
In the Matter of Arbitration Between

**Lesley Etheridge
and
Passaic County Vocational School District
Passaic County**

Agency Docket No. 120-6/15

Opinion and Award

Tia Schneider Denenberg, *Arbitrator*

APPEARANCES

FOR THE DISTRICT:

Albert C. Buglione, Buglione, Hutton & Deyoe, L.L.C

FOR THE TEACHER:

Lesley Etheridge, *Pro se*

BACKGROUND

This dispute initially concerned 22 charges, dated April 23, 2015, involving inefficiency and unbecoming conduct.¹ They were brought against tenured teacher Lesley Etheridge² under Section 25 of the Teacher Effectiveness and Accountability for the Children of New Jersey Act ("TEACHNJ"), N.J.S.A. 18A:6-17.3. The charges, as scanned by the district, are appended [Exhibit 1]. Charge 1 alleges inefficiency for the 2013-2014 and 2014-2015 school years. The remaining 22 charges are allegations of conduct unbecoming a teacher during the same period.³ The respondent has denied all charges.

¹ For ease of reference the arbitrator has cited the date on which each document was created, rather than the date on the DOE stamp. In this matter there is no allegation of failure to comply with time limits.

² The teacher was hired as an electronics instructor on September 1, 1996. Holding a standard certificate in that subject, she taught Electronics 1 and Electronics 3 [Petitioner Exhibit 1]. In the documentation, her name is given in several different forms.

³ No. 22, the penultimate charge, was intentionally dropped by the district.

The pre-hearing phase of the proceeding was prolonged by the teacher's struggle to find and retain satisfactory counsel.⁴ She was given ample opportunity to do so, inasmuch as the arbitrator believed that she should be represented by a qualified advocate, if at all possible. As a result, a case that was referred to the arbitrator in June, 2015, could not begin to be heard until late November of that year. Apart from a brief period, the teacher was unrepresented. She was cautioned that, while representing herself, she must comply with statutory requirements, including deadlines.⁵

When the arbitrator received this dispute from the Commissioner, in a letter dated June 26, 2015, she discovered that some of the accompanying documents needed to be reproduced in color for the sake of legibility. The arbitrator also noted that three exhibits listed in the initial submission were missing: Corrective Action Plan Self-Evaluation Progress Report [Exhibit 1.17], Corrective Action Plan Interim Report [Exhibit 1.18], and Pre-Observation Conference Record [Exhibit 1.19], which was divided into:

- a) 2014-2015 Formal Classroom Observation Forms.
- b) 2014-2015 Corrective Action Plan Reports.
- c) 2014-2015 Corrective Action Plan Self-Evaluation Progress Report.
- d) 2014-2015 Corrective Action Plan: Interim Report.

The arbitrator denied a motion by the teacher for dismissal of the charges, owing to the omissions. The district promptly rectified the deficiencies in the submissions.

In July, the arbitrator proposed the dates of August 3 and August 4, 2015, for a hearing. The district was prepared to go forward, but the teacher objected. She maintained that she needed more time to obtain counsel. A conference call was conducted on July 17, 2015, and transcribed for the official record.⁶ During the call, the teacher moved for an "adjournment so that I may have an attorney present with me at this hearing so that I may

⁴ The arbitrator has not attempted to give an exhaustive account of the many motions that she ruled upon during the pre-hearing phase. The rulings were generally transmitted to the parties by email for the sake of efficiency.

⁵ The teacher was also advised that she could be accompanied and supported by someone who was not legally qualified [Tr. , 20]. Her husband, who is a fellow electronics teacher, attended portions of the hearings.

⁶ Participating in the call were the teacher, the arbitrator, Mr. Buglione, and Mr. Parent, the district principal. At the arbitrator's request, Howard A. Rappaport, Certified Court Reporter, was at Mr. Buglione's office, transcribing the call for the official record. The teacher emailed the following message on July 16: "I will record every conference call and every contact I have with you and the board attorneys." The parties were informed that any material provided to the arbitrator should be sent to the opposing party as well and that phone calls, other than conference calls, were to be avoided.

have an opportunity for a fair and meaningful hearing as required under the law” [Tr., pp. 3-4].

At the time of the phone call, all statutory deadlines had been met, in the arbitrator’s view, although the district questioned the sufficiency of the teacher’s response: “the respondent hasn’t filed the required list of witnesses and summaries of testimony according to New Jersey Statute Annotated 18:A6-17.1 subpart B, subpart 3” [Tr., p. 26]. The parties agreed that a thorough response⁷ would arrive by July 31 and include a witness list and summary of testimony [Tr., p. 38]. These documents were also needed as an accommodation to the district counsel, who suffers from a speech-related disability. To avoid stuttering, he normally studies the advance summary of testimony carefully and writes out the questions he wishes to ask the witnesses [Tr., pp. 48-49].

The teacher, too, asked for a disability accommodation. She believed that her asthma would be aggravated by recent construction in the district [Tr., p. 54]. The district counsel pointed out that construction had ended, and new air-conditioning had been installed. In addition, he said, food could be brought into the hearings, which would ensure both comfort and efficiency [Tr., pp. 55-56]. The parties ultimately agreed to hold the hearing at the district counsel’s law office in Wayne, New Jersey [Tr., p. 61].

The arbitrator summarized the hearing arrangements in an email to the parties, dated July, 22, 2015:

Thank you for your participation in the conference call on Friday. As promised, attached is a notice of hearing, as well as hearing guidelines and a digital style sheet that you may find useful. Below is my brief summary of the arrangements we made for hearings on September 21, 22 and 23.

We will begin each day at 10:00 AM. The parties should be prepared to stay into the evening, if necessary to finish in three days. We thank Mr. Buglione for agreeing to host the hearings as an accommodation to Ms. Etheridge.

Ms. Etheridge is encouraged to familiarize herself with the statutory requirements. Our discussion on Friday was not intended as legal advice but as a reminder that each party is responsible for ensuring its compliance with the statutory framework and deadlines for pre-hearing exchange of information. Attention must be paid to:

P.L.2012, CHAPTER 26 11

(3) Upon referral of the case for arbitration, the employing board of education shall provide all evidence including, but not limited to, documents, electronic evidence, statements of witnesses, and a list of witnesses with a complete summary of their testimony, to the employee or the employee’s representative. The employing board of education shall be

⁷ The arbitrator reminded the district that a respondent has no obligation to produce witnesses or other evidence; the district bears the burden of proving its case without her help.

precluded from presenting any additional evidence at the hearing, except for purposes of impeachment of witnesses. At least 10 days prior to the hearing, the employee shall provide all evidence upon which he will rely including, but not limited to, documents, electronic evidence, statements of witnesses, and a list of witnesses with a complete summary of their testimony, to the employing board of education or its representative. The employee shall be precluded from presenting any additional evidence at the hearing except for purposes of impeachment of witnesses.

Discovery shall not include depositions, and interrogatories shall be limited to 25 without subparts.

We have agreed that Ms. Etheridge will be submitting on or before July 31, 2015, her list of witnesses and summaries of their testimony, as well as the evidence she intends to introduce at the hearing. Ms. Etheridge hopefully will secure counsel in time for the hearing, but I intend to proceed even if she is unable to do so.

My preference is to receive all material in digital format as well as hard copy (see attached digital style sheet). A format that is readable in Word or PDF, allowing excerpting, will be the most convenient. Filing by email will suffice to meet a deadline, so it is not necessary to send material to me by overnight delivery with signature required.

The next day the teacher moved to postpone the hearing for health reasons. The arbitrator denied the motion and on August 18 emailed the following ruling to the parties:

I have reviewed the materials the parties have submitted. To the extent that either party has reargued an issue which was previously decided, please note that you have a standing objection to the ruling. It need not be reiterated. All other issues raised in the submissions have been taken under advisement until the hearing.

The parties should focus on the issues at hand. Ad hominem comments or asides are out of place in an arbitration. After the hearings are complete and the transcript is available, the parties will be afforded an opportunity to submit final arguments.

The district was ready to begin the hearing on August 3 and 4. Over the district's objection, the arbitrator consented to reschedule hearings on September 21, 22 and 23 in order to allow the respondent additional time to secure counsel and to prepare her case. The hearing will go forward as scheduled. The district is asked to provide the court reporter with a list of acronyms, names, titles, buildings, or programs that are likely to be mentioned during the hearing.

