



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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August 10, 2022

Sent via email to: [REDACTED]

SCHWARTZ LAW GROUP, LLC
Robert M. Schwartz, Esq.

[REDACTED]

RE: Paul Iantosca
TPAF [REDACTED]
OAL DKT. NO. TYP 03756-2021

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dear Mr. Schwartz:

At its meeting on July 7, 2022, the Board of Trustees of the Teachers' Pension and Annuity Fund (TPAF) considered the Initial Decision (ID) of the Honorable Matthew G. Miller, Administrative Law Judge (ALJ), dated June 14, 2022; all exhibits; the exceptions filed by Deputy Attorney General Porter Strickler, dated June 22, 2022; the reply to exceptions filed by Robert M. Schwartz, Esq., dated July 5, 2022; and the written submissions and personal statements of [REDACTED]. The Board noted the exceptions and the reply to exceptions. After careful consideration, the Board voted to adopt the ALJ's factual findings, but to reject the ALJ's decision recommending modification of the Board's partial forfeiture of Paul Iantosca's service and salary credit (7 years and 9 months of service and salary) from the date he transferred to Denville Township Board of Education, July 1, 2011, through his termination of employment.

The ALJ recommended modifying the partial forfeiture amount to 2 years and 9 months of service and salary credit with a further reduction of Mr. Iantosca's monthly retirement allowance of 36.5%.

For the reasons set forth below, the Board rejected the ALJ's recommendation to modify the partial forfeiture amount. The Board directed the Secretary to prepare the Findings of Fact and Conclusions of Law as outlined below, which were approved by the TPAF Board at its meeting on August 9, 2022.¹ This will constitute the Board's Final Administrative Determination in this matter.

Paul Iantosca was formerly employed as the Principal of Valleyview Middle School (VVMS) in Denville, New Jersey. On May 16, 2019, Mr. Iantosca engaged in inappropriate communications with a 16 year-old, W.H., a former student at VVMS. Later that day, he was arrested near the rugby field [REDACTED] having arranged to meet W.H. there to engage in sexual activity. Thereafter, he was charged with multiple offenses by the Denville Police Department. ID at 2.

On May 17, 2019, Mr. Iantosca was suspended from VVMS. On July 31, 2019, he entered a guilty plea to a single count of child abuse (4th degree) in violation of N.J.S.A. 9:6-3 in Morris County Superior Court. In the plea agreement, he agreed to forfeit his teaching certificate(s). On that same day he was terminated from his position as principal. On August 19, 2019, his teaching certificates were revoked.

On September 3, 2020, the Board weighed the "Uricoli" factors of N.J.S.A. 43:1-3 -- the Board found that Mr. Iantosca knowingly engaged in sexual communications with a minor, for his own personal gratification, directly related to his employment. After careful consideration and balancing of the statutory factors, the Board found that a forfeiture of his TPAF service and salary credit beginning as of the date he transferred to VVMS, i.e. July 1, 2011, through his termination of employment was warranted (totaling 7 years and 9 months of service and salary credit). This forfeiture rendered Mr. Iantosca ineligible for an Early retirement benefit.

¹ Due to health and safety concerns for the public regarding COVID-19, the Board meeting was conducted via teleconference.

You filed a timely appeal and a motion for reconsideration/interlocutory relief. At its meeting of November 12, 2020, the Board affirmed its previous decision but granted an administrative hearing based upon the standards for a contested case hearing set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1-1.1 et seq.

The case was conferenced on May 12, 2021, July 13, 2021, October 1, 2021, December 17, 2021 and January 6, 2022 and was heard on March 8, 2022 and March 17, 2022. After allowing time to submit supplemental arguments, the record closed on June 3, 2022. ID at 3.

CONCLUSIONS OF LAW

N.J.S.A. 52:14B-10(c), provides for the rejection or modification of findings of fact and conclusions of law by the ALJ so long as Board “state[s] clearly the reasons for doing so.” It is well within the right of the Board to “make new or modified findings supported by sufficient, competent, and credible evidence in the record.” Ibid. The Board accepts the ALJ’s factual findings and finds that no additional findings are needed. “The order or final decision rejecting or modifying the initial decision shall state in clear and sufficient detail the nature of the rejection or modification, the reasons for it, the specific evidence at hearing and interpretation of law upon which it is based and precise changes in result or disposition caused by the rejection or modification.” N.J.A.C. 1:1-18.6(b). See In re Carter, 191 N.J. 474, 476 (2007) (There the court erred by concluding that the punishment of removal for the sleeping charges was too severe and substituting its own reevaluation of the case for the Board’s opinion that terminated the police officer from his position.).

