

438-25

State Board of Examiners Dkt. No. 2122-206

Agency Dkt. No. 12-10/24A

New Jersey Commissioner of Education

Final Decision

In the Matter of the Certificates of Matthew J. Maxwell, State Board of Examiners, New Jersey Department of Education.

Order of Revocation by the State Board of Examiners, issued September 19, 2024

For the Respondent-Appellant, Dean R. Wittman, Esq.

For the Petitioner-Respondent State Board of Examiners, David L. Kalisky, Deputy Attorney General (Matthew J. Platkin, Attorney General of New Jersey)

The Commissioner has reviewed the record and papers filed in connection with Matthew J. Maxwell's appeal of the Order of the State Board of Examiners (Board), issued September 19, 2024, revoking his Teacher of Elementary School in Grades K-6 standard certificate, Teacher of Elementary School with Subject Matter Specialization: Science in Grades 5-8 standard certificate, and Teacher of Biological Science standard certificate.

On January 18, 2023, appellant pled guilty to Third Degree Terroristic Threats, *N.J.S.A.* 2C:12-3(b), and entered the Pre-Trial Intervention (PTI) program.¹ Pursuant to *N.J.S.A.* 2C:12-3(b), "A person is guilty of a crime of the third degree if he threatens to kill another with the

¹ *N.J.S.A.* 2C:43-12(g)(3) required appellant to enter a guilty plea for admission into PTI. Appellant successfully completed PTI in February 2024, which resulted in dismissal of the charges. *See ibid.* ("Upon successful completion of the program of supervisory treatment the charges shall be dismissed.").

purpose to put him in imminent fear of death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood that it will be carried out.” The conduct at issue stemmed from an argument with his fiancée. During the plea colloquy, appellant admitted to terrorizing his fiancée while her daughter was present at the home and admitted that his fiancée could have easily believed she was in danger based upon his words and actions.

On April 13, 2023, the Board issued an Order to Show Cause regarding the revocation of appellant’s certificates based upon the unbecoming conduct admitted to as part of his guilty plea and plea colloquy before the court. Once the matter was transmitted to the Office of Administrative Law (OAL), the parties cross-moved for summary decision.

On May 17, 2024, the Administrative Law Judge (ALJ) issued an Initial Decision granting the Board’s motion for summary decision upon concluding that the actions admitted to by appellant clearly constituted unbecoming conduct warranting revocation of his certificates. In addition, the ALJ held that successful completion of PTI does not preclude or prevent the Board from acting against appellant’s certificates for unbecoming conduct based upon his admission of guilt, explaining: “What [successful completion of] the PTI program does is dismiss the criminal charges; it does not, with the dismissal of the indictment, negate or erase the conduct that formed the basis for the charges.” Initial Decision, at 10.

On September 19, 2024, the Board adopted the ALJ’s Initial Decision and revoked appellant’s certificates, finding that making terroristic threats against his fiancée constituted unbecoming conduct.

Appellant contends that: (1) the guilty plea and any admissions made in conjunction therewith are inadmissible and cannot be used against him in a civil proceeding under *State v.*

Lavrick, 472 N.J. Super. 192, 216 (App. Div. 2022); (2) use of the guilty plea violates the public policy underlying PTI; (3) the Board considered as fact information referenced in the indictment that was not in evidence; (4) he was deprived of the opportunity for a hearing to persuade the fact-finder that his guilty plea was merely a compromise and not a reflection of guilt; and (5) the Board denied him due process by failing to consider a lesser sanction.

In its opposition brief, the Board contends that appellant's guilty plea is admissible in administrative licensing proceedings such as this one, and that same is not contrary to the public policy of PTI. Regarding revocation as a penalty, the Board argues that appellant failed to contest the applicability of case law relied upon by the ALJ and the Board illustrating that revocation in this matter was appropriate and consistent with prior decisions. Thus, the Board asserts that its decision to revoke appellant's certificates was not arbitrary, capricious, or unreasonable and should be affirmed.

In reviewing appeals from decisions of the State Board of Examiners, the Commissioner may not substitute his judgment for that of the Board so long as the appellant received due process and the Board's decision is supported by sufficient credible evidence in the record. The Commissioner's role in reviewing appeals is constrained by *N.J.A.C. 6A:4-4.1(a)*, which specifies that "the Commissioner shall ascertain whether the decision is supported by sufficient credible evidence in the record and shall not disturb the decision unless the appellant has demonstrated that the State Board of Examiners . . . acted in a manner that was arbitrary, capricious, or contrary to law."

The Commissioner finds that the Board's decision to revoke appellant's certificates is supported by sufficient credible evidence in the record and consistent with precedent given the

serious nature of the undisputed, underlying unbecoming conduct at issue. “[T]eachers . . . are professional employees to whom the people have entrusted the care and custody of . . . school children This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment.” *IMO Tenure Hearing of Sammons*, 1972 S.L.D. 302, 321. Teachers “hold positions demanding public trust, and in such positions they teach, inform, and mold habits and attitudes, and influence the opinion of their pupils.” *IMO Tenure Hearing of Tordo*, 1974 S.L.D. 97, 98-99.

The Board may revoke or suspend the certification of any certificate holder for demonstrated inefficiency, incapacity, conduct unbecoming a teacher, or other just cause. N.J.A.C. 6A:9B-4.4. “Conduct unbecoming” is an “elastic” concept that includes “conduct which adversely affects the morale or efficiency” of the public entity or “which has a tendency to destroy public respect for [public] employees and confidence in the operation of [public] services.” *In re Appeal of Emmons*, 63 N.J. Super. 136, 140 (App. Div. 1960). *Accord Bound Brook Bd. of Educ. v. Ciripompa*, 228 N.J. 4, 13 (2017). A finding of unbecoming conduct “may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct.” *Bound Brook Bd. of Educ.*, 228 N.J. at 14 (quoting *Karins v. City of Atlantic City*, 152 N.J. 532, 555 (1998)). Unfitness to hold a position in a school system may be demonstrated through just one incident, “if sufficiently flagrant.” *Redcay v. State Bd. of Educ.*, 130 N.J.L. 369, 371 (1943), *aff’d*, 131 N.J.L. 326 (E & A 1944).

