

IN THE OFFICE OF THE SECRETARY OF EDUCATION
COMMONWEALTH OF PENNSYLVANIA

SERGE VLADIMIRSKY,	:	
Appellant	:	
	:	
v.	:	TTA No. 02-12
	:	
THE SCHOOL DISTRICT OF	:	
PHILADELPHIA,	:	
Appellee	:	

OPINION AND ORDER

Serge Vladimirsky (“Mr. Vladimirsky”), Appellant, appeals the decision of the School Reform Commission (“SRC”) of the School District of Philadelphia (“District”), terminating his employment with the District as a professional employee. After review of this matter, and as discussed more fully below, the Secretary finds that the District initially did not comply with the statutory requirements for dismissing Mr. Vladimirsky; however, Mr. Vladimirsky subsequently was provided with due process when a hearing was held to determine whether he should be dismissed and the SRC resolved to dismiss Mr. Vladimirsky after the hearing. Thus, Mr. Vladimirsky is entitled to reinstatement to his position as a teacher with the District from July 20, 2011 to March 15, 2012, the date when the SRC resolved to dismiss him. Mr. Vladimirsky shall be provided with any compensation he lost during that time period. However, evidence presented during the hearing supports the SRC’s dismissal of Mr. Vladimirsky as of March 15, 2012.

FINDINGS OF FACT

1. Mr. Vladimirsky was hired as a teacher and professional employee with the District on September 1, 1997. (SDP 3).¹
2. Mr. Vladimirsky worked as a social studies teacher at Overbrook High School (Overbrook) for five years prior to his recommended termination. (N.T. pp. 124-125).²
3. During the 2010-2011 school year, Ms. Payne Young was the principal of Overbrook. (N.T. pp 84-85).
4. On February 17, 2011, Principal Young observed students in Mr. Vladimirsky's class off task, knocked on the classroom door, and asked Mr. Vladimirsky about the students. (SDP 46-47; N.T. pp. 85).
5. Mr. Vladimirsky became agitated and began yelling in response to Principal Young's questions. (N.T. p. 88).
6. Principal Young began to walk away to attend a meeting and Mr. Vladimirsky followed and continued to speak to Principal Young in a raised voice. (N.T. p. 89).
7. While in front of the meeting participants that included fellow employees and a guest, Mr. Vladimirsky continued his aggressive behavior and use of a loud voice toward Principal Young. (N.T. p. 89). Mr. Vladimirsky admitted that he had a loud, verbal exchange with Principal Young that was overheard by others in the school, including teachers and students, and that he has a temper. (N.T. p. 199).
8. Principal Young issued a SHE-204 unsatisfactory incident report pertaining to Mr. Vladimirsky's loud and aggressive actions towards Principal Young on February 17, 2011.

¹ SDP refers to exhibits submitted by the District and admitted into evidence at the hearing before the SRC Hearing Officer on November 28, 2011.

² N.T. refers to Notes of Testimony regarding testimony provided at the hearing before the SRC Hearing Officer on November 28, 2011.

(SDP 46-47). In addition, Principal Young notified Mr. Vladimirsky that she scheduled a conference for March 9, 2011, to discuss the February 17, 2011 incident; but the conference was rescheduled to March 23, 2011. (SDP 48).

9. In a Conference Summary prepared by Principal Young after the March 23, 2011 investigatory conference, Principal Young noted that Mr. Vladimirsky admitted to having the verbal exchange with the principal and that his temper can cause him problems. (SDP 65).

10. On March 9, 2011, an incident occurred during eighth period where several books were thrown out of Mr. Vladimirsky's classroom window to the ground below. (N.T. pp. 66-67, 141-142).

11. Mr. Vladimirsky received a phone call from Catherine Smith, an academic leader, informing him of the books being thrown out the window. After which, Ms. Smith went up to Mr. Vladimirsky's room to assist with identifying which students threw the books out the window. (N.T. pp. 116-117; 141-143).