The Board found that on May 16, 2019, during school hours, Mr. Iantosca engaged in sexually explicit text conversations with W.H. and arranged to meet him in-person after school to perform sexual acts on him. ID at 20. Accordingly, the Board found that the relationship between the misconduct and Mr. Iantosca’s public duties was direct. Mr. Iantosca cultivated a relationship with a former student of VVMS through his position as Principal.

The factual record at hearing establishes Mr. Iantosca's gross misconduct and the corresponding factual circumstances were even more egregious than what the Board considered in its original forfeiture determination. The ALJ noted that the Board found that Mr. Iantosca violated the trust and exploited a minor student for his own personal gain and that his actions were calculated, manipulative and sexually vulgar. The ALJ further noted:

That the contacts between Mr. Iantosca occurred during the school hours and that a school computer was used to research the age of sexual consent only exacerbated the severity of the conduct. It was emphasized that; His actions were undertaken while working at the school, with a student in the current school district, and using school resources. Indeed his crime was only made possible by the public trust that he was endowed with as a result of his public employment as a principal. Respondent also argued that while May 16, 2019 was the date of the act in question, Mr. Iantosca's inappropriate activities predated this circumstance, with his inappropriately adding many children and students on his SnapChat account in his time at Denville.

[ID at 14-15.]

As emphasized above, testimony during the hearing revealed that not only was Mr. Iantosca having inappropriate contacts with many children and former students but that he used a school computer to research the age of sexual consent prior to his arranged meet up with a minor, W.H.

Further, the ALJ found that Mr. Iantosca was not a credible witness. ID at 23. The following conclusion was made after Mr. Iantosca testified:

His testimony, in which he nominally "took responsibility" for his actions, in reality attempted to deflect responsibility for the same, pointing to psychological and physical stressors as well as raising implications that he was drawn into this predicament by the four boys involved. I found his denials about his activities on the evening of [REDACTED] to be unpersuasive, as was his assertion that he had no interaction with the victim's brother, S.H.-1, the next day at school.

[ID at 23; emphasis added.]

The ALJ's assessments of Mr. Iantosca's credibility weighs against a reduction in forfeiture and adds further support for a greater forfeiture than what the Board originally determined.

The Board notes that by modifying the forfeiture the ALJ ignores the salary increases that Mr. Iantosca received during his time at VVMS. The ALJ also failed to appropriately weigh that Mr. Iantosca was only 52 years old when he was terminated from VVMS and could obtain health benefits by seeking other employment or by purchasing health benefits through the marketplace. The ALJ specifically concluded the following with respect to Mr. Iantosca:

For Mr. Iantosca, the only reason he knew the victim was because of his employment, his contact with the victim's younger brother was highly disturbing and his admitted use of the school computer to research the age of consent reflects not a concern for the victim, but rather a concern for any potential consequences if he were to be caught. The audacity of a middle school principal checking the age of consent on a school computer is striking.

[ID at 28; emphasis added]

Here, Mr. Iantosca admitted to committing all the requisite factual basis for the crime of luring, found at N.J.S.A. 2C:13-6, which mandates a 5 year minimum sentence of incarceration under N.J.S.A. 2C:43:6. ID at 28. However, through a plea agreement he only served 2 days of incarceration and 2 years of probation. Therefore, the Board rejects the ALJ's application of Mr. Iantosca's conviction of the lesser charge of 4th degree child abuse as a mitigating factor. The ALJ incorrectly concluded that this was "a significant penalty." ID at 29. In contrast, the Board asserts that the ALJ should have applied it as an aggravating factor to support a greater forfeiture. Mr. Iantosca's limited jail time, probation, and the fact that he is not required to register as a sex offender pales in comparison to a sentence representative of his egregious sexual misconduct.

The only factor that the ALJ believed weighed in favor of mitigating or reducing the forfeiture was factor #11 because Mr. Iantosca would not retain his state-sponsored health

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benefits. As mentioned above, Mr. Iantosca would be able to obtain health benefits by finding alternate employment, or obtaining them through the federal marketplace.

For the foregoing reasons, the Board rejected the ALJ's recommendation to modify the forfeiture amount.

You have the right to appeal this administrative action to the Superior Court of New Jersey, Appellate Division, within 45 days of the date of this letter, in accordance with the Rules Governing the Courts of the State of New Jersey. All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
PO Box 006
Trenton, NJ 08625

Sincerely,



Saretta Dudley, Secretary
Board of Trustees
Teachers' Pension and Annuity Fund

G-2/SD

c: Paul Iantosca
J. Ehrmann (ET); A. Ginsburg (ET);

Retired Health Benefits Section (ET)

DAG Jeffrey Padgett (ET); DAG Porter Strickler (ET)
OAL, Attn: Library (ET)