super. Ct.), citing *Black’s Law Dictionary* 1150 (4th ed. 1968). Misconduct in office has been defined as “[a]ny unlawful behavior by a public officer in relation to the duties of his office, willful in character.” *Id.* In *Ballard v. Board of Education*, 1985 WL 188988 (Del. Super. Ct. 1985), the Superior Court

found that the defendant was guilty of misconduct in office because his “conduct was consistently contrary to the standard of behavior expected of a teacher.” 1985 WL 188988, at *3. It is important to note that it is not necessary for the teacher to be criminally charged or convicted in order to find misconduct in office. See *Sheck v. Board of Education*, 1983 Del. Super. LEXIS 805 (Del. Super. Ct. 1983); *Swinger v. Board of Education*, 1998 Del. Super. LEXIS 350 (Del. Super. Ct. 1998), *aff’d after remand*, 1998 Del. Super. LEXIS 447 (Del. Super. Ct. 1998).

In *Sheck*, one of the few Delaware cases to extensively discuss misconduct in office by a teacher, the Superior Court found that defendant’s “ongoing pattern of conduct by the appellant... was contrary to the standards of behavior of an experienced teacher as expected by the district.” 1983 Del. Super. LEXIS 805, at *6. The Court found that Sheck’s behavior, which included embarrassing and humiliating students, sending a note home with a student stating that she had a hard time keeping her “big mouth shut,” physical confrontations, and making fun of students’ names, was enough to find that he was guilty of misconduct in office. *Id.* at *7. The Court found as there was substantial evidence to support the charges, the Board was within its rights to terminate the defendant and did not act arbitrarily or capriciously in exercising its authority. *Id.* at *9.

Again, it may be helpful to see how other states define and apply the term. Kentucky, like Delaware, provides that a teacher may be fired for misconduct in office yet their statute does not define the term. Just recently its Court of Appeals examined the topic and its connection with immoral conduct:

[U]nfortunately, there is no definition of ‘misconduct’ within KRS Chapter 161. In *Kentucky State Board of Education v. Isenberg, Ky.*, 421 S.W.2d 81, 84 (1967), involving alleged misconduct by school board members pursuant to KRS 156.132 and 156.134, the

Court stated, “‘misconduct in office’ means to conduct amiss; bad behavior.” The Court

then went on to quote from *Gover v. Stovall*, 237 Ky. 172, 35 S.W.2d 24, 26 (1931), as follows:

The word (misconduct in office) has a broad scope, and is more comprehensive than “immoral conduct” or “immorality,” since the acts composing them must necessarily be immoral in nature. But conduct might not be intrinsically immoral and yet be “misconduct” as growing out of the status and social relationship of the one engaged in it. According to the text in 40 C.J. 1220, it is defined as: “Bad behavior; improper conduct; mismanagement; or wrong conduct, in usual parlance, a transgression of some established and definite rule of action, where no discretion is left, except what necessity may demand.”

Kentucky Educ. Professional Standards Bd. v. Gambrel, 104 S.W.3d 767 (Ky. Ct. App., 2002).

It is expected that teachers shall conduct themselves professionally, be a good role model, and above all else protect the mental and physical safety of their students. Appellant not only violated multiple policies and ethical rules of the school district, including using the Internet to compose and send personal notes to students and driving Smith home to get her jersey without first securing parental or administrative permission, but also violated the policy which prohibits “oral or written words with a sexual connotation” and “oral and written communication of personal nature which are not reasonably related to the education function of the school district and which are sexually suggestive.” The record shows abundant evidence of these violations to uphold the Board’s decision to terminate the Appellant on the basis of misconduct in office.

Furthermore, it is clear from Appellant’s inability to take responsibility for his actions that his future effectiveness as a teacher will be impaired. Appellant’s problem is his failure to recognize the boundary that must exist between a teacher and a vulnerable young lady. In short, Appellant’s failure to take responsibility for and understand the error of his actions lends further support for the Board’s decision to terminate his employment.

Conclusion

For the above stated reasons, the Court denies the Appellant's appeal and affirms the Board's decision to terminate Appellant's employment. The judgement below is affirmed.

IT IS SO ORDERED.

Very truly yours,

T. Henley Graves

cc: Prothonotary