Here, appellant’s admitted unbecoming conduct evidences a serious lapse in judgment and a troubling failure to exercise self-restraint. The record reflects that he pled guilty to Third

Degree Terroristic Threats, and he replied “yes” on the plea form when asked if he committed the offense to which he pled guilty. As noted, the offense of Third Degree Terroristic Threats is defined as follows: “A person is guilty of a crime of the third degree if he threatens to kill another with the purpose to put him in imminent fear of death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood that it will be carried out.” *N.J.S.A. 2C:12-3(b)*. During the plea colloquy, appellant admitted that he committed Third Degree Terroristic Threats by terrorizing his fiancée while her daughter was present at the home and admitted that his fiancée could have easily believed she was in danger based upon his words and actions. Appellant’s actions during this incident demonstrate that he is ill-suited to be a role model for students.

Appellant’s contentions to the contrary are unavailing. First, *Lavrick* does not preclude the Board from relying upon appellant’s guilty plea and related admissions as a basis for revoking his certificates in this administrative proceeding. That matter concerns civil reservation orders, which may prohibit guilty pleas from admission in evidence “in any civil proceeding.” *See N.J. Ct. R. 3:9-2*. Here, appellant has not obtained a civil reservation order, and this is an administrative proceeding. As for the *Lavrick* court’s discussion of guilty pleas entered in connection with PTI admission being considered inactive, this means that the guilty plea “is neither a judgment of conviction nor an adjudication” pending completion of, or termination from, PTI. *Lavrick*, 472 *N.J. Super.* at 215-16 (quoting Attorney General Directive 2016-2, *Uniform Guidelines on the Pretrial Intervention Program*, at 7 (March 1, 2016)). That said, while successful completion of PTI results in dismissal of the indictment, appellant has identified nothing in the applicable law

which indicates that the guilty plea entered as a statutory prerequisite for PTI admission is nullified or ceases to exist.² *N.J.S.A. 2C:43-12(g)(3)*.

Accordingly, successful completion of PTI does not prevent the Board from acting against appellant's certificates based upon unbecoming conduct. *IMO Certificates of Mary Purcell, State Board of Examiners*, Commissioner Decision No. 73-17A (March 9, 2017), at 4. The PTI proceedings are separate and apart from those initiated by the Board pursuant to its statutory authority to revoke teaching certificates for just cause. *See N.J.S.A. 18A:6-38* (authorizing Board to revoke certificates "under rules and regulations prescribed by the State board"); *N.J.A.C. 6A:9B-4.4* (explaining that Board may revoke or suspend certificates for conduct unbecoming a teacher, among other reasons). Here, as was true in *Purcell*, "appellant has admitted to the actions that form the basis of the unbecoming conduct determination." *Purcell*, at 5.

Contrary to appellant's claims, the public policy underlying PTI is not in conflict with the Board's authority to act against appellant's certificates in an administrative proceeding based upon unbecoming conduct. PTI allows certain first-time offenders to avoid criminal prosecution in favor of participation in rehabilitative services and is designed to "spare them the rigors of the criminal justice system." *State v. E.R.*, 471 *N.J. Super.* 234, 244 (App. Div. 2022) (quoting *State v. Randall*, 414 *N.J. Super.* 414, 419 (App. Div. 2010)); *N.J.S.A. 2C:43-12*. Appellant has not identified any language in *N.J.S.A. 2C:43-12* or in case law to support his contention that PTI was intended

² The Commissioner agrees with appellant that the Board's decision to revoke his certificates cannot be based upon allegations contained within the indictment. Upon his successful completion of PTI, the indictment was dismissed. *N.J.S.A. 2C:43-12(g)(3)*; *N.J.S.A. 2C:43-13(d)*. Although those allegations were referenced within the Order of Revocation, the Commissioner is satisfied that the Board's decision to revoke appellant's certificates was based upon, and is supported by, his guilty plea and related colloquy—not the contents of the indictment.

to shield or exempt program participants from administrative licensure matters initiated by State agencies.

Furthermore, appellant's contentions that he was not provided an opportunity to persuade the fact-finder that the guilty plea was a compromise and not an admission and that he was denied due process lack merit. The Board transmitted the matter to the OAL for a contested hearing. Appellant was represented by counsel. The parties agreed to file cross-motions for summary decision because none of the material facts were disputed. Appellant's claim that his guilty plea was something other than an admission of guilt is belied by the plea form and the plea colloquy transcript. The record reflects that the plea was taken in accordance with *New Jersey Court Rules* 3:9-2 and 3:9-3(b), and the judge ensured that the plea was knowing, intelligent, and voluntary. *See also* Attorney General Directive 2016-2, *Uniform Guidelines on the Pretrial Intervention Program*, at 6-7 (March 1, 2016) (explaining requirements for when PTI admission is contingent upon a guilty plea).

Finally, the penalty of revocation in this matter is consistent with prior cases involving terroristic threats and does not violate appellant's due process rights. *See, e.g., IMO Certificates of Brown*, State Board of Examiners, Order of Revocation, Dkt. No. 1314-137 (Jan. 23, 2015) (revoking certificates where terroristic threats offense is "significant" and "demonstrates behavior that falls far short of a role model"); *IMO Credential of Kuhn*, State Board of Examiners, Order of Revocation, Dkt. No. 1617-148 (July 27, 2017) (revoking substitute credential following guilty plea to "significant" offenses of terroristic threats, resisting arrest, and theft by deception as behavior fell "far short of a role model").