12. Mr. Vladimirsky's response to learning that books had been thrown out the window was video recorded by B.W., a male student. B.W. gave permission for the Overbrook administration to download the video. (N.T. pp. 65-66; SDP 56, 91).

13. The video shows Mr. Vladimirsky in an extremely agitated and aggressive state, yelling at the students about the books being thrown out the window. Several of the phrases that can be heard being yelled at the students included, among other things: "the f--k he did," "I g-- d-- check it," "I don't give a f--k," "see this sh-t," "deal with this sh-t," and "little f--king brats." Mr. Vladimirsky can be seen charging across the classroom toward a student, A.A., who is seated in the back of the room, grabbing the student's arm in an attempt to pry a cellphone from the student's hands, and falling on the student during the struggle. (SDP 91).

14. Mr. Vladimirsky never asked A.A. to surrender his cellphone before attempting to take the device by force. (N.T. p. 80; SDP 91).

15. The School Police Officer was called to respond to the incident in Mr. Vladimirsky's classroom. (N.T. pp. 116-117; 141-143).

16. Admitted into evidence were written incident statements from six students, Ms. Smith, and Mr. Vladimirsky, corroborating that:

- a. The textbooks were thrown out a window that did not have a screen;
- b. Mr. Vladimirsky became extremely irate in front of the students upon learning of the books;
- c. Mr. Vladimirsky directed numerous obscenities at the students;
- d. Mr. Vladimirsky attempted to physically pry a cellphone from a student's hands;
and
- e. The School Police Officer had to intervene in order to gain control of the situation.

(SDP 53-55, 58-63).

17. On March 11, 2011, Assistant Superintendent Linda Cliatt-Wayman notified Mr. Vladimirsky he was to report to the High School Academic Division on March 14, 2011, pending the outcome of an investigation into alleged unsatisfactory incidents. (SDP 57).

18. Principal Young conducted an investigatory conference on March 23, 2011, which included Mr. Vladimirsky, Jackie Dubin, a Philadelphia Federation of Teachers ("PFT") staffer, Carole Porter, the District's labor relations assistant, and Principal Young. (SDP 50-51).

19. During the conference Mr. Vladimirsky and Ms. Dubin reviewed all of the witness statements and the video recording pertaining to the March 9th incident. Mr.

Vladimirsky became emotional and spoke about the students having violated his trust. (N.T. pp. 90-95).

20. After the investigatory conference Principal Young prepared an unsatisfactory incident report (“SHE-204”) noting that Mr. Vladimirsky had become enraged and exhibited extreme inappropriate behavior and engaged in a physical altercation with a student during the March 9th incident. In addition, Principal Young noted the February 17, 2011 incident where Mr. Vladimirsky became enraged at Principal Young. Principal Young noted Mr. Vladimirsky’s inability to control his anger and recommended that Mr. Vladimirsky’s employment with the District be terminated, that a copy of the SHE-204 and all attachments be placed in Mr. Vladimirsky’s official personnel file, and that Mr. Vladimirsky be rated as unsatisfactory for the period from September 2010 – June 30, 2011. (N.T. p. 95; SDP 50-52).

21. On April 28, 2011, a conference was held to discuss the SHE-204 concerning the March 9th incident which included Mr. Vladimirsky, Ms. Dubin, Ms. Porter, and Principal Young.

22. Principal Young issued a conference summary on May 2, 2011. Based on the review of the SHE-204 and a discussion concerning the underlying March 9th incident, Principal Young stated that Mr. Vladimirsky’s response was excessive and unprofessional. Additionally, Principal Young stated that her recommendations from the investigatory conference still stood, which included termination of Mr. Vladimirsky, an unsatisfactory rating for the 2010-2011 school year and that all documentation be placed in his official personnel file. (N.T. pp. 100-106; SDP 68-69).