Consistent with the statute, the district is permitted to extend the respondent's time off the payroll for an additional 49 days.

Outside the hearings, communication with the arbitrator should occur only via email. If a message is more than one page, also send a hard copy and attachments through the postal service. I do not expect to receive any submissions until we meet. I will be out of town for an extended period and will be unreachable.

I look forward to spending productive time in September.

The hearings scheduled for September were postponed, however, at the request of the respondent when she secured the services of Nancy I. Oxfeld as her counsel. After a brief conference call between the attorneys and the arbitrator on September 11, the hearings were rescheduled for November 30, December 1, and December 2, 2015.

Since the teacher was responsible for delay of the proceeding, the arbitrator allowed the district to extend her time off the payroll. The teacher understood, according to Ms. Oxfeld, that her pay would continue to be tolled.

On November 12, Ms. Oxfeld made a motion to be relieved as counsel, because of incompatibility with the client. The respondent opposed the motion. Since the hearings were due to start in two weeks, the motion was denied on November 17. The hearings already had been delayed for 119 days by the representation issue; the district had been ready to proceed on the hearing dates scheduled in August and September, 2015.

At the outset of the hearing (November 30, 2015), Ms. Oxfeld described on the record her discomfort in representing the respondent. She asserted that her client had directed her to act in a manner which was inappropriate and inconsistent with ethical and professional standards. Before the district called its first witness, the teacher dismissed Attorney Oxfeld:

I'd like to say Ms. Oxfeld, I'm allowing you to recuse yourself because this hasn't been going in my favor at all. So, you can leave. It was nice knowing you. I can handle it from this point on. Because you said a few things that are untrue [Tr., p. 111].

The parties were afforded a full and fair opportunity to present evidence and argument on the November and December hearing days, which spanned a total of approximately 25 hours. The arbitrator confirmed that the transcript ordered by the district was the official record and that the teacher would receive a copy without charge. The arbitrator granted the district's motion to preclude the teacher's recording the proceedings herself.

The following administrators of Passaic County Technical Institute testified under oath or affirmation for the district:

Michael Parent, Principal

Lydia Yikon'a, Curriculum Instruction Supervisor

Joseph Sabbath, Assistant Principal

Robert Gray, Assistant Principal

Briefs were filed by both parties, who agreed to admit without comment the respondent's previous grievances and formal complaints, along with the replies [Tr., p. 750]. The arbitrator also requested that the exhibits be reorganized for better access, adding attachments to district documents, already in evidence [Tr., p. 520]. The reorganization was accomplished by the court reporting service. The commissioner granted an extension until June 27, 2016 to issue the decision.

DISCUSSION

The tenure charges filed against the respondent alleged inefficiency, inappropriate grading practices, inappropriate conduct, and insubordination. In support of the charges, the district presented the testimony of its four witnesses and entered numerous exhibits into the record. The respondent cross-examined the district's witnesses and advanced arguments but produced no witnesses or documentary evidence.⁸ She also declined to testify on her own behalf. The following dialog between the respondent and the arbitrator occurred during the hearing:

THE RESPONDENT: I'm a Christian, and as a Christian
I do not believe in oaths to anyone.

THE ARBITRATOR: It's an oath or affirmation.

THE RESPONDENT: I don't believe in it.

THE ARBITRATOR: An affirmation?

THE RESPONDENT: None of those.

THE ARBITRATOR: Do you promise to tell the truth?

THE RESPONDENT: I only make promises to my Father in heaven, not to human beings.

THE ARBITRATOR: So, when you testify --

THE RESPONDENT: I don't testify. I already told you all this. I never testify.

THE ARBITRATOR: So you're not going to give evidence in this hearing?

THE RESPONDENT: I'm only going to question these people, but I'm not going to testify to anything.

[Tr. 98-99]

⁸ The teacher was cautioned that her questions were not evidence *per se*, and her attempt to submit new evidence after the hearing, to which district objected, was not permitted.

Charge 1–Inefficiency

The burden in this proceeding is on the district to demonstrate by a preponderance of the record evidence that the tenure charges should be sustained. Under TEACHNJ, if a tenured teacher is rated "ineffective" or "partially ineffective" in two consecutive summative annual evaluations, the teacher becomes subject to loss of tenure.

The arbitrator's authority to review tenure charges is limited. If a district brings charges against a teacher, the arbitrator may not consider the merits of the decision but must instead determine, based on the evidence, whether:

- (1) the employee's evaluation failed to adhere substantially to the evaluation process, including, but not limited to providing a corrective action plan (CAP);
- (2) there is a mistake of fact in the evaluation;
- (3) the charges would not have been brought but for considerations of political affiliation, nepotism, union activity, discrimination as prohibited by state or federal law, or other conduct prohibited by state or federal law;
- (4) the district's actions were arbitrary and capricious.

[NJSA 18:A-6-17.2]

The district used a state-approved system—the Stronge Evaluation Model—to evaluate teachers' performance. The model consists of seven performance standards: (1) professional knowledge; (2) instructional planning; (3) instructional delivery; (4) assessment of and for student learning; (5) learning environment; (6) professionalism; and (7) student academic progress. Each performance standard includes a number of indicators that help calculate a teacher's effectiveness on his or her annual summative evaluation. Administrators examine several data sources—classroom observations, a documentation log, and Student Growth Objectives (SGOs), a tool for measuring learning—in developing an annual summative rating for a teacher. In each year the respondent received classroom observations, three in 2013-2014 and four in 2014-2015, including one that was announced in advance. In some instances, there were co-observers [Tr., pp. 126, 233, Exhibits 1.1.F and 1.22].

School Year 2013-2014

The respondent was trained on the components of the Stronge Evaluation Model at the beginning of the 2013-2014 school year. Formal observations of the respondent were conducted by Ms. Yikon'a on October 30, 2013 [Exhibit 1.1A] and February 6, 2014 [Exhibit 1.1B] and by Administrator Nicola Bucci on March 25, 2014 [Exhibit 1.1C]. Both Ms. Yikon'a and Administrator Bucci were certified annually to complete summative evaluations of the district's teachers.

For the 2013-14 school year, the respondent received the following performance ratings for each standard in her summative report:

- (1) Standard One - Professional knowledge - effective;
- (2) Standard Two - Instructional planning - partially effective;
- (3) Standard Three - Instructional delivery - effective;
- (4) Standard Four - Assessment of and for student learning - effective;
- (5) Standard Five - Learning environment - partially effective
- (6) Standard Six - Professionalism - ineffective; and
- (7) Standard Seven - Student Academic Progress - highly effective.

[Exhibit 1.1.F]

Applying the weighting protocol to the performance standards, the district reached an annual summative rating for the teacher of "partially effective" for the 2013-14 school year [Exhibit 1.1.F]. The annual rating listed the following areas as needing improvement:

Improve on collegial interactions with peers outside the department and also with administration.

Cease unnecessary combativeness.

Be receptive to constructive criticism.

Be less combative in communicating with others.

Be self-reflective in order to be aware of behaviors that are construed as conduct unbecoming a teacher.

[Exhibit 1.1.F]

School Year 2014-2015

On June 6, 2014, the respondent was notified that she would be placed on a CAP for the 2014-2015 school year and expected to correct deficiencies in three performance standards:

- (1) Standard Two - Instructional planning;
- (2) Standard Five - Learning environment;
- (3) Standard Six - Professionalism.

She was instructed to attend workshops on enhancing communication skills and improving other capabilities.