Because the Board's decision is supported by sufficient, credible evidence, and appellant has failed to establish that it was arbitrary, capricious, or contrary to law, the Commissioner has no grounds to disturb it. *N.J.A.C. 6A:4-4.1(a)*. Accordingly, the decision of the State Board of Examiners revoking appellant's certificates is affirmed.³


COMMISSIONER OF EDUCATION

Date of Decision: September 8, 2025
Date of Mailing: September 8, 2025

³ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
MATTHEW J. MAXWELL : ORDER OF REVOCATION
_____ : DOCKET NO: 2122-206

At its meeting of March 3, 2023, the State Board of Examiners (Board) reviewed information it received from the Office of Student Protection (OSP) and the Cape May County Prosecutor's Office regarding Matthew J. Maxwell. On July 12, 2022, Maxwell was indicted for Aggravated Assault – Strangulation (2nd degree), *N.J.S.A.* 2C:12-1B(13); Aggravated Assault – Domestic Violence (3rd degree), *N.J.S.A.* 2C:12-1B(12); and Terroristic Threats (3rd degree), *N.J.S.A.* 2C:12-3B. It was alleged that he threatened to kill his victim and put his hands around her neck, attempting to strangle her.

On January 18, 2023, Maxwell signed a plea form wherein he admitted to the conduct that formed the basis for the criminal indictment. As part of the plea, Maxwell was entered into Pretrial Intervention (PTI) for a period of 24 months, along with other terms and conditions.

Maxwell currently holds a Teacher of Elementary School in Grades K-6 standard certificate, a Teacher of Elementary School with Subject Matter Specialization: Science in Grades 5-8 standard certificate, and a Teacher of Biological Science standard certificate. After reviewing the above information, at its April 13, 2023 meeting, the Board voted to issue an Order to Show Cause (OSC) to Maxwell as to why his certificates should not be revoked.

On April 17, 2023, the Board sent Maxwell the OSC by regular and certified mail. The OSC provided that Maxwell must file an Answer within 30 days pursuant to *N.J.A.C.* 6A:9B-4.6(b). On May 15, 2023, Maxwell submitted an answer in which he admitted he was charged, as well as the outcome of the criminal charges, but denied the allegations as to his conduct. As there

were material facts in dispute, on July 11, 2023, the Board transmitted the matter to the Office of Administrative Law (OAL) for a hearing.

On May 17, 2024, Administrative Law Judge (ALJ) Tama B. Hughes issued an Initial Decision on Summary Decision in the case. *In the Matter of the Certificates of Matthew J. Maxwell*, OAL Dkt. No. EDE 06060-23 (Initial Decision, May 17, 2024). The parties had filed cross-motions for summary decision and responsive filings were received by February 20, 2024. *Id.* at 2.

Based on undisputed documents presented by the parties, the ALJ found as fact that Maxwell was arrested and later indicted for Aggravated Assault (2nd degree), *N.J.S.A.* 2C:12-1(b)(13); Terroristic Threats, *N.J.S.A.* 2C:12-3(b); and Aggravated Assault (3rd degree), *N.J.S.A.* 2C:12-1(b)(12). *Id.* at 2-3. Specifically, while engaged in a domestic dispute, Maxwell grabbed the victim with both hands around her neck and held the victim down on the bed, causing the victim to have difficulty breathing, inability to speak, and redness around her neck. *Ibid.* Further, he threatened to kill her while strangling her during a domestic dispute, putting her in imminent fear of death and reasonably causing her to believe the immediacy of the threat and the likelihood that it would be carried out. *Id.* at 3.

The ALJ found that on January 18, 2024, Maxwell entered into a plea agreement, whereby he pled guilty to Terroristic Threats (3rd degree), *N.J.S.A.* 2C:12-3(b), in exchange for dismissal of the remaining counts and entry into PTI program for a period of 24 months. *Ibid.* The ALJ also found that as part of the plea agreement, Maxwell was required to lay a factual foundation, which he did before the Honorable Christopher Gibson, J.S.C. *Ibid.* In doing so, Maxwell acknowledged under oath that he terrorized the victim in her house, acted in such a way that the victim could have perceived easily that she was in danger, and that he did so while the victim's daughter was in the

house which added to the sense of terror the victim may have experienced. *Id.* at 4. He also acknowledged that he was guilty of the felony of Terroristic Threats. *Id.* at 4-5.

Based on the above findings of fact, the ALJ determined the matter was ripe for summary judgment. *Id.* at 6. The ALJ found that Maxwell's allocution of guilt on the record as part of the plea agreement was in fact an admission and is not rebuttable. *Id.* at 9. The ALJ also found that although the PTI program may dismiss criminal charges, it does not negate or erase the conduct that formed the basis for the charges or preclude the Board from seeking to suspend or revoke Maxwell's certificates for unbecoming conduct based upon his admission of guilt. *Id.* at 10. Further, the ALJ found that although Maxwell successfully completed his PTI program, the lack of a conviction does not preclude the Board from bringing the OSC and seeking the suspension or revocation of his certificates based upon his entry of a guilty plea and allocution, wherein he admitted to the charge of terroristic threats. *Id.* at 12.

The ALJ found that the Board met its burden of proof that Maxwell engaged in conduct unbecoming a certificate holder. *Id.* at 13. The ALJ also found that Maxwell's "undisputed actions - terroristic threats against his fiancée - are not what we expect of an individual who is held to a high standard of conduct and a role model to our children." *Id.* at 14. The ALJ concluded that such actions warranted revocation of his teaching certificates and granted the Board's summary decision motion and denied Maxwell's cross-motion for summary decision. *Id.* at 16.