23. On June 8, 2011, Lissa S. Johnson, Deputy Chief, Office of Talent Acquisition, held a second-level conference regarding the two SHE-204 unsatisfactory reports regarding the

February 17 and March 9, 2011, incidents. In attendance were Mr. Vladimirsky, Ms. Dubin, and Ms. Porter. Ms. Johnson indicated she had reviewed all of the documentation and asked if Mr. Vladimirsky had anything to add or clarify. Pertaining to the February 17, 2011 incident, Mr. Vladimirsky stated that he followed Principal Young out of his room, left his class unsupervised and that he should have left things as they were and apologized because he knew he had to take ownership. With respect to the March 9th incident, Ms. Dubin spoke for Mr. Vladimirsky and stated that Mr. Vladimirsky felt the students betrayed his trust and that he acted out of raw emotion and that it was not premeditated. Furthermore, Mr. Vladimirsky stated that he acted inappropriately by engaging in a physical confrontation with a student and did not deny the use of obscenities while yelling at the students. (SDP 75-78).

24. In her conference summary after the June 8, 2011 meeting, Ms. Johnson recommended that Mr. Vladimirsky be terminated from his employment with the District and all documentation be placed in his official personnel file. (SDP 75-78).

25. By letter dated July 20, 2011, signed by the Deputy District Superintendent³ and the Chairman of the SRC, Mr. Vladimirsky was advised that they would recommend to the SRC that his employment with the District be terminated, effective immediately. The letter stated that the charges against him constituted “a willful violation of or failure to comply with the School Laws of this Commonwealth, and other improper conduct such as to constitute cause pursuant to 24 P.S. Section 11-1122 of the Public School Code of 1949” and that he had a right to request a

³ Leroy D. Nunnery, II, duly appointed Deputy Superintendent signed on behalf of Arlene C. Ackerman, Superintendent/Secretary of the SRC.

hearing before the SRC. If requested, the hearing was scheduled for July 28, 2011. (SDP 79-82; V-3).⁴

26. In the July 20, 2011 letter, Mr. Vladimirsky was told that the District's payroll department would be advised to make the necessary salary adjustments. (SDP 79-82; V-3).

27. Mr. Vladimirsky was paid for his employment with the District for the 2010-2011 school year but not after the 2010-2011 school year. (N.T. pp. 155-158).

28. By letter dated October 3, 2011, Mr. Vladimirsky requested a hearing through his counsel. (SDP 86-87).

29. By letter dated November 23, 2011, pursuant to School Reform Commission Resolution SRC-32 of June 16, 2010, Jeffrey White, was appointed by the Chairman of the SRC "as the School Reform Commission's impartial Hearing Officer in all School District of Philadelphia professional employee timely elected appeals from an administrative recommendation for dismissal, demotion in salary or position, [or] suspension . . . pursuant to 24 P.S. 11-1124". (N.T. pp. 5-6; V-4).

30. Mr. Vladimirsky's hearing was held on November 28, 2011 before Mr. White, as hearing officer for the SRC.

31. At the hearing before Mr. White, District Counsel stated that the dismissal of Mr. Vladimirsky was based on the willful violation of or failure to comply with the School Laws of this Commonwealth, and other improper conduct such as to constitute cause pursuant to 24 P.S. Section 11-1122 of the Public School Code of 1949. Specifically, the District stated that by his intemperate actions, Mr. Vladimirsky violated the School District of Philadelphia Policy against the use of corporal punishment. (N.T. pp. 48-49; SDP 88).

⁴ V refers to exhibits submitted by the Appellant and admitted into evidence at the hearing before the SRC Hearing Officer on November 28, 2011.

32. By letter dated April 15, 2012, and signed by Mr. White, Mr. Vladimirsky was informed that on March 15, 2012 the SRC fully considered the charges against Mr. Vladimirsky, and all of the hearing testimony, exhibits, and arguments presented by the parties. Mr. White recommended to the SRC that Mr. Vladimirsky's employment be terminated for intemperance and willful violation of school law. (SRC Findings of Fact #15). The SRC resolved to adopt Mr. White's recommended Findings of Fact and Conclusions of Law and terminated Mr. Vladimirsky's employment, effective July 20, 2011.