Following an observation of the respondent on October 21, 2014, her supervisor, Ms. Yikon'a, told her that, in keeping with the CAP, she was expected to meet all timelines, adopt improvement measures, and adhere to recommendations [Exhibit 1.19.A]. During

the rest of the year, the teacher received numerous messages and reports about her performance from administrators, including classroom observers:

- On October 28, 2014, the respondent, along with other teachers at PCTI, was notified that SGO drafts must be delivered to supervisors by November 7 [Exhibit 1.11]. The respondent missed that deadline.
- On November 12, 2014, Ms. Yikon'a informed her that a self-evaluation report for the CAP must be submitted by November 21.
- On November 14, the respondent was directed to complete her SGO draft in one week [Exhibits 1.6]. Ten days later (November 24), the supervisor memorialized the lack of a draft.
- On December 16, 2014, a pair of assistant principals observed the respondent's Electronics 3 class and made recommendations for improvement in their report. [Exhibit 1.19B]. The observers found that the teacher "jumped from topic to topic in rapid succession" and "provided little opportunity for students to actively participate in discussions." An oral quiz "resulted in answers being shouted out from around the room." The recommendations included an instruction to develop activities "conducted in a logical sequential order" and assignments "directly related to the objective of the day." The respondent did not file a rebuttal to the report or acknowledge the recommendations.
- On December 17, 2014, Dr. Parent informed the teacher that, despite five reminders, she had not submitted the SGO draft and the CAP Self Evaluation Report:

Your inactions are inappropriate, defiant and insubordinate, demonstrate a blatant disregard of and open defiance of administrative directives, and are nothing more than your attempt to deflect from the real issue that you refuse to conform to TEACHNJ.

[Exhibit 1.11]

- On January 12, 2015, Dr. Parent reminded the teacher that several reprimands had been issued since September, 2014, for missing important deadlines and failing to complete required tasks [Exhibit 1.13]. In order to assist the respondent, he wrote, a member of the School Improvement Panel would meet with her weekly. No meeting with a panelist took place, according to the district.
- On January 21, 2015, Ms. Yikon'a wrote to the teacher about her need to improve classroom management:

During my walk-through on January 20, 2015, three students were working on unrelated activity you gave the class (Geo physical science). I spoke to them about following your directives and being engaged on the assigned task. Two of the students went back to what I assume were their seats but one student stayed on and continued to work on an assignment from another class.

[Exhibit 1.14]

The respondent did not acknowledge receiving the memorandum.

- On January 26, Ms. Yikon'a transmitted the CAP Interim Report, which the respondent also did not acknowledge [Exhibit 1.18]. In the report Ms. Yikon'a noted that the teacher still had not submitted the SGO draft or the CAP Self Evaluation Report and had not "followed up with any of the recommendations outlined" in the CAP. The supervisor also criticized her for misusing lesson plans, failing to submit grades, recording "grades unrelated to the electronics program in Electronics 1 prompting the administration to revoke online grade book privilege on December 2, 2014," refusing "to adhere to school policy," ignoring the curriculum, lacking professional ethics, hindering "all aspects of student learning," leaving "instructional tools all over the classroom," and coaxing students "to write petitions against the administration based on false information."
- On February 19, 2015, Dr. Parent and Assistant Principal Paterson observed the respondent's Electronics 1 class [Exhibit 1.19D]. In their report, they criticized the teacher for "pontificating" on extraneous matters, for keeping an untidy classroom, and for permitting the walls to be "[de]void of student work" and "decorated with inspirational posters." The observers noted that only ten of the 22 students were taking notes. They also mentioned a need to "modify her erratic behavior and improve her combative interaction towards her colleagues and school community." The respondent did not acknowledge the observation report.
- On March 17, 2015, the respondent's supervisor and Dr. Parent observed her Electronics 3 class [Exhibit 1.19E]. They faulted the teacher for not giving students an "opportunity to use higher level thinking skills" and for a "lack of understanding of the intellectual, social, and emotional development of this age group." They also criticized her for not submitting lesson plans for the week and asserted that "suggestions for using effective [teaching] strategies are met not only with resistance, but extreme hostility." Again, the respondent never acknowledged the observation report.
- On April 21, 2015, the respondent's supervisor submitted a final CAP report [Exhibit 1.20]. The report stated, in part:

Throughout the 2014-2015 school year, Mrs. Etheridge was the perpetrator of abuse of the district's grading system, inappropriate conduct, desertion of professional responsibilities, and insubordination for neglect of duty.

Mrs. Etheridge has not completed the following:

- SGO drafts (due October 2014)
- Corrective Action Plan Self Evaluation Progress Report
- Furthermore, Mrs. Etheridge has been issued reprimands for the following:
 - Misuse and abuse of the grading system
 - Failure to complete your SGO draft
 - Failure to complete your Corrective Action Plan Self Evaluation
 - Showing inappropriate and unapproved films
 - Poor Lesson Planning
 - Abandonment of Duty
 - Discourteous correspondence
- Mrs. Etheridge has not followed up with any of the recommendations outlined in the Corrective Action Plan:
 - Attend workshops that would modify her erratic behavior and improve her combative interaction towards her colleagues and school community.

Mrs. Etheridge needs improvement in the following areas based on the evidence and the recommendations outlined by observers:

1. Professional Knowledge
2. Instructional Planning
3. Instructional Delivery
4. Assessment of and for Learning
5. Learning Environment
6. Professionalism
7. Student Academic Progress

Final recommendation based on outcome of Corrective Action Plan:

The deficiencies were not corrected: The teacher is recommended for non-renewal/dismissal.
[Exhibit 1.20.]

- On May 8, 2015, the district sent the respondent her Teacher Summative Report for the year [Exhibit 1.22], which is dated April 22, 2015. Applying the Stronge Evaluation Model, the district rated the respondent as "ineffective" for the 2014-2015 school year in all seven standards, each of which comprised four to nine performance indicators. Her annual summative rating therefore became "ineffective." The following comments in the report indicate the significance of the rating for each standard:

Standard 1—The teacher bases instruction on material that is inaccurate or out-of-date and/or inadequately addresses the developmental needs of students.

Standard 2—The teacher does not plan, or plans without adequately using the school's curriculum, effective strategies, resources, and data.

Standard 3—The teacher's instruction inadequately addresses students' learning needs.

Standard 4—The teacher uses an inadequate variety of assessment sources, assesses infrequently, does not use baseline or feedback data to make instructional decisions and/or does not report on student academic progress in a timely manner.

Standard 5—The teacher inadequately addresses student behavior, displays a harmful attitude with students, and/or ignores safety standards.

Standard 6—The teacher demonstrates inflexibility, a reluctance and/or disregard toward school policy, and rarely takes advantage of professional growth opportunities.

Standard 7—The work of the teacher does not achieve acceptable student academic progress.

Charges 2 to 23—Conduct Unbecoming a Teacher

Charge 23 addresses "conduct unbecoming a teaching staff member and other just cause." This charge repeats and incorporates all of the allegations contained earlier in the complaint and alleges that "all of these foregoing charges considered as a whole demonstrate a pattern of inappropriate and insubordinate behavior that is wholly improper in a public school setting and constitute(s) conduct unbecoming a teaching staff member and/or other just cause for termination."

Specifically, Charge 2 alleges that the respondent falsified grades and engaged in inappropriate grading practices. Charges 3 through 7 allege that the respondent engaged in inappropriate staff conduct by: coercing students (Charge 3); engaging in unprofessional conduct during an affirmative action meeting (Charge 4); engaging in unprofessional conduct during a parent-teacher meeting (Charge 5); showing an unauthorized film (Charge 6); and by engaging in unprofessional conduct during a parent-teacher meeting (Charge 7).

Charges 8 through 21 allege that certain of the respondent's actions constituted desertion of professional responsibility. Specifically, the district asserts that the respondent failed to report to her Period 1 co-teaching assignment on October 22, 2014 (Charge 8); the respondent left her Period 2 students unattended on December 8, 2014, without providing

notice to her immediate supervisor or an administrator (Charge 9); the respondent's immediate supervisor issued a memorandum on February 4, 2015, indicating that the respondent had left campus without permission or following proper notification and sign-out procedures (Charge 10); the respondent failed to report to her Period 1 co-teaching assignment on February 18 (Charge 11) and on February 19, 2015 (Charge 12); the respondent failed to report to her Period 1 co-teaching assignment in a timely manner on March 9 and March 10, 2015 (Charges 13 and 14); the respondent failed to remain in her Period 6B-7A co-teaching assignment on March 17, 2015 (Charge 15); the respondent failed to report to her Period 1 co-teaching assignment on March 19, 2015 (Charge 16); the respondent failed to report to her hall duty, as required, on November 21 and November 24, 2014 (Charges 17 and 18) and on January 13, 2015 (Charge 19).