Maxwell filed Exceptions which challenge the findings of fact, conclusions of law and penalty warranted. (Exceptions, p. 1-2). Further, Maxwell proposes new findings of fact, conclusions of law and dismissal of the Order to Show Cause. *Id.* at 2-3. Maxwell argues that his guilty plea and any verbal admissions made on the record are legally null and void due to his successful completion of PTI. *Id.* at 2. Maxwell also argues that because the conviction is legally

null and void, the Board is precluded from bringing the OSC and improperly relied on his admissions in both his plea agreement and in his allocution. *Id.* at 3. Lastly, Maxwell argues that the Board has failed to sustain its burden of proof that he engaged in conduct unbecoming of terroristic threats on June 12, 2022. *Ibid.*

The Deputy Attorney General (DAG) representing the Board filed Reply Exceptions which argue that the ALJ's decision was well reasoned, amply supported by evidence, and should be adopted in its entirety. *See* Reply Exceptions at p. 1. Specifically, the DAG argues that the OSC was based on Maxwell's conduct, in that he terrorized his fiancée by making comments and acting in such a way that led her to reasonably fear that her life was in imminent danger. *Id.* at 7. Further, the DAG asserts that it is undisputed that the Board's OSC did not merely rely on the guilty plea, but rather it hinged on his admission that he engaged in the underlying offensive conduct that preceded it. *Ibid.*

The DAG also argues that Maxwell's argument that completing PTI shields him from the Board's supervision should be rejected because it ignores the admissions in his answer, where he admitted to the underlying conduct. *Id.* at 8-9. Further, Maxwell's argument is based on a misinterpretation of the PTI statute and case law precedents. *Ibid.* The statute cited by Maxwell, *N.J.S.A. 2C:43-12(g)(3)*, does not provide that the guilty plea and any statements connected thereto cease to exist following the completion of PTI, and does not preclude sworn statements made in connection with the plea from being considered in administrative licensing proceedings. *Id.* at 11, *citing State v. L.G.-M.*, 462 N.J. Super. 357 (App. Div. 2000).

The DAG further argues that the instant matter does not involve a civil reservation order or "civil proceeding" of the type discussed by the court in the case relied on by Maxwell, *State v. Lavrik*, 472 N.J. Super. 192 (App. Div. 2022). *Id.* at 14. And that the hearsay rules relied upon

by the *Lavrik* court and the cases cited therein are not strictly applicable to administrative hearings, at which hearsay is admissible. *Ibid.* The concerns underlying the purpose of a civil reservation are not relevant here, the DAG argues, because the Board is not attempting to use Maxwell's statements to impose civil liability, but rather the Board is fulfilling its mission to protect children by enforcing standards of behavior applicable to licensed educators. *Id.* at 14-15. And it would be contrary to public policy for the Board to be forced to ignore a teacher's admitted conduct simply because the teacher successfully completed PTI. *Id.* at 17.

Lastly, the DAG argues that the ALJ reasonably concluded that while Maxwell's successful completion of PTI results in his criminal charges being dismissed, it does not preclude or prevent the Board from seeking to suspend or revoke his certificates for unbecoming conduct based on his admission of guilt. *Id.* at 21. Further, the ALJ correctly concluded, citing numerous case precedents, that the PTI program does not negate or erase the conduct that formed the basis for the charges. *Ibid.* And the ALJ's determination that revocation of Maxwell's certificates was warranted was proper and should be upheld. *Id.* at 23.

The Board must now determine whether to adopt, modify, or reject the Initial Decision in this matter. At its meeting of June 27, 2024, the Board reviewed the Initial Decision, Exceptions filed by Maxwell and the Reply Exceptions filed by the DAG. After full and fair consideration of the Initial Decision and submissions, the Board voted to adopt the Initial Decision.

The Board, in reviewing the matter, does not find that the ALJ's findings to be arbitrary or not based on sufficient credible evidence. Further, the ALJ's conclusions are proper under the law.

The Board's long-standing belief is that teachers must serve as role models for their students. "Teachers... are professional employees to whom the people have entrusted the care and

custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment.” *Tenure of Sammons*, 1972 *S.L.D.* 302, 321. A “violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct” may provide the basis for a finding of unbecoming conduct. *Bound Brook Bd. of Educ. v. Ciripompa*, 228 N.J. 4, 14 (2017) (quoting *Karins v. City of Atlantic City*, 152 N.J. 532, 555 (1998)) (internal quotation marks omitted). The “elastic” concept of “conduct unbecoming” includes “conduct which adversely affects the morale or efficiency” of the public entity or “which has a tendency to destroy public respect for . . . [public] employees and confidence in the operation of [public] services.” *In re Emmons*, 63 N.J. Super. 136, 140 (App. Div. 1960) (internal quotations and citations omitted); *see also Bound Brook Bd. of Educ.*, 228 N.J. at 13.

As noted above, after reviewing the record, the ALJ found that Maxwell admitted to the underlying conduct of terroristic threats against his fiancée. In this case, Maxwell’s conduct was certainly unacceptable and certainly unbecoming of a teacher. The Board agrees that Maxwell’s undisputed conduct, of threatening to kill his fiancée, does not comport with “role model” behavior. Thus, the Board finds Maxwell engaged in unbecoming conduct.

The ALJ determined that revocation of his certificates was appropriate for the conduct. The Board agrees. Threatening to kill another person, while that person’s child is present in the house, is not conduct of a role model for children. Thus, the Board finds that a revocation is warranted in this matter.

Accordingly, on June 27, 2024, the Board voted to adopt the Initial Decision. On this 19th day of September, 2024, the Board formally adopted its written decision to adopt the Initial Decision in this matter and it is therefore ORDERED that Matthew J. Maxwell’s Teacher of

Elementary School in Grades K-6 standard certificate, Teacher of Elementary School with Subject Matter Specialization: Science in Grades 5-8 standard certificate, and Teacher of Biological Science standard certificate are hereby REVOKED, effective immediately. It is further ordered that Maxwell return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.



