

# Bad Teacher Reinstated Because District Did Not Follow Proper Termination Procedures

Articles August 30, 2016

*School Dist. of Philadelphia v. Jones*, 139 A.3d 358 (Pa. Commw. Ct. 2016). In order to terminate a teacher, a school district must strictly follow procedural requirements under the Pennsylvania School Code. In *Jones*, a teacher was terminated for cursing and discussing sexual topics with his students. But he was subsequently reinstated because the school district committed several procedural errors, including terminating the employee before holding a hearing on the charges against him.

## SUMMARY AND FACTUAL BACKGROUND

Ellis Jones was a teacher at Mastbaum Area Vocational Technical School (“Mastbaum”) within the Philadelphia School District. Mastbaum’s principal, Mary Dean, received reports that Jones was acting unprofessionally with his students, using foul language and discussing inappropriate topics, such as sex. Principal Dean conducted an investigation that confirmed these reports. Jones admitted to some of the inappropriate language and remarks, but explained that he was “trying to build trust and rapport with the students.” The District sent a letter to Jones on August 10, 2009 advising him that it would recommend that Jones be terminated, “effective immediately.” The letter also advised Jones that he had a right to a hearing before Philadelphia’s School Reform Commission (analogous to a school board), but that “salary adjustments” would be made. Jones stopped receiving pay on August 14, 2009. Jones requested a hearing on the charges against him, but this was not held until April 16, 2010 eight months after the notice letter. The School Reform Commission (“SRC”) did not pass a resolution terminating Jones until December 15, 2010 after another eight months had passed. The resolution was retroactive, stating that the effective date of termination was August 14, 2009. Jones then appealed the termination to the Pennsylvania Secretary of Education, who ultimately revised the termination date to December 15, 2010, and awarded back pay to that date.

On appeal, the Commonwealth Court held that the SRC met its burden to prove that “Jones’ conduct offended the moral standards of the community,” and therefore termination was warranted. However, the Commonwealth Court directed that Jones be reinstated due to several procedural errors by the school district.

## DISCUSSION

The Commonwealth Court explained that Section 1127 of the Pennsylvania School Code, and cases interpreting the statute, require the following, in chronological order, before a school district may terminate a teacher:

- 1) A resolution by the school board stating that it has sufficient evidence to support discipline of the teacher. The resolution should also direct the board president and secretary to provide written notice of charges to the teacher and advise the teacher of his or her right to a hearing on the charges.
- 2) A detailed written statement of charges, signed by the board president and attested by the board secretary, sent registered mail to the employee, setting forth the time and date of a hearing before the school board.
- 3) A hearing before the school board on the charges, between 10 and 15 days after the written notice. The hearing, including testimony of all witnesses, must be recorded by a competent, disinterested public stenographer, at district expense.

Sections 1129 and 1130 of the Pennsylvania School Code contain additional requirements following the hearing:

- 4) A 2/3 roll call vote of all school board members, recorded in the school board minutes, upholding the charges and terminating the teacher.
- 5) Notice of the school board's decision via registered mail to the teacher within 10 days of the hearing. If the decision is in favor of the teacher, the charges shall be expunged from school board records and the official transcript and records of the hearing shall be delivered to the teacher.

The Commonwealth Court noted several defects with the procedure to terminate Mr. Jones . First, the SRC never adopted a resolution as described in paragraph 1) above. Consequently there was no evidence that the SRC was aware of the charges and evidence against Jones , in order to direct the school district to send notice of charges. Second, the notice of charges sent to Jones was not attested by the board secretary. Finally, the SRC held its hearing on the charges against Jones on April 16, 2010, but then passed a resolution terminating Jones , effective August 14, 2009. Holding the hearing subsequent to the date of dismissal violated Jones' right to due process according to the Court. The Secretary of Education's decision to revise the termination date to December 15, 2010 did not cure this due process violation.

Because the school district did not comply with the procedural requirements under the Pennsylvania School Code, the Court held the teacher was entitled to reinstatement with the district.

#### **PRACTICAL ADVICE**

School districts must carefully follow procedural requirements when terminating a professional employee. Any violation of the requirements of § 1127, or other procedural sections of the Pennsylvania School Code, may lead to reinstatement of the employee in question.

For additional information, contact David Mongillo at [dmongillo@tuckerlaw.com](mailto:dmongillo@tuckerlaw.com)