Charge 20 alleges that on December 8, 2014, the respondent was issued a formal reprimand by her immediate supervisor for failure to complete and submit lesson plans, and that on December 17, 2014, she was issued a memorandum by the principal accusing her of insubordination for failure to adhere to the required lesson plan format and mandates outlined by her immediate supervisor. This charge also alleges that on January 21, 2015, the respondent was issued a memorandum by her immediate supervisor reminding her to complete and submit appropriate lesson plans, and that the respondent refused to read or sign the memorandum.

Charge 21 alleges that, contrary to established district policy, the respondent had composed and sent 14 emails to the administration from September 2 through October 30, 2014, during scheduled instructional time. This charge also alleges that on October 30, 2014, Dr. Parent sent an email to the respondent regarding the time-stamps of her emails to administration; that on November 5, 2014, he issued her a memorandum regarding the tone of her emails that she sent to the administration; and that on January 8, 2015, he issued her a memorandum regarding the tone and demeanor of emails that she had sent to the administration.

In sum, the record contains substantial evidence supporting the charges relating to unbecoming conduct. Some of the events figured in the discussion of Charge 1 and were taken into account in her effectiveness evaluation. Viewed in their entirety, the allegations demonstrate a consistent pattern of insubordinate conduct and behavior inappropriate for a tenured teacher. Therefore, the charges are upheld.

Conclusion

The respondent was notably uncooperative with the district's effort to improve her teaching during the 2014-2015 school year, as evidenced by her disregard of the CAP and SGO requirements. Detailed critiques by classroom observers went unanswered. The respondent's failure to comply with explicit instructions and recommendations from the school administration, and, in some instances, even to acknowledge them, reflects an inability and/or unwillingness to perform as befits a tenured teacher.

In addition, the respondent has failed to establish any of the four limited bases set forth in TEACHNJ under which an arbitrator may reject a district's tenure determination. Specifically, the respondent has not shown that her annual summative evaluation for the two pertinent years failed to adhere substantially to the evaluation process. Although both in her cross-examination of witnesses and in her post-hearing brief the respondent challenged the timing and manner in which the CAP was developed, her contentions do not demonstrate any statutory violation by the district in this regard.

Further, the respondent has not shown that a mistake of fact tainted the evaluation or that the tenure charges would not have been brought but for considerations of political affiliation, nepotism, union activity, discrimination as prohibited by state or federal law, or other conduct prohibited by state or federal law. Finally, contrary to the respondent's contentions, she has not shown that the district's actions were arbitrary and capricious. The record indicates that the district complied with applicable procedural requirements designed by statute to provide teachers with due process in the evaluation process. The district carefully documented her pedagogical failings, used a wide variety of qualified evaluators, and accorded her opportunities to correct the deficiencies. But she did not take advantage of them, often refusing even to respond to observation reports, evaluations or suggestions for improvement.

The teacher contended in her post-hearing brief that she was a victim of unfair treatment, claiming that the district's "actions are discriminatory and malicious," having little to do with her teaching ability. The "motive is to inflict both financial hardship and to ruin Mrs. Etheridge's professional reputation," according to the teacher. But she adduced no compelling evidence to substantiate her accusation or explain her lack of cooperation with the reasonable demands of school administrators.

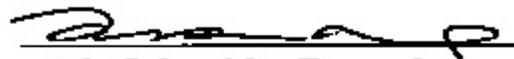
The district believed that the "few deficiencies" shown by the respondent during the 2013-2014 school year "could be remedied through cooperation and through very simple remedial measures on both our part and Ms. Etheridge's part," Dr. Parent testified [Tr., 143]. However, he added that

[w]hat was unfortunate was that at the end of the 2014-2015 school year, in all of the seven standards, minus possibly one, Ms. Etheridge rated ineffective. Completely—a complete downturn, right from the beginning of the school year, with regard to cooperation, with regard to communications with the District.

[Tr., 143]

It is regrettable that a teacher who was rated “highly effective” for student academic progress in 2013-2014 and had the potential to contribute much to her students and the school community failed so dramatically the following year. That disastrous outcome seems to have been a consequence of displacing blame onto others and ignoring constructive criticism.

The Commissioner has previously ruled that “outrageously inappropriate behavior,” combined with lack of “remorse or contrition” and a likelihood of repeating the behavior are factors that may be taken into account in assessing a penalty for a non-teaching employee.⁹ Those factors are present here. Consequently, all the charges are sustained, which warrants loss of tenure and dismissal from the school district.



Tia Schneider Denenberg
Arbitrator

⁹ District brief, pp. 28-29, Tenure Hearing of Natalizia Busnelli Aliallad (April 12, 2011)

In the Matter of the Tenure Hearing of

Lesley Etheridge
and
Passaic County Vocational School District
Passaic County

Agency Docket No. 120-6/15

Ruling of Arbitrator

The undersigned arbitrator, having been appointed, pursuant to P.L 2012, c 26, to hear and decide the above-captioned matter, rules as follows:

For the reasons set forth in the accompanying opinion, the teacher shall be dismissed from employment with loss of her tenure rights.



Tia Schneider Denenberg
Arbitrator

Dated: June 27, 2016

State of New York
County of Columbia

On this 27th day of June, 2016, before me personally came and appeared TIA SCHNEIDER DENENBERG, to me known and known to me to be the individual described in and who executed the foregoing instrument and she acknowledged to me that she executed the same.



Kristy Lee Brailey
Notary Public State of New York
No. 01BR6326865
Qualified in Columbia County
Commission Expires June 29, 2019

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STATE OF NEW JERSEY
BEFORE THE COMMISSIONER
OF EDUCATION
VERIFIED COMPLAINT
SWORN STATEMENT OF TENURE
CHARGES AGAINST LESLEY
ETHERIDGE, TEACHER
FOR INEFFICENCY AND CONDUCT
UNBECOMING A
TEACHING STAFF MEMBER

----- :
IN THE MATTER OF TENURE :
PROCEEDINGS AGAINST :
LESLEY ETHERIDGE, TEACHER :
----- :

Petitioner, Passaic County Technical Institute (hereinafter "PCTI"), by way of verified complaint against Respondent Lesley Etheridge hereby advances the following Tenure Charges:

PRELIMINARY STATEMENT

This is a Verified Complaint, hereby being advanced by the Complainant, Passaic County Technical Institute, which is a District that is operated by the Passaic County Technical Institute Board of Education. The representative for Passaic County Technical Institute who has knowledge and information

regarding the substance of this Tenure Complaint is Dr. Michael Parent, Principal of Passaic County Technical Institute. Dr. Parent will be verifying this Verified Complaint. As such, the within Tenure Charges are hereby submitted for consideration and action to dismiss Lesley Etheridge, a tenured teaching staff member of Passaic County Technical Institute (herein to be referred to as: Respondent Lesley Etheridge) from her tenured employment at Passaic County Technical Institute.

1. On September 1, 1996, Respondent Lesley Etheridge was hired as an Electronics instructor.

2. During all times herein, Respondent Lesley Etheridge was a tenured Electronics teacher at Passaic County Technical Institute in Wayne, New Jersey.

3. Respondent Lesley Etheridge holds a standard certification in Electronics.

4. Respondent Lesley Etheridge has taught Electronics I and Electronics III.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 1

CHARGE ONE

INEFFICIENCY

5. Pursuant to the "Teacher Effectiveness and Accountability for the Children of New Jersey Act" and in accordance with the Stronge evaluation model (the evaluation model adopted and approved by the Passaic County Board of Education), the "Highly Effective" rating ranges from a composite score between 3.5 and 4. The "Effective" rating ranges from a composite score between 2.65 and 3.49. The "Partially Effective" rating ranges from a composite score between 1.85 and 2.64. The "Ineffective" rating ranges from a composite score between 1 and 1.84.

6. Pursuant to the "Teacher Effectiveness and Accountability for the Children of New Jersey Act" and in accordance with the Stronge evaluation model, Supervisor of Instruction Lydia Yikon'a rated Respondent Lesley Etheridge's performance as "Partially Effective" during the 2013-2014 school year. Respondent Lesley Etheridge earned a composite score of 2.58.

7. Pursuant to the "Teacher Effectiveness and Accountability for the Children of New Jersey Act" and in accordance with the Stronge evaluation model, on June 6, 2014, Respondent Lesley Etheridge was issued a Corrective Action Plan.