33. There is no evidence in the record that, prior to the hearing on November 28, 2011, the SRC had resolved to dismiss Mr. Vladimirsky and that it had directed the Chairman and Secretary of the SRC to advise Mr. Vladimirsky of his right to a hearing.

34. There is no evidence in the record that the SRC had any knowledge about the charges against Mr. Vladimirsky or about the hearing on November 28, 2011, because the hearing was held only before an SRC appointed hearing officer.

35. The only evidence of the SRC's knowledge of the charges against Mr. Vladimirsky and of the hearing was when the SRC resolved on March 15, 2012, to dismiss Mr. Vladimirsky, effective July 20, 2011.

DISCUSSION

Preliminary Issue

The District argues that Mr. Vladimirsky's failure to request a hearing within ten days of receipt of the termination letter forecloses this appeal. In its brief, the District cites three cases for the proposition that the only exception to statutorily fixed periods in which to file an appeal is

the existence of fraud or its equivalent and cannot be extended as matter of mere indulgence.⁵

However, this ignores the procedural issues that negated Mr. Vladimirsky's dismissal until the SRC resolved to dismiss him on March 15, 2012. Even assuming, *arguendo* that Mr.

Vladimirsky failed to request a hearing within the ten day time limit, the SRC provided him with a hearing on the merits of his recommended termination from which Mr. Vladimirsky timely filed this appeal.

Procedural Issues⁶

Section 1127 of the Public School Code sets forth the procedures that must be used when a board of school directors dismisses a professional employee. 24 P.S. § 11-1127. Section 1127 provides that before a professional employee can be dismissed, the board of school directors must provide the employee with a detailed written statement of charges upon which the proposed dismissal is based. The written notice, which is to be signed by the president and witnessed by the secretary of the board of school directors, must be sent by registered mail to the employee providing the time and place that the employee will be given an opportunity to be heard before the board of school directors. 24 P.S. § 11-1127. In interpreting the requirements of Section 1127, the Commonwealth Court has held that Section 1127 "requires the Board to Resolve to

⁵ *Criniti v. Dep't of Transp. (PennDOT)*, 383 A.2d 993 (Pa. Cmwlth. 1978); *Luckenbach v. Luckenbach*, 281 A.2d 169 (Pa. 1971); *Tarlo v. Univ. of Pittsburgh*, 443 A.2d 879 (Pa. Cmwlth. 1982).

⁶ Mr. Vladimirsky argues that using a non-attorney hearing officer who is also a hearing officer for non-professional discipline cases at the district level is a violation of *Lyness v. Com., State Bd. of Medicine*, 605 A.2d 1204 (Pa. 1992). Mr. Vladimirsky has not provided evidence that the hearing officer was commingling the functions of prosecution and adjudication and, therefore, has not supported his assertion of a *Lyness* violation. The hearing officer conducted the hearing and provided the SRC with proposed findings of fact and conclusions of law. The hearing officer did not prosecute or adjudicate the case. In addition, the Commonwealth Court has held that "although a school board is required to terminate an employee and hear the challenge to that termination, *Lyness* simply does not apply." *Behm v. Wilmington Area School District*, 996 A.2d 60, 66, n. 10 (Pa. Cmwlth. 2010). Thus, there is no support for Mr. Vladimirsky's argument that there was a *Lyness* violation.

demote the employee and to furnish him with a written statement of the charges prior to the hearing.” *Patchel v. Wilkesburg School District*, 400 A.2d 229, 232 (Pa. Cmwlth. 1979) (emphasis added); *See also, Abington School District v. Pittinger*, 305 A.2d 382 (Pa. Cmwlth. 1973).

The hearing must be no sooner than ten (10) days and no later than fifteen (15) days after the written notice; however, it can be postponed, continued or adjourned. 24 P.S. § 11-1127. Section 1129 of the School Code provides that after a hearing, “the board of school directors shall by two-thirds vote of all the members thereof . . . determine whether such charges or complaints have been sustained and whether the evidence substantiates such charges and complaints, and if so determined shall discharge such professional employe.” 24 P.S. § 11-1129.