Rani Singh, Secretary
State Board of Examiners

Date of Mailing:
via certified and regular mail

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDE 06060-23

AGENCY REF. NO. 2122-206

**IN THE MATTER OF THE CERTIFICATES
OF MATTHEW J. MAXWELL.**

David L. Kalisky, Deputy Attorney General, for petitioner State Board of Examiners (Matthew J. Platkin, Attorney General of New Jersey, attorney)

Dean R. Wittman, Esq., for respondent Matthew J. Maxwell (Zeller & Wieliczko, LLP, attorneys)

Record Closed: February 20, 2024

Decided: May 17, 2024

BEFORE **TAMA B. HUGHES**, ALJ:

STATEMENT OF THE CASE

The New Jersey Department of Education, State Board of Examiners (“Board” or “petitioner”) seeks to revoke Matthew J. Maxwell’s (“Maxwell” or “respondent”) teaching certificates and credentials. Respondent denies that there is just cause for all of his certificates/credentials to be revoked.

PROCEDURAL HISTORY

On April 13, 2023, the Board issued an Order to Show Cause (OTSC) for a revocation proceeding against the respondent directing him to show cause why his teaching certificates/credentials (Teacher of Elementary Grades K-6, Teacher of Elementary with Subject Matter Specialization, Science Grades 5-8 Certificate, and Teacher of Biological Science Certificate) should not be revoked. The respondent filed an answer on May 15, 2023, denying that the charges in the OTSC warrant a revocation of his certificates/credentials. The matter was transmitted by the New Jersey Department of Education, Office of Licensure & Credentials, to the Office of Administrative Law (OAL), where it was filed on July 11, 2023, as a contested case pursuant to N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

A telephone prehearing conference took place on September 26, 2023, at which time the parties requested filing dates for cross-motions for summary decision. All motions and responsive filings were received by February 20, 2024. An Order of Extension was entered on May 8, 2024, to extend the initial decision filing date. See order, dated May 8, 2024.

FACTUAL DISCUSSION

Based on the undisputed documents presented by the parties and for purposes of deciding the cross-motions for summary decision, I **FIND** the following **FACTS**:

Maxwell is the holder of a Teacher of Elementary Grades K–6 Certificate, Teacher of Elementary with Subject Matter Specialization: Science Grades 5–8 Certificate, and Teacher of Biological Science Certificate. (Board's Brief, Certification of Counsel - Exhibit J.)

On June 12, 2022, Maxwell was arrested by the North Wildwood Police for committing the crimes of: Count 1 - violation of N.J.S.A. 2C:12-1(b)(13) - Aggravated Assault, second degree. Specifically, while engaged in a domestic dispute with the victim, C.C., grabbed the victim with both hands around her neck and held the victim

down on the bed, causing the victim to have difficulty breathing and the inability to speak; Count 2 - violation of N.J.S.A. 2C:12-3(b) - Terroristic Threats, third degree. Specifically did threaten to kill C.C. with the purpose to put her in imminent fear of death under circumstances reasonably causing said victim to believe the immediacy of the threat and the likelihood that it would be carried out—by specifically threatening to kill the victim while strangling her during a domestic dispute; Count 4 - violation of N.J.S.A. 2C:12-1(b)(12) - Aggravated Assault - third degree. Specifically, by strangling the victim (C.C.) during a domestic dispute, causing the victim to have difficult breathing, the inability to scream for help, and redness around her neck. (Board's Brief, Certification of Counsel - Exhibit A.)

On July 12, 2022, under Cape May County Indictment No. 22-07-00359-I, Maxwell was charged with violations of: N.J.S.A. 2C:12-1(b)(13) - Aggravated Assault; N.J.S.A. 2C:12-3(b) - Terroristic Threats, third degree; and N.J.S.A. 2C:12-1(b)(12) - Aggravated Assault, third degree, for the events that allegedly took place on June 12, 2022. (Board's Brief, Certification of Counsel - Exhibit B.)

On January 18, 2023, Maxwell entered into a plea agreement whereby he waived his right to a trial by jury and entered a plea of guilty to Count 3 of the Indictment - Terroristic Threats, third degree.¹ In exchange for his guilty plea, the Cape May County Prosecutor's Office recommended the dismissal of the remaining two counts under the indictment and allowed entry into the Pre-Trial Intervention (PTI) program for a period of twenty-four months, after which all charges would be dismissed. (Board's Brief, Certification of Counsel - Exhibits C and D.)

As part of the plea agreement, Maxwell was required to lay a factual foundation for the entry of his plea and acceptance into the PTI program. This was done before the Honorable Christopher Gibson, J.S.C., of the Cape May County Superior Court, Law

¹ Count Three of the Indictment - Terroristic Threats stated: "The Grand Jurors of the State of New Jersey for the county of Cape May, upon their oaths present that MATTHEW J. MAXWELL, on or about June 12, 2022, in the City of North Wildwood, County of Cape May aforesaid, and within the jurisdiction of this Court, did threaten to kill [C.C.] with purpose to put the said [C.C.] in imminent fear of death under circumstances reasonably causing the said to believe the immediacy of the threat and the likelihood that it will be carried out; contrary to the provisions of N.J.S.A. 2C:12-3.b, and against the peace of this State, the Government and dignity of the same."

Division, Criminal Part. In laying the factual foundation, Maxwell acknowledged under oath the following:

Q: Did some events occur at dinner in North Wildwood that led to a confrontation between you and her at the restaurant?

A. Yes.

Q. Had you been drinking excessively that night?

A. Yes.

Q. In fact, since that time, you have taken a lot of radical steps to address that question, haven't you?

A. Yes.

Q. When you got back that evening, did the next morning lead to an argument between you and her?

A. Yes.

Q. Now, you may have initially perceived this as some kind of attack in self-defense, but do you acknowledge that you terrorized her in your house that morning?