8. Pursuant to the Corrective Action Plan, Respondent Lesley Etheridge was expected to remedy the following deficiencies: Performance Standard 2 - Instructional Planning, Performance Standard 5 - Learning Environment, and Performance Standard 6 - Professionalism.

9. Pursuant to this Corrective Action Plan, Respondent Lesley Etheridge was expected to "Attend workshops that enhances communications with other individuals in an organization", "Read all communication, electronic and/or hard copies from administration", and "Seek NJEA workshops that deal with professional ethics in education, instructional and lesson planning strategies, classroom management techniques and strategies; or any workshops that enhance profession growth in all areas as identified by standards and indicators for teacher effectiveness."

10. On October 21, 2014, Supervisor of Instruction Lydia Yikon'a observed Respondent Lesley Etheridge's period 2 Electronics I class. Lydia Yikon'a noted that, "Because Mrs. Etheridge had been rated as "Partially Effective" for the 2013-2014 school year, she has been issued a Corrective Action Plan (CAP). Mrs. Etheridge is expected to meet all timelines, improvement measures, and adhere to recommendations."

11. On October 28, 2014, the faculty of Passaic County Technical Institute was notified that all Student Growth Objective drafts were due to supervisors by October 31, 2014.

12. On October 31, 2014, Respondent Lesley Etheridge did not present her immediate supervisor, Lydia Yikon'a, with her preliminary Student Growth Objectives.

13. Pursuant to the recommendations of the Stronge evaluation model, a Corrective Action Plan Self-Evaluation Progress Report was issued to all faculty who were placed on a Corrective Action Plan for the 2014-2015 school year.

14. On November 4, 2014, Respondent Lesley Etheridge was issued a memorandum reminding her that none of the requirements of the Corrective Action Plan had yet to be addressed. Respondent Lesley Etheridge was directed to register and attend two professional development workshops indicated in the Corrective Action Plan.

15. On November 12, 2014, Supervisor of Instruction Lydia Yikon'a informed Respondent Lesley Etheridge that a Corrective Action Plan Self-Evaluation Progress Report must be submitted by November 21, 2014.

16. On November 14, 2014, Respondent Lesley Etheridge was issued a memorandum directing her to complete the required preliminary Student Growth Objectives plan by November 21.

17. On November 24, 2014, Respondent Lesley Etheridge was issued a memorandum by her immediate supervisor for Respondent Lesley Etheridge's failure to complete the required Student Growth Objectives drafts as noted in the November 14 memorandum.

18. On December 16, 2015, Assistant Principals Robert Gray and Joseph Sabbath observed Respondent Lesley Etheridge's period 2 Electronics I class. The observation contained recommendations for improvement in the following areas: Professional Knowledge, Instructional Planning, Instructional Delivery, Assessment of and for Learning, Learning Environment, and Professionalism. The observation was not "acknowledged" by Respondent Lesley Etheridge. The observation noted, "The instructor has had access to the evaluation as of 1/5/15 and the additional recommendations as of 1/14/15. Additionally she was directed via e-mail to acknowledge the observation by 1/26/15 and attach a rebuttal if she chose to. I am therefore finalizing the observation as nothing has been acknowledged or submitted as of 1/28/15."

19. On December 17, 2014, Dr. Michael Parent, Principal, issued a memorandum for Insubordination to Respondent Lesley Etheridge; Respondent Lesley Etheridge had failed to complete two required elements of the district's evaluation model - the Student Growth Objectives and the Corrective Action Plan Self-Evaluation Progress Report.

20. On January 12, 2015, Dr. Michael Parent, Principal, issued a memorandum to Respondent Lesley Etheridge informing her that several reprimands have been issued since September 2014 in relation to missing important deadlines and required actions. In an effort to assist Respondent Lesley Etheridge with meeting past and future requirements and to assist her with needed professional growth, Mrs. Kathy Oscar (a member of the School Improvement Panel) would be meeting with Mrs. Etheridge every Monday morning to assist with meeting deadlines and improvement deficient professional duties and responsibilities. Respondent Lesley Etheridge did not and has not made an effort to attend any such meetings with Mrs. Oscar.

21. On January 21, 2015 Supervisor of Instruction Lydia Yikon'a issued a memorandum to Respondent Lesley Etheridge regarding "Classroom Management". Respondent Lesley Etheridge refused to acknowledge receiving the memorandum by signing the document.

22. On January 26, 2015, Supervisor of Instruction Lydia Yikon'a completed the required Corrective Action Plan Interim Report. The report was not "acknowledged" by Respondent Lesley Etheridge.

23. On February 19, 2015, Principal Dr. Parent and Assistant Principal Lois Paterson observed Respondent Lesley

Etheridge's period 2 Electronics I class. The observation report was not "acknowledged" by Respondent Lesley Etheridge.

24. On February 25, 2015, Respondent Lesley Etheridge submitted incomplete Student Growth Objectives; neither data nor rubrics that would be used for data collection and growth measurement were submitted.

25. On March 17, 2015, Supervisor of Instruction Lydia Yikon'a and Principal Dr. Parent observed Respondent Lesley Etheridge's period 7 Electronics III class. The observation report was not "acknowledged" by Respondent Lesley Etheridge.

26. On April 16, 2015, Pursuant to the "Teacher Effectiveness and Accountability for the Children of New Jersey Act" and in accordance with the Stronge evaluation model approved by the Passaic County Board of Education, Respondent Lesley Etheridge was rated as "Ineffective" with a composite score of 1.4.

27. The actions and conduct of the respondent constitutes Inefficiency so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that tenure charges should be certified and should be sustained by the Commissioner of Education, and Respondent Lesley Etheridge suffer the loss of her tenure status and dismissed from her teaching position

Charge 2

CHARGE TWO

FALSIFYING GRADES/INAPPROPRIATE GRADING PRACTICES

(Conduct Unbecoming a Teaching Staff Member)

28. Complainant hereby repeats and realleges each and every allegation contained in paragraphs five through twenty-seven of this complaint, and incorporates the same reference as if fully set forth herein and again.

29. On June 27, 2014, Dr. Michael Parent, Principal, learned that a student was issued a grade of A+ for his Electronics I final exam. The student personally informed Dr. Parent that he [the student] did not take the Electronics I final exam. A review of Respondent Lesley Etheridge's grade book indicated that a final exam grade of A+ was recorded for this student in her grade book on June 25, 2014.

30. On June 28, 2014 Respondent Lesley Etheridge's immediate supervisor presented Dr. Michael Parent, Principal, with all of Respondent Lesley Etheridge's Electronics I official final exam grades. All of the Electronics I students, with the exception of one, had been issued a grade of A+ on their final exam.

31. Passaic County Technical Institute BOE Policy Regulation #2624 (Grading System, section F states: "In order that he/she may justify a grade, each teacher is directed to

retain in his/her possession... records to validate grades awarded to pupils."

32. On July 23, 2014 Respondent Lesley Etheridge was asked to respond to allegations that she purposefully instructed her students not to complete the final exam, arbitrarily assigned a final exam letter grade of A+ to at least one student who did not take the final exam, and knowingly recorded false final exam grades of A+ for all of the Electronics I students.

33. On August 1, 2014 Respondent Lesley Etheridge responded to aforementioned allegations.

34. On August 5, 2014, Respondent Lesley Etheridge was sent a letter requesting more information about the Electronics I final exam grades. Respondent Lesley Etheridge did not offer further information.

35. On August 20, 2014, the Passaic County Technical Institute Board of Education was presented with a recommendation for the withholding of an increment for the 2014-2015 school year for Respondent Lesley Etheridge on the grounds of violating Passaic County Technical Institute BOE Policy and the corresponding Regulation #2624 (Grading System).

36. On August 20, 2014, the Passaic County Technical Institute Board of Education voted unanimously to withhold Respondent Lesley Etheridge's increment for the 2014-2015 school year on the grounds of Falsifying Grades.

37. On November 10, 2014, Respondent Lesley Etheridge was issued a memorandum requesting justification for six "participation/discipline" grades issued to her students. Passaic County Technical Institute BOE Policy Regulation #2624 (Grading System), section F states: "In order that he/she may justify a grade, each teacher is directed to retain in his/her possession the following records to validate grades awarded to pupils." Respondent Lesley Etheridge did not provide the requested rationale or justification.

