



Before the Appointed Hearing Officer
Of The Office of Administrative Hearings

(Pursuant to Certification Under Education Code Section 13483.25)

In the Matter of the Accusation
of the Board of Trustees of the
Santa Barbara Community College
District, Complainant, Against:

CASE NO. L-6838

EDWIN G. FLEMING, a regular
certificated employee of said
District,

Respondent.

DECISION

This matter came on regularly for hearing at Santa Barbara, California, on August 19, 20, 21, 22, 23 and 26, 1974, before Jerome Schwimmer, Hearing Officer of the Office of Administrative Hearings, pursuant to certification of the matter under Section 13483.25 of the Education Code. Complainant Board of Trustees of the Santa Barbara Community College District was represented by Don H. Vickers, Deputy County Counsel, Santa Barbara County. Respondent, Edwin G. Fleming, was represented by Ronald S. Hall, Attorney at Law. Oral and documentary evidence was received at the hearing, and the matter was orally argued. The matter now stands submitted, and the Hearing Officer finds as follows:

I

The Board of Trustees of the Santa Barbara Community College District is the Governing Board of the employing District herein and is hereinafter referred to as the complainant board.

II

Edwin G. Fleming is a regular certificated employee of the Santa Barbara Community College District, holding the title of assistant professor of Health Occupations, and is hereinafter referred to as respondent.

III

The provisions of Section 13482.30 of the Education Code have been satisfied, as follows, to-wit:

Enclosure #1
117ec
3/9/12/74

A. Respondent has been evaluated in accordance with standards and procedures established in accordance with the provisions of Sections 13481 and 13481.05 of the Education Code, and complainant board has received all statements of evaluation which consider the events for which dismissals or penalties may be imposed against respondent in this proceeding.

B. Complainant board has received the recommendation that respondent be dismissed as an employee of the Santa Barbara Community College District from the Superintendent of said District and President of the Community College for which respondent has been working.

C. Complainant board did consider the statements of evaluation and the recommendation of the Superintendent-President in a lawful meeting of complainant board held on March 28, 1974, and complainant board did at said meeting decide to dismiss respondent and direct that written notice of its decision be delivered to respondent.

IV

A written statement, duly signed and verified, was delivered to respondent on or about March 29, 1974, setting forth the complete and precise decision of the complaining board and the reasons therefor, and the same is hereinafter referred to as the accusation herein.

V

Respondent did thereafter duly and regularly give notice in writing of his objection to the decision of the complainant board and to the reasons therefor, and the same is deemed to be the notice of defense herein.

VI

The within matter was thereafter duly and regularly certified by the complainant board to the Office of Administrative Hearings with the request that a Hearing Officer thereof be appointed, and pursuant to said request, the within Hearing Officer was appointed to hear and determine the within matter.

VII

Respondent was initially employed by the said employing District for the 1969-70 college year and has been continuously employed each year thereafter, achieving permanent status in the 1972-73 college year. Respondent was employed as an instructor in the Radiologic Technology Program and has continually been associated therewith, last holding the title of assistant professor of Health Occupations. Respondent has had no prior teaching experience at any level above the ninth grade.

VIII

With respect to the allegation that respondent is an incompetent regular certificated employee within the meaning of Section 13403 of the Education Code, it is found as follows:

A. It is found that the performance of respondent has been substandard and respondent has manifested incompetency throughout the school year 1973-74, as well as in the preceding school years, in the following particulars, to-wit:

1. Respondent did regularly fail to adequately prepare, organize and present the subject matter of Radiologic Technology to his students in an organized manner, thereby resulting in disorganized and repetitious class presentations and undue time spent on irrelevant matters.
2. Respondent did regularly fail to respond consistently and with reasonable promptness to reasonable administration requests, such as for class outlines, which requests were designed to help in the organization and improvement of respondent's teaching techniques, and to aid in the coordination of the Radiologic Technology program, and in this connection, respondent did fail to work adequately with other District personnel in their efforts to

achieve said objectives, all to the detriment of the Radiologic Technology program.

B. Respondent has been given adequate notification of his substandard performance and incompetency and has been afforded opportunities for improvement, but respondent has failed to demonstrate adequate improvement to overcome his said incompetency.

C. The aforesaid incompetency of respondent, and his failure and inability to overcome the same, is found attributable in large measures to his failure to accept the authority of and to work harmoniously with his immediate administrative supervisor and to the friction and tension resulting therefrom. The problem of respondent in this regard has been further exacerbated by the development in respondent of a tension-related health problem in the form of a peptic disease, from which respondent has suffered for the past approximately two years, which medical disorder has been and is characterized by periodic episodes of abdominal pain and discomfort. In the present setting, it is found that there is no substantial probability of improvement of respondent's said substandard and incompetent performance as a regular certificated employee of the said employing School District.

D. Respondent's knowledge and skills in the field of Radiologic Technology are conceded and not an issue in these proceedings.

* * * * *

Pursuant to the foregoing findings of fact, the Hearing Officer makes the following determination of issues:

Cause for the dismissal of respondent as a regular certificated employee of the Santa Barbara Community College District exists pursuant to Section 13403 of the Education Code on the ground of incompetency within the meaning of said Section, and respondent should be dismissed forthwith.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Respondent, Edwin G. Fleming, is hereby dismissed as a regular certificated employee of the Santa Barbara Community College

District. Said order is effective forthwith.

* * *

I hereby certify that the foregoing constitutes my decision in the above-entitled matter.

Dated: August 29, 1974.



JEROME SCHWIMMER, Hearing Officer
Office of Administrative Hearings

JS:mh