A. Yes.

Q. By making comments and acting in such a way that she could have perceived easily that she was in danger?

A. Yes.

Q. The fact that she was not in a normal home for her, with her daughter in the house, do you believe that that added to the sense of terror that she may have experienced?

B. Yes.

Q. Do you acknowledge that you're guilty of the felony of Terroristic Threats?

A: Yes

[Board's Brief, Certification of Counsel - Exhibit E.]

Upon the entry of his plea, Maxwell was entered into the PTI program for a period of twenty-four months. (Board's Brief, Exhibit D.)

On April 13, 2023, the Board issued an OTSC as to why all of Maxwell's teaching certificates and credentials should not be revoked based upon the indictment and plea wherein he admitted to the conduct that formed the basis for the criminal indictment.²

LEGAL ANALYSIS AND CONCLUSION

N.J.A.C. 1:1-12.5(b) provides that summary decision should be granted "if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law." This language is substantially similar to summary judgment under New Jersey Court Rule 4:46-2(c). Though not required to do so, the OAL uses the standards for summary judgment, as set forth by the New Jersey Supreme Court, as its standards for summary decision. "[S]ince there are pronounced similarities in the exercise of judicial and quasi-judicial powers, . . . court-fashioned doctrines for the handling of litigation do in fact have some genuine utility and relevance in administrative proceedings." City of Hackensack v. Winner, 82 N.J. 1, 29 (1980). It is recognized that the OAL performs many "quasi-judicial" or adjudicative functions and that, in doing so, "[j]udicial rules of procedure and practice are transferable to [the OAL] when these are conducive to ensuring fairness, independence, integrity, and efficiency in administrative adjudications." In re Tenure Hearing of Onorevole, 103 N.J. 548, 554–55 (1986).

In order to defeat a summary decision motion, the adverse party must respond by affidavits setting forth specific facts showing that there is a genuine issue which can

² On February 16, 2024, Maxwell successfully completed PTI, and the indictment was dismissed. See Order dated February 14, 2024.

only be determined in an evidentiary hearing. Use of the summary procedure is aimed at the swift uncovering of the merits and either their effective disposition or their advancement toward a prompt resolution by trial. Judson v. Peoples Bank and Trust Co. of Westfield, 17 N.J. 67, 74 (1954).

The New Jersey Supreme Court encouraged trial-level courts not to refrain from granting summary judgment when the proper circumstances present themselves. Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 541 (1995). While cautioning that a judge should not weigh the truth of the evidence or resolve factual disputes at this early stage of the proceedings, the court clarified that when the evidence is so one-sided that one party must prevail as a matter of law, the trial court should not hesitate to grant summary judgment. Id. at 540. Appellate courts recognize that “[a]n evidentiary hearing is mandated only when the proposed administrative action is based on disputed adjudicatory facts.” Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 120 (App. Div. 1995) (citations omitted), certif. denied, 145 N.J. 372 (1996).

With the above in mind and for the reason set forth more fully below, I **CONCLUDE** that, under the Brill standards, this matter is appropriate for summary disposition.

The Board of Examiners is entrusted with the issuance and revocation of certificates to teach pupils in public schools. N.J.S.A. 18A:6-38. N.J.A.C. 6A:9B-4.4 sets forth the grounds for revocation and suspension of certification. Pursuant thereto, “[t]he Board of Examiners may revoke or suspend the certificate(s) of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher, or other just cause.” The Board of Examiners bears the burden of proving its claims against certificate holders by a preponderance of the competent, credible evidence. See In re Certificate of Papadaniil, EDE 08821-00, initial decision (Mar. 13, 2002), adopted, State Bd. of Exam’rs (May 9, 2002), <http://njlaw.rutgers.edu/collections/oal/>; In re Polk, 90 N.J. 550 (1982); Atkinson v. Parsekian, 37 N.J. 143 (1962). The intendment of the hearing is “to permit [the certificate holder] to demonstrate facts or circumstances that might counter the charges set forth in the Order to Show Cause,” State Bd. of Exam’rs v. Brown, 91 N.J.A.R.2d

(EDE) 5, 7, and to offer the certificate holder an opportunity to present mitigating circumstances toward the determination regarding what licensing sanction, if any, is appropriate. In re Certificates of Mantone, 96 N.J.A.R.2d (EDE) 5, 6.

Conduct unbecoming includes a broad range of behavior that impacts a certificate holder's ability to perform his or her duties or otherwise renders the certificate holder unfit to have the responsibility for the custody and care of students. See State Bd. of Exam'rs v. Charlton, 96 N.J.A.R.2d (EDE) 18; In re Certificate of Fargo, 91 N.J.A.R.2d (EDE) 1. Although "conduct unbecoming" a teacher or other public employee is not defined in the statutes or regulations, it has been described as an "elastic" phrase that includes "conduct which adversely affects the morale or efficiency" of the public entity or "which has a tendency to destroy public respect for [public] employees and confidence in the operation of [public] services." In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960) (citation omitted). The touchstone of the charge is a certificate holder's fitness to discharge the duties and functions of his position. See Laba v. Newark Bd. of Educ., 23 N.J. 364, 385–88 (1957).

It is well settled that "teachers are held to a high standard of conduct because of the influence they exercise over the students." Charlton, at 21. Teachers "hold positions demanding public trust, and in such positions they teach, inform, and mold habits and attitudes, and influence the opinions of their pupils." In re Tenure Hearing of Tordo, 1974 S.L.D. 97, 98–99. They "are professional employees to whom the people have entrusted the care and custody of . . . school children," and "[t]his heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." In re Tenure of Sammons, 1972 S.L.D. 302, 321. "That the school authorities have the right and the duty to screen the officials, teachers, and employees as to their fitness to maintain the integrity of the schools as a part of ordered society, cannot be doubted." In re Grossman, 127 N.J. Super. 13, 30 (App. Div.) (citation omitted), certif. denied, 65 N.J. 292 (1974).