38. On November 17, 2014 Respondent Lesley Etheridge was issued a memorandum directing her to remove the unjustified six "participation/discipline" grades noted in the November 10, 2014 memorandum. Respondent Lesley Etheridge replied that she would not change or remove the grades.

39. On November 24, 2014, Respondent Lesley Etheridge was issued a formal reprimand by Dr. Michael Parent, Principal, for insubordination for Respondent Lesley Etheridge's failure to remove the unjustified six "participation/discipline" grades noted in the November 10 and 17, 2014 memoranda.

40. On November 24, 2014, Respondent Lesley Etheridge was issued a memorandum by Dr. Michael Parent, Principal, requesting justification for two "participation/discipline" assignments in her grade book. A response was expected by December 2, 2014.

41. On December 2, 2014, Respondent Lesley Etheridge was issued a memorandum informing her that due to a lack of response to previous grade justifications and because of her continued misuse of the district's grading system, Respondent Lesley Etheridge's privilege of recording grades via the district's Student Information System (PowerSchool) was being revoked for her Electronics I course. As per this memorandum, Respondent Lesley Etheridge was directed to provide her immediate supervisors with all grades and grade justifications each Thursday afternoon. Respondent Lesley Etheridge did not adhere to this directive.

42. On January 23, 2015, Respondent Lesley Etheridge was issued a memorandum by Dr. Parent, Principal, indicating that the directives outlined in the December 2 memorandum have not been followed.

43. On February 4, 2015 Respondent Lesley Etheridge met with Supervisor of Instruction Lydia Yikon'a and Assistant Principal Robert Gray to review all Marking Period 2 grades. Lydia Yikon'a entered all grades into the PowerSchool Student Information System.

44. On February 5, 2015, Respondent Lesley Etheridge was issued a memorandum by Dr. Parent, Principal, indicating that Respondent Lesley Etheridge was being given permission to again

post grades for the Electronics I course into the PowerSchool Student Information System.

45. The actions and conduct of the respondent constitutes Falsified and Inappropriate Grading Practices so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 3

CHARGE THREE

INAPPROPRIATE STAFF CONDUCT/CONDUCT UNBECOMING

(Coercion of Students)

46. Complainant hereby repeats and realleges each and every allegation contained in paragraphs twenty-nine through forty-five of this complaint, and incorporates the same reference as if fully set forth herein and again.

47. Passaic County Technical Institute BOE Policy #3281 (Inappropriate Staff Conduct) states: "A school staff member is always expected to maintain a professional relationship with pupils and to protect the health, safety and welfare of school pupils. A staff member's conduct will be held to the professional standards established by the New Jersey State Board of Education and the New Jersey Commissioner of Education. Inappropriate conduct or conduct unbecoming a staff member may also include conduct not specifically listed in this Policy, but conduct determined by the New Jersey State Board of Education, the New Jersey Commissioner of Education, an arbitration process, and/or appropriate courts to be inappropriate or conduct unbecoming a school staff member."

48. On October 24, 2014, Respondent Lesley Etheridge sent an email to her immediate supervisor, Dr. Michael Parent, Principal, and the Chief School Administrator indicating that she had shared with her students a September 5, 2014 letter from Dr. Michael Parent, Principal, informing Respondent Lesley

Etheridge that funds previously held for the purchase of Electronics jackets were being returned to her.

49. On October 28, 2014, Respondent Lesley Etheridge was issued a letter by Dr. Michael Parent, Principal, indicating that Respondent Lesley Etheridge had engaged in unprofessional conduct with her students; students informed the administration that Respondent Lesley Etheridge had instructed her students to compose anonymous statements that were to be submitted to the principal and that Respondent Lesley Etheridge had coached the students on the contents of said statements.

50. A formal meeting with Respondent Lesley Etheridge was arranged for October 28, 2014. Respondent Lesley Etheridge refused to attend the meeting and directed the principal to place the letter in her mailbox.

51. The actions and conduct of the respondent constitutes Inappropriate Staff Conduct/Conduct Unbecoming so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 4

CHARGE FOUR

INAPPROPRIATE STAFF CONDUCT/CONDUCT UNBECOMING

(Unprofessional Conduct During Affirmative Action Meeting)

52. Complainant hereby repeats and realleges each and every allegation contained in paragraphs forty-seven through fifty-one of this complaint, and incorporates the same reference as if fully set forth herein and again.

53. Passaic County Technical Institute BOE Policy #3281 (Inappropriate Staff Conduct) states: "A school staff member is always expected to maintain a professional relationship with pupils and to protect the health, safety and welfare of school pupils. A staff member's conduct will be held to the professional standards established by the New Jersey State Board of Education and the New Jersey Commissioner of Education. Inappropriate conduct or conduct unbecoming a staff member may also include conduct not specifically listed in this Policy, but conduct determined by the New Jersey State Board of Education, the New Jersey Commissioner of Education, an arbitration process, and/or appropriate courts to be inappropriate or conduct unbecoming a school staff member."

54. On November 17, 2014, Respondent Lesley Etheridge was issued a memorandum citing unprofessional conduct during a meeting held with the district's Affirmative Action Officer, Joseph Sabbath. At that meeting, Respondent Lesley Etheridge had

been confrontational and had made inappropriate remarks about her immediate supervisor's ethnicity.

55. The actions and conduct of the respondent constitutes Inappropriate Staff Conduct/Conduct Unbecoming so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 5

CHARGE FIVE

INAPPROPRIATE STAFF CONDUCT/CONDUCT UNBECOMING

(Unprofessional Conduct During Parent-Teacher Meeting)

56. Complainant hereby repeats and realleges each and every allegation contained in paragraphs fifty-three through fifty-five of this complaint, and incorporates the same reference as if fully set forth herein and again.

57. Passaic County Technical Institute BOE Policy #3281 (Inappropriate Staff Conduct) states: "A school staff member is always expected to maintain a professional relationship with pupils and to protect the health, safety and welfare of school pupils. A staff member's conduct will be held to the professional standards established by the New Jersey State Board of Education and the New Jersey Commissioner of Education. Inappropriate conduct or conduct unbecoming a staff member may also include conduct not specifically listed in this Policy, but conduct determined by the New Jersey State Board of Education, the New Jersey Commissioner of Education, an arbitration process, and/or appropriate courts to be inappropriate or conduct unbecoming a school staff member."

58. On November 18, 2014 Assistant Principal Joseph Sabbath issued Respondent Lesley Etheridge a formal reprimand for exhibiting unprofessional conduct during a November 18 parent-teacher conference. At that meeting, Respondent Lesley

Etheridge became confrontational with the administration and parent and made disparaging remarks about the district and the administration.

59. The actions and conduct of the respondent constitutes Inappropriate Staff Conduct/Conduct Unbecoming so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 6

CHARGE SIX

INAPPROPRIATE STAFF CONDUCT/CONDUCT UNBECOMING

(Showing of an Unauthorized Film)

60. Complainant hereby repeats and realleges each and every allegation contained in paragraphs fifty-seven through fifty-nine of this complaint, and incorporates the same reference as if fully set forth herein and again.

61. Passaic County Technical Institute BOE Policy #3281 (Inappropriate Staff Conduct) states: "A school staff member is always expected to maintain a professional relationship with pupils and to protect the health, safety and welfare of school pupils. A staff member's conduct will be held to the professional standards established by the New Jersey State Board of Education and the New Jersey Commissioner of Education. Inappropriate conduct or conduct unbecoming a staff member may also include conduct not specifically listed in this Policy, but conduct determined by the New Jersey State Board of Education, the New Jersey Commissioner of Education, an arbitration process, and/or appropriate courts to be inappropriate or conduct unbecoming a school staff member."

62. On November 24 and 25, Respondent Lesley Etheridge had shown - without approval - the film "The Social Network" to her Electronics III students. The movie depicts alcohol consumption and contains foul language.

63. On December 8, 2014, Respondent Lesley Etheridge's immediate supervisor issued her a formal reprimand for Conduct Unbecoming.

64. The actions and conduct of the respondent constitutes Inappropriate Staff Conduct/Conduct Unbecoming so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 7

CHARGE SEVEN

INAPPROPRIATE STAFF CONDUCT/CONDUCT UNBECOMING

(Unprofessional Conduct During Parent-Teacher Meeting)

65. Complainant hereby repeats and realleges each and every allegation contained in paragraphs sixty-one through sixty-four of this complaint, and incorporates the same reference as if fully set forth herein and again.