Courts have repeatedly held that “no dismissal of a tenured professional employee can be valid unless the dismissing school district acts in full compliance with the Code.” *West Shore School District v. Bowman*, 409 A.2d 474, 480 (Pa. Cmwlth. 1979); *See also, In Re: Swink*, 200 A. 200 (Pa. Super. 1938). “[W]here dismissal proceedings are undertaken the procedures set forth in the Code are mandatory and must be followed strictly.” *Covert v. Bensalem School District*, 522 A.2d 129, 130 (Pa. Cmwlth. 1987).

In addition, there is no provision in the School Code that confers on administrative staff, whether a Superintendent or a Principal, the authority to dismiss a professional employee. Thus, the dismissal of a professional employee cannot become effective until after the hearing has taken place. *See, Pittinger*, 305 A.2d 382; *Tassone v. Redstone Township School District*, 183 A.2d 536 (Pa. 1962).⁷

⁷ Although *Pittinger* and *Tassone* are cases involving demotions of tenured professional employees, the Court in *Pittinger* stated that “such demotion [of a professional employee] must strictly follow the procedure set forth in Section 1127 for dismissal of professional employes.”

In *Pittinger*, the professional employee was an assistant principal at a district high school when he was advised by the superintendent that his assignment at the high school would terminate on July 9 and that he would be reassigned to a teaching position for the next school year. On July 7, the professional employee was handed a letter setting forth the understanding of the administrators as to the employee's status as of July 9. On July 14, the employee sent a letter to the superintendent, stating that he considered the new assignment to be a demotion to which he did not give his consent and demanded a hearing. *Pittinger*, 305 A.2d at 383.

After receipt of the employee's letter, the principal of the high school prepared a list of 24 charges as support for the transfer and the superintendent signed the list of charges on September 29. Notice of a hearing before the board of school directors was signed by the president and secretary on September 29; however, counsel for the school board testified that the board did not see the charges until the first hearing on October 11. Hearings held before the board concluded on November 18. The board met December 2 and issued a resolution or adjudication approving the transfer-demotion of the employee. *Id.* at 384.

The school board argued in *Pittinger* that because it was performing a quasi-judicial function, it would not be proper for it to pass upon the demotion before hearing the facts of the case; therefore, it was not necessary for the board to have passed a resolution on the demotion prior to granting the employee a hearing. However, all of the proceedings before September 29, which was the date of the letter signed by the president and secretary of the board granting a hearing, were performed by the administrative staff. Thus, the administrative staff had already accomplished the demotion before the board had notice of it. The Court found neither a specific

Pittinger, 305 A.2d at 386. In following this procedure, the court in *Tassone* held that a demotion would not become effective until after the hearing took place and, in *Pittinger*, held that administrative staff did not have the authority to demote a professional employee.

nor an implied provision in the School Code that would allow board ratification of a demotion directed by administrative staff. *Id.* at 386. The Court held that the action of the board violated the employee's rights under the teacher tenure provisions of the School Code and was void. Therefore, the school district was ordered to reinstate the professional employee to the position of assistant high school principal. *Id.* at 387.

However, a school district can cure a procedural defect made in dismissing a professional employee. "The Board only needed to have passed a resolution that it had sufficient evidence to support its belief, to demote Albrecht by some given date, and therein direct the Secretary and President of the Board to serve notice upon Albrecht of this fact and to advise him of his right to a hearing." *Id.* at 387. Curing such a procedural defect occurred in *Patchel v. Wilkinsburg School District*, 400 A.2d 229 (Pa. Cmwlth. 1979).

In *Patchel*, a professional employee was effectively demoted on May 13, 1976, by improper administrative action. On July 8, the school board reviewed the statement of charges, resolved that the charges warranted a hearing to determine whether the employee should be demoted, and promptly held a hearing. *Patchel*, 400 A.2d at 230. Hearings were held beginning August 23 and ended September 19. The Court held that the board properly followed the procedure outlined in *Pittinger* to cure the defective administrative demotion because the school board in *Patchel* reviewed the statement of charges, resolved to conduct a hearing on the demotion, and promptly did so. Thus, the only period of time when the employee's demotion was ineffective was the time between May 13 and September 19.