In this matter, the Board contends that summary decision is appropriate because the respondent was charged with, indicted for, and pled guilty to the charge of Terroristic Threats—a crime of the third degree. In placing his plea on the record in

exchange for his entry into PTI, respondent admitted under oath that he made such comments and did such actions that would lead his fiancée, C.C., to perceive that she was in danger. Such admitted conduct clearly demonstrates conduct unbecoming.

The Board further points out that in the respondent's Answer to the OTSC, paragraphs 3 and 4, he failed to refute the allegations. Instead, his answer stated: "Denied. The allegations referred to in the corresponding paragraph of the OTSC make reference to a writing, the content of which speaks for itself, and therefore, any characterization of same is denied." See Respondent's Answer. By not denying the allegations and stating that the documents speak for themselves, Counts 3 and 4 of the OTSC should be deemed admissions.

Last, the Board contends that it is not estopped from using the respondent's guilty plea to revoke his certificates. In the past, the Board has revoked the certificates of teachers who have engaged in similar unbecoming conduct using similar admissions as a basis to revoke licensure. See In re the Certificates of Leonard, No. 3-4/22A, Comm'r of Educ., at 9–10 (Jan. 23, 2023), <https://www.nj.gov/education/legal/commissioner/2023/18-23.pdf>; In re Toler, 2006 N.J. Super. Unpub. LEXIS 221, *6–7 (App. Div. 2006); In re Certificates of Purcell, No. 2-5/16A, Comm'r of Educ. (Mar. 9, 2017), <https://www.nj.gov/education/legal/commissioner/2017/mar/73-17A.pdf>.

Respondent contends that the OTSC must be dismissed because it is based solely on his guilty plea with no other proofs to show that he actually committed any of the crimes for which he was indicted. The plea that was entered was solely for the purpose of entering into the PTI program and remains inactive until successful completion of the program. See State v. Lavrik, 472 N.J. Super. 192 (App. Div. 2022). As such, it cannot be used against him to suspend or revoke his teaching certificates. Taking this analysis one step further, respondent opined that the Board's actions in this matter were premature and should be dismissed or stayed pending completion of PTI, at which time the charges will be dismissed. Quoting Eaton v. Eaton, 119 N.J. 628, 644–45 (1990), respondent went on to note that

[a] guilty plea is merely evidence, not conclusive proof, of the facts underlying the offense. Because such a plea is entered without litigation of the underlying facts, it does not estop the pleading party from contesting the admitted fact. (collateral estoppel applies “as to those questions, issues or facts which were actually litigated and determined in the prior action.”). The plea is merely an admission of a party. As with other admissions, the party who has entered the plea may rebut or otherwise explain the circumstances surrounding the admission. Thus, a party who has pled guilty may try to persuade the jury that the plea was merely a compromise, or less a reflection of guilt than a balancing of the costs of contesting the charge with the burden of the conviction.

[Citations omitted.]

It is important to note in this matter that the Board of Examiners may issue an OTSC to a certificate holder if the Board determines that the conduct of the holder warrants the revocation or suspension of the certificate(s) held where the Board receives information regarding a certificate holder’s criminal conviction or pending criminal charges. N.J.A.C. 6A:9B-4.5(a)(3). In this case, the respondent was charged with and indicted for three crimes—two aggravated assault charges and one charge of terroristic threats. Additionally, the respondent entered into a plea agreement wherein he acknowledged his guilt both in writing and on the record under oath. Thus, I **CONCLUDE** that the issuance of the OTSC was appropriate on their part.

As it relates to the respondent’s claim that the plea agreement that he entered into and his allocution of guilt on the record are rebuttable and that he is entitled to explain the circumstances surrounding his guilty plea, I am unpersuaded by such argument under the undisputed facts present in this matter. An admission is just that, an admission.

The purpose of the PTI program was to create a supervisory treatment program, limited to those who had not previously been convicted of any federal or state offense in order to:

1. Provide applicants, on an equal basis, with opportunities to avoid ordinary prosecution by receiving early rehabilitative services or supervision, when such services or supervision can reasonably be expected to deter future criminal behavior by an applicant, and when there is apparent causal connection between the offense charged and the rehabilitative or supervisory need, without which cause both the alleged offense and the need to prosecute might not have occurred; or
2. Provide an alternative to prosecution for applicants who might be harmed by the imposition of criminal sanctions as presently administered, when such an alternative can be expected to serve as sufficient sanction to deter criminal conduct; or
3. Provide a mechanism for permitting the least burdensome form of prosecution possible for defendants charged with "victimless" offenses, other than defendants who were public officers or employees charged with offenses that involved or touched their office or employment; or
4. Provide assistance to criminal calendars in order to focus expenditure of criminal justice resources on matters involving serious criminality and severe correctional problems; or
5. Provide deterrence of future criminal or disorderly behavior by an applicant in a program of supervisory treatment.

[N.J.S.A. 2C:43-12(a).]

While PTI is in essence a rehabilitative program that is intended to serve as a deterrent of future criminal conduct, contrary to respondent's argument, admittance into and successful completion of the program does not preclude or prevent the Board from seeking to suspend or revoke respondent's certificates for unbecoming conduct based upon his admission of guilt. What the PTI program does is dismiss the criminal charges; it does not, with the dismissal of the indictment, negate or erase the conduct that formed the basis for the charges.

Respondent pled guilty to a violation of N.J.S.A. 2C:12-3 - Terroristic Threats, a third-degree crime, which states in relevant part:

(b) A person is guilty of a crime of the third degree if he threatens to kill another with the purpose to put him in imminent fear of death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood that it will be carried out.