66. Passaic County Technical Institute BOE Policy #3281 (Inappropriate Staff Conduct) states: "A school staff member is always expected to maintain a professional relationship with pupils and to protect the health, safety and welfare of school pupils. A staff member's conduct will be held to the professional standards established by the New Jersey State Board of Education and the New Jersey Commissioner of Education. Inappropriate conduct or conduct unbecoming a staff member may also include conduct not specifically listed in this Policy, but conduct determined by the New Jersey State Board of Education, the New Jersey Commissioner of Education, an arbitration process, and/or appropriate courts to be inappropriate or conduct unbecoming a school staff member."

67. On February 12, 2015, Respondent Lesley Etheridge was issued a memorandum by Dr. Michael Parent, Principal, rebuking her for false allegations, claims, and allegations presented to a parent during a meeting with a student's parent.

68. The actions and conduct of the respondent constitutes Inappropriate Staff Conduct/Conduct Unbecoming so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 8

CHARGE EIGHT

DESERTION OF PROFESSIONAL RESPONSIBILITY

(Conduct Unbecoming a Teaching Staff Member)

69. Complainant hereby repeats and realleges each and every allegation contained in paragraphs sixty-six through sixty-eight of this complaint, and incorporates the same reference as if fully set forth herein and again.

70. On October 22, 2014, Respondent Lesley Etheridge failed to report to her period 1 co-teaching assignment.

71. The actions and conduct of the respondent constitutes Desertion of Professional Responsibility so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 9

CHARGE NINE

DESERTION OF PROFESSIONAL RESPONSIBILITY

(Conduct Unbecoming a Teaching Staff Member)

72. Complainant hereby repeats and realleges each and every allegation contained in paragraphs seventy through seventy-one of this complaint, and incorporates the same reference as if fully set forth herein and again.

73. On December 8, 2014, Respondent Lesley Etheridge left her period 2 students unattended without providing notice to her immediate supervisor or an administrator.

74. The actions and conduct of the respondent constitutes Desertion of Professional Responsibility so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 10

CHARGE TEN

DESERTION OF PROFESSIONAL RESPONSIBILITY

(Conduct Unbecoming a Teaching Staff Member)

75. Complainant hereby repeats and realleges each and every allegation contained in paragraphs seventy-three through sixty-four of this complaint, and incorporates the same reference as if fully set forth herein and again.

76. On February 4, 2015, Respondent Lesley Etheridge's immediate supervisor issued a memorandum indicating that Respondent Lesley Etheridge had left campus without permission or following proper notification and sign-out procedures.

77. The actions and conduct of the respondent constitutes Desertion of Professional Responsibility so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 11

CHARGE ELEVEN

DESERTION OF PROFESSIONAL RESPONSIBILITY

(Conduct Unbecoming a Teaching Staff Member)

78. Complainant hereby repeats and realleges each and every allegation contained in paragraphs seventy-six through seventy-seven of this complaint, and incorporates the same reference as if fully set forth herein and again.

79. On February 18, 2015, Respondent Lesley Etheridge failed to report to her period 1 co-teaching assignment.

80. The actions and conduct of the respondent constitutes Desertion of Professional Responsibility so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 12

CHARGE TWELVE

DESERTION OF PROFESSIONAL RESPONSIBILITY

(Conduct Unbecoming a Teaching Staff Member)

81. Complainant hereby repeats and realleges each and every allegation contained in paragraphs seventy-nine through eighty of this complaint, and incorporates the same reference as if fully set forth herein and again.

82. On February 19, 2015, Respondent Lesley Etheridge failed to report to her period 1 co-teaching assignment.

83. The actions and conduct of the respondent constitutes Desertion of Professional Responsibility so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 13

CHARGE THIRTEEN

DESERTION OF PROFESSIONAL RESPONSIBILITY

(Conduct Unbecoming a Teaching Staff Member)

84. Complainant hereby repeats and realleges each and every allegation contained in paragraphs eighty-two through eighty-three of this complaint, and incorporates the same reference as if fully set forth herein and again.

85. On March 9, 2015, March 10, 2015 Respondent Lesley Etheridge failed to report to her period 1 co-teaching assignment in a timely manner.

86. The actions and conduct of the respondent constitutes Desertion of Professional Responsibility so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 14

CHARGE FOURTEEN

DESERTION OF PROFESSIONAL RESPONSIBILITY

(Conduct Unbecoming a Teaching Staff Member)

87. Complainant hereby repeats and realleges each and every allegation contained in paragraphs eighty-five through eighty-six of this complaint, and incorporates the same reference as if fully set forth herein and again.

88. On March 10, 2015 Respondent Lesley Etheridge failed to report to her period 1 co-teaching assignment in a timely manner.

89. The actions and conduct of the respondent constitutes Desertion of Professional Responsibility so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 15

CHARGE FIFTEEN

DESERTION OF PROFESSIONAL RESPONSIBILITY

(Conduct Unbecoming a Teaching Staff Member)

90. Complainant hereby repeats and realleges each and every allegation contained in paragraphs eighty-eight through eighty-nine of this complaint, and incorporates the same reference as if fully set forth herein and again.

91. On March 17, 2015, Respondent Lesley Etheridge failed to remain in her period 6B-7A co-teaching assignment.

92. The actions and conduct of the respondent constitutes Desertion of Professional Responsibility so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 16

CHARGE SIXTEEN

DESERTION OF PROFESSIONAL RESPONSIBILITY

(Conduct Unbecoming a Teaching Staff Member)

93. Complainant hereby repeats and realleges each and every allegation contained in paragraphs ninety-one through ninety-two of this complaint, and incorporates the same reference as if fully set forth herein and again.

94. On March 19, 2015, Respondent Lesley Etheridge failed to report to her period 1 co-teaching assignment.

95. The actions and conduct of the respondent constitutes Desertion of Professional Responsibility so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 17

CHARGE SEVENTEEN

INSUBORDINATION/NEGLECT OF DUTY

(Conduct Unbecoming a Teaching Staff Member)

96. Complainant hereby repeats and realleges each and every allegation contained in paragraphs ninety-four through ninety-five of this complaint, and incorporates the same reference as if fully set forth herein and again.

97. Passaic County Technical Institute BOE Policy #3134 (Assignment of Additional Duties) states: "Any teaching staff member appointed to an extra duty position is expected to serve unless excused for extenuating circumstances. A member's refusal to serve or resignation from extra duty service without permission may constitute an act of insubordination subject to discipline" and "Performance in an extra duty position will be considered in a teacher staff member's evaluation, in determining whether to renew a nontenured member..."

98. On November 21, 2014, Respondent Lesley Etheridge failed to report to her hall duty on November 21.

99. The actions and conduct of the respondent constitutes Insubordination/Neglect of Duty so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to

suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 18

CHARGE EIGHTEEN

INSUBORDINATION/NEGLECT OF DUTY

(Conduct Unbecoming a Teaching Staff Member)

100. Complainant hereby repeats and realleges each and every allegation contained in paragraphs ninety-seven through ninety-nine of this complaint, and incorporates the same reference as if fully set forth herein and again.

101. Passaic County Technical Institute BOE Policy #3134 (Assignment of Additional Duties) states: "Any teaching staff member appointed to an extra duty position is expected to serve unless excused for extenuating circumstances. A member's refusal to serve or resignation from extra duty service without permission may constitute an act of insubordination subject to discipline" and "Performance in an extra duty position will be considered in a teacher staff member's evaluation, in determining whether to renew a nontenured member..."

102. On November 24, 2014, Respondent Lesley Etheridge failed to report to her assigned hall duty.

103. The actions and conduct of the respondent constitutes Insubordination/Neglect of Duty so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to

suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 19

CHARGE NINETEEN

INSUBORDINATION/NEGLECT OF DUTY

(Conduct Unbecoming a Teaching Staff Member)

104. Complainant hereby repeats and realleges each and every allegation contained in paragraphs one hundred-one through one hundred-three of this complaint, and incorporates the same reference as if fully set forth herein and again.