The Court distinguished the school board's action in *Patchel* from the board's action in *Pittinger* because, in *Pittinger*, the board did not schedule the hearing and never saw the charges against the employee until the hearing began. The Court found this to be "a clear violation of

Section 1127 of the School Code, 24 P.S. § 11-1127, which requires the Board to Resolve to demote the employee and to furnish him with a written statement of the charges prior to the hearing.” *Patchel*, 400 A.2d at 232. In addition, the Board in *Pittinger* did nothing to cure the procedural defects when it had an opportunity to do so.

Mr. Vladimirsky alleges that his dismissal from employment was not valid because the District did not comply with the provisions of the School Code regarding the dismissal of a professional employee. The July 20, 2011 letter setting forth the charges against Mr. Vladimirsky was signed by the Deputy District Superintendent on behalf of the District Superintendent and by the Chairman of the SRC. The letter informed Mr. Vladimirsky that they would recommend to the SRC that his employment with the District be terminated, effective immediately. The letter stated that the charges against him constituted “a willful violation of or failure to comply with the School Laws of this Commonwealth, and other improper conduct such as to constitute cause pursuant to 24 P.S. Section 11-1122 of the Public School Code of 1949.”

The record does not contain any resolution passed by the SRC that it had sufficient evidence to support its belief to dismiss Mr. Vladimirsky and that the Chairman and the Secretary of the SRC were to notify Mr. Vladimirsky of this fact and advise him of his right to a hearing. The only evidence in the record of the SRC’s knowledge concerning Mr. Vladimirsky’s dismissal is the March 15, 2012 resolution dismissing him from employment with the District, effective July 20, 2011.

In the July 20, 2011 letter, the SRC Chairman and the Deputy District Superintendent, on behalf of the District Superintendent, advised Mr. Vladimirsky that they would recommend to the SRC that he be dismissed from his employment with the District immediately. In addition, the letter stated that the payroll department would be advised to make the necessary salary

adjustments. The record evidences that Mr. Vladimirsky was paid for his employment with the District through the 2010-2011 school year but was no longer employed by the District beyond that school year. Thus, Mr. Vladimirsky was dismissed as of, at least, July 20, 2011, without any action by the SRC. The dismissal was a dismissal by administrative action, not by action of the SRC. The vote by the SRC was a ratification of Mr. Vladimirsky's dismissal by the administration, which is not permitted pursuant to relevant case law. *See, Pittinger and Patchel, supra.*

Evidence and Testimony Support Mr. Vladimirsky's Dismissal

Persistent and Willful Violation of or Failure to Comply with School Laws

The District states that one of the reasons for its dismissal of Mr. Vladimirsky was his willful violation of or failure to comply with school laws. However, section 1122 of the Public School Code states that one of the reasons for termination of a professional employee is the “persistent and wilful violation of or failure to comply with school laws of this Commonwealth (including official directives and established policy of the board of directors).” 22 P.S. § 1122(a) (emphasis added). The following three elements must be met to determine that a persistent and willful violation of school laws has occurred: persistency, willfulness and a violation of school law. Persistency occurs either as a series of individual incidents or one incident carried on for a substantial period of time. *Gobla v. Board of School Directors of Crestwood School District*, 414 A.2d 772 (Pa. Cmwlth. 1980). Willfulness requires the presence of intention and some power of choice. *Horton v. Jefferson County-DuBois Area Vocational Technical School*, 630 A.2d 481, 484 (Pa. Cmwlth. 1993). A violation of school laws includes a violation of a school district's rules and orders. *Sertik v. School District of Pittsburgh*, 584 A.2d 390 (Pa. Cmwlth. 1990), *appeal denied* 593 A.2d 428 (Pa. 1991).