105. Passaic County Technical Institute BOE Policy #3134 (Assignment of Additional Duties) states: "Any teaching staff member appointed to an extra duty position is expected to serve unless excused for extenuating circumstances. A member's refusal to serve or resignation from extra duty service without permission may constitute an act of insubordination subject to discipline" and "Performance in an extra duty position will be considered in a teacher staff member's evaluation, in determining whether to renew a nontenured member..."

106. On January 13, 2015, Respondent Lesley Etheridge failed to report to assigned her hall duty.

107. The actions and conduct of the respondent constitutes Insubordination/Neglect of Duty so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to

suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 20

CHARGE TWENTY

INSUBORDINATION

(Failure to Submit Lesson Plans)

(Conduct Unbecoming a Teaching Staff Member)

108. Complainant hereby repeats and realleges each and every allegation contained in paragraphs one hundred-five through one hundred-seven of this complaint, and incorporates the same reference as if fully set forth herein and again.

109. Passaic County Technical Institute BOE Policy #3270 (Lesson Plans and Plan Books) states: "The Board directs the Superintendent to require the preparation of lesson plans by each teacher that implement the goals and objectives of the educational program. Teachers shall also be responsible for providing adequate direction and guidance to substitutes. Lesson plans will be subject to periodic review by the principal or designee".

110. Passaic County Technical Institute BOE Policy Regulation #3270 (Lesson Plans and Plan Books) section A subsection 4 and 5 states: "Lesson plans will follow the format established at the building or departmental level, as appropriate. Lesson plans will ordinarily be prepared on a daily basis, but, if the format so dictates, may be prepared on a long-range unit basis... Lesson plans must be prepared with clarity and in sufficient detail to permit a person unacquainted

with the classroom to conduct the lesson efficiently and effectively."

111. On December 8, 2014, Respondent Lesley Etheridge was issued a formal reprimand by her immediate supervisor for failure to complete and submit lesson plans.

112. On December 17, 2014, Respondent Lesley Etheridge was issued a memorandum by Dr. Michael Parent, Principal, for insubordination. Respondent Lesley Etheridge had failed to adhere to the required lesson plan format and mandates outlined by her immediate supervisor.

113. On January 21, 2015, Respondent Lesley Etheridge was issued a memorandum by her immediate supervisor reminding her to complete and submit appropriate lesson plans. Respondent Lesley Etheridge refused to read or sign the memorandum.

114. The actions and conduct of the respondent constitutes Insubordination so egregious as to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 21

CHARGE TWENTY-ONE

INAPPROPRIATE STAFF CONDUCT/CONDUCT UNBECOMING
(Unprofessional Communications With Administration)
(Conduct Unbecoming a Teaching Staff Member)

115. Complainant hereby repeats and realleges each and every allegation contained in paragraphs one hundred-nine through one hundred-fourteen of this complaint, and incorporates the same reference as if fully set forth herein and again.

116. Passaic County Technical Institute BOE Policy #3281 (Inappropriate Staff Conduct) states: "A school staff member is always expected to maintain a professional relationship with pupils and to protect the health, safety and welfare of school pupils. A staff member's conduct will be held to the professional standards established by the New Jersey State Board of Education and the New Jersey Commissioner of Education. Inappropriate conduct or conduct unbecoming a staff member may also include conduct not specifically listed in this Policy, but conduct determined by the New Jersey State Board of Education, the New Jersey Commissioner of Education, an arbitration process, and/or appropriate courts to be inappropriate or conduct unbecoming a school staff member."

117. Passaic County Technical Institute BOE Policy Regulation #3321 (Acceptable Use of Computer Network(s)/Computers and Resources by Teaching Staff Members),

states: "Teaching staff members are responsible for good behavior on computer network(s)/computers. Communications on the computer network(s)/computers are often public in nature. Policies and Regulations governing teaching staff members behavior and communications apply. The school district's network(s), Internet access and computers are provided to conduct research and as a tool for instruction and to communicate with others. Access to computer network services/computers is given to teaching staff members who are expected to act in a considerate, responsible and professional manner."

118. On October 30, 2014, Dr. Michael Parent, Principal, sent an email to Respondent Lesley Etheridge regarding the time-stamps of her emails to administration. From September 2 through October 30, Respondent Lesley Etheridge had composed and sent 14 emails during scheduled instructional time.

119. On November 5, 2014, Respondent Lesley Etheridge was issued a memorandum by Dr. Michael Parent, Principal, regarding the tone of her emails that are sent to the administration.

120. On January 8, 2015, Dr. Michael Parent, Principal, issued a memorandum to Respondent Lesley Etheridge regarding the tone and demeanor of emails being sent to the administration.

121. The actions and conduct of the respondent constitutes Inappropriate Staff Conduct/Conduct Unbecoming so egregious as

to warrant dismissal from respondent's tenured teaching position.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, Lesley Etheridge be certified and sustained by the Commissioner of Education, to require Respondent to suffer the loss of her tenure status, and be dismissed from her teaching position.

Charge 22

OMITTED

Charge 23

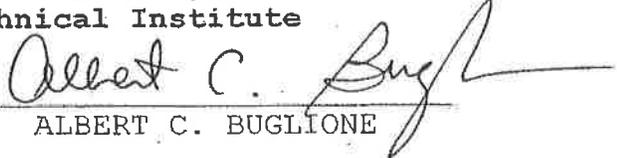
CHARGE TWENTY-THREE
CONDUCT UNBECOMING A TEACHING STAFF
MEMBER AND OTHER JUST CAUSE

130. Complainant hereby repeats and re-alleges each and every allegation contained in paragraphs one through one-hundred thirty-nine of this complaint, and incorporates the same by reference as if fully set forth herein and again.

131. In the event that any one of the foregoing Charges (One through Twenty-Two), does not constitute unbecoming conduct, all of these foregoing charges considered as a whole demonstrate a pattern of inappropriate and insubordinate behavior that is wholly improper in a public school setting and constitute(s) conduct unbecoming a teaching staff member and/or other just cause for termination.

WHEREFORE, Petitioner requests that the Tenure Charges against Respondent, LESLEY ETHERIDGE be certified and sustained by the Arbitrator who is appointed by the Commissioner of Education, to require Respondent to suffer the loss of her tenure.

BUGLIONE, HUTTON & DEYOE, LLC
Attorneys Passaic County
Technical Institute

By: 
ALBERT C. BUGLIONE

Dated: April 23, 2015

VERIFICATION OF THE PASSAIC COUNTY TECHNICAL INSTITUTE'S
COMPLAINT TO ADVANCE TENURE CHARGES
AGAINST RESPONDENT, LESLEY ETHERIDGE

I, Dr. Michael Parent, of full age, hereby certify and say:

1. I am the Principal at the Passaic County Technical Institute, and have served in this capacity for a period of three years.

2. I have read the foregoing Verified Complaint and I certify that the information contained in the Complaint is true based on my personal knowledge.

3. I certify that the foregoing statements made by me are true and I am aware that, if any of the foregoing statements made by me are willingly false I am subject to punishment.

Dated: April 23, 2015



DR. MICHAEL PARENT
Passaic County Technical
Institute

STATE OF NEW JERSEY)

)SS

COUNTY OF PASSAIC)

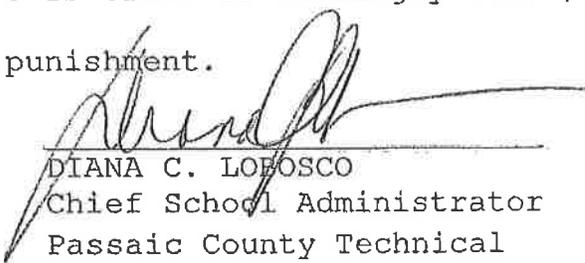
Diana C. Lobosco, of full age, hereby says, under oath:

1. I am the Superintendent of Schools of Passaic County Technical Institute.

2. I have examined the charges annexed hereto together with the attached exhibits.

3. I hereby certify that in my opinion the actions of Respondent, Lesley Etheridge are of such seriousness that she should suffer loss of her tenure status and that tenure charges should be certified and should be sustained by the Commissioner of Education.

4. I certify that the above is true. If willingly false, I recognize that I am subject to punishment.


DIANA C. LOBOSCO
Chief School Administrator
Passaic County Technical
Institute

Dated: April 23, 2015

Sworn to and subscribed before
me this 23 day of April, 2015


ALBERT BUGLIONE
Attorney at Law State New Jersey