The District has not provided evidence that the incidents of February 17 and March 9, 2011, constituted a persistent and willful violation of school law or District policy. Although these two incidents evidence a lack of self-control by Mr. Vladimirsky, and could possibly show a persistency in a lack of self-control, there is not sufficient evidence of a persistent and willful violation of school law or board policy. The only reference to any established school policy that Mr. Vladimirsky might have violated is the policy against the use of corporal punishment during the March 9 incident. However, even though Mr. Vladimirsky's actions during the March 9 incident evidence his lack of self-control, it does not violate the District's policy against corporal punishment. Even if the corporal punishment policy had been violated by Mr. Vladimirsky's actions on March 9, there is nothing to show that Mr. Vladimirsky persistently violated any school law or District policy because there is no evidence that he violated any school law or District policy during the February 17 incident with Principal Young.

Therefore, the District failed to provide sufficient evidence to support its termination of Mr. Vladimirsky on the basis of a persistent and willful violation of school law, including official directives and established policy of the board of directors.

Intemperance

Loss of self-control is the main element of intemperance. *Belasco v. Board of Public Education of School District of Pittsburgh*, 87 Pa. Cmwlth. 5, 10, 486 A.2d 538, 541-42 (1985), *aff'd*, 510 Pa. 504, 510 A.2d 337 (1986). Intemperance is also defined as "a loss of self-control or self-restraint, which may result from excessive conduct." 22 Pa. Code §237.5.

On February 17, 2011, when asked by Principal Young about the lack of instruction in his classroom, Mr. Vladimirsky raised his voice and began screaming at Principal Young even after Principal Young told him to lower his voice and not speak to her in that manner. Mr.

Vladimirsky left his classroom unattended and followed Principal Young into another room and continued yelling at Principal Young even after repeated attempts by Principal Young to have Mr. Vladimirsky return to his classroom. This loud, abusive language by Mr. Vladimirsky occurred in front of colleagues and a visitor at the school. Mr. Vladimirsky admitted that he has a temper and that he had a loud, verbal exchange with Principal Young that was overheard by others in the school, including teachers and students.

On March 9, 2011, several books were thrown out of Mr. Vladimirsky's classroom window to the ground below. (N.T. pp. 66-67, 141-142). As shown by a video recording, Mr. Vladimirsky became extremely agitated and aggressive upon learning that books had been thrown out of the window and can be seen yelling at the students about the books being thrown out of the window. Several of the phrases that can be heard being yelled at the students included, among other things: "the f--k he did," "I g-----n check it," "I don't give a f--k," "see this s--t," "deal with this s--t," and "little f--king brats." Additionally, Mr. Vladimirsky can be seen charging across the classroom toward a student, A.A., who is seated in the back of the room, grabbing the student's arm in an attempt to pry a cellphone from the student's hands, and falling on the student during the struggle. (SDP 91).

The above incidents show Mr. Vladimirsky's lack of self-control or self-restraint. Thus, Mr. Vladimirsky's actions constitute intemperance.

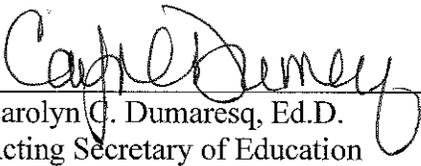
Accordingly, the following Order is entered:

IN THE OFFICE OF THE SECRETARY OF EDUCATION
COMMONWEALTH OF PENNSYLVANIA

SERGE VLADIMIRSKY, :
Appellant :
v. : TTA No. 02-12
THE SCHOOL DISTRICT OF :
PHILADELPHIA, :
Appellee :

ORDER

AND NOW, this 19th day of November 2014, Mr. Vladimirsky shall be reinstated to his position as a professional employee and shall be reimbursed any amount of compensation that he lost due to his termination, in fact, during the period of time from July 20, 2011 to March 15, 2012. However, Mr. Vladimirsky's termination is sustained as of March 15, 2012.


Carolyn C. Dumaresq, Ed.D.
Acting Secretary of Education

Date Mailed: November 19, 2014