Among other questions on the plea form, the respondent was specifically asked if he committed the offense to which he was pleading guilty, and whether he understood the meaning of the charges. Respondent answered “yes” to both of those questions. (Respondent’s Brief, Exhibit B.) Respondent’s acknowledgment of his actions was further affirmed when the terms and conditions of the plea agreement were placed on the record and he was asked, under oath, a series of questions about his conduct on the night in question, at which time he admitted and/or acknowledged that his actions led his fiancée to reasonably fear that she was in danger and that such conduct constituted terroristic threats.

The Board has consistently concluded that teachers who pled guilty to, or were convicted of, terroristic threats such that they are disqualified from employment in New Jersey’s public schools not only engaged in conduct unbecoming, but their conduct warranted the revocation of their teaching certificates. See In re the Certificates of Brown, State Bd. of Exam’rs No. 1314-137 (Jan. 23, 2015), <https://www.nj.gov/education/legal/examiners/2015/jan/1314-137.pdf> (revoking certificates of a teacher for unbecoming conduct after he was disqualified from public school employment as a result of being convicted of terroristic threats, finding that his conviction “demonstrates behavior that falls far short of a role model”); In re the Credential of Kuhn, State Bd. of Exam’rs No. 1617-148 (July 27, 2017), <https://www.nj.gov/education/legal/examiners/2017/jul/1617-148.pdf> (revoking certificates of a teacher for unbecoming conduct after he was disqualified from public school employment as a result of pleading guilty to charges of theft by deception, resisting arrest, and terroristic threats).

The Legislature enacted the criminal-history-review statute in order to assist the Board with its legal duty of “protect[ing] public school pupils from contact with individuals

whom it deemed to be either dangerous or deficient as role models.” In re Certificate of Cheryl Tedesco, State Bd. of Exam’rs No. 0607-200 (May 8, 2008), <https://www.nj.gov/education/legal/examiners/2008/mar/0607-200.pdf>.

While respondent’s conduct cannot be assessed under the disqualification statute because he has successfully completed his PTI program, as noted above, the lack of a conviction does not preclude the Board from bringing the OTSC and seeking the suspension or revocation of the respondent’s certificates and credentials, based upon his entry of a guilty plea and allocution, wherein he admitted to the charge of terroristic threats. See In re Certificates of Purcell, No. 2-5/16A, Comm’r of Educ., <https://www.nj.gov/education/legal/commissioner/2017/mar/73-17A.pdf> (finding that a teacher who completed a PTI program after admitting that she caused a three-car accident when driving while intoxicated with a blood alcohol content should be penalized with a three-year suspension of her certificates for unbecoming conduct).

In In re Toler, 2006 N.J. Super. Unpub. LEXIS 221 at *6–7, the court, in dismissing Toler’s contention that the Board should not have considered his participation in a fraudulent scheme because he successfully completed PTI and there were factual issues respecting his conviction and the voluntariness of his plea, found:

The ALJ correctly pointed out that the basis for entering summary disposition was Toler’s statement and testimony, both given under oath, in which he admitted participation in the scheme to defraud the SHBP. The summary decision was not based upon the indictment or Toler’s guilty plea. Toler did not offer any facts contrary to his admission concerning his involvement with Lichtman. The ALJ correctly determined that there were no factual issues presented respecting the nature of Toler’s conduct.

[Citation omitted.]

Also instructive on this issue is the most recent case of In re the Certificates of Dominicus, 2024 N.J. AGEN LEXIS 48 (Jan. 29, 2024), adopted, State Bd. of Exam’rs (April 11, 2024), <https://www.nj.gov/education/legal/examiners/2024/2122-121.pdf>, wherein the respondent teacher was admitted into a thirty-six-month PTI program. As

part of the plea agreement, six of the charges against Dominicus were to be dismissed, but one of the charges, which was for aggravated assault, remained in place until after his completion of the program. The ALJ found that Dominicus's "actions in attempting to harm his wife physically were the opposite of what we expect as an ordered society," 2024 N.J. AGEN LEXIS 48 at *11, and granted the State Board of Examiners' motion for summary decision because Dominicus did not challenge the accuracy of any part of his criminal record or dispute the material facts, which included a summary of the criminal proceedings in which he was involved.

All of these cases are reasonable guideposts in this matter and affirm that the Board properly relied upon respondent's admissions in both his plea agreement and in his allocution under oath of guilt to the court, that his conduct, threatening to kill C.C. with the purpose to put her in imminent fear of death under circumstances reasonably causing her to believe the immediacy of the threat and the likelihood that it would be carried out, constituted conduct unbecoming.

For the reasons cited above, I **CONCLUDE** that the Board has sustained its burden of proof that respondent engaged in conduct unbecoming - terroristic threats, on June 12, 2022.

Regarding the appropriate sanction, N.J.S.A. 18A:6-38 authorizes the State Board of Examiners to revoke teaching certificates under the rules and regulations prescribed by the State Board of Education. See also N.J.A.C. 6A:9B-4.4 (Grounds for revocation and suspension of certification). Conduct unbecoming must be determined on a case-by-case basis and may include a broad range of behavior. State Bd. of Exam'rs v. Schumacher, EDE 07396-03, initial decision (July 19, 2005), adopted, Bd. of Exam'rs (Sept. 22, 2005), <http://njlaw.rutgers.edu/collections/oal/>. In In re Tenure Hearing of Grossman, 127 N.J. Super. 13, 29 (App. Div.), certif. denied, 65 N.J. 292 (1974), the court noted that the "touchstone is fitness to discharge the duties and functions of one's office or position." Unfitness for a position may be shown by a series of incidents or one incident, if sufficiently flagrant. Redcay v. State Bd. of Educ., 130 N.J.L. 369, 371 (Sup. Ct. 1943); In re Teaching Certificates of Filo, EDE 15142-16, initial decision (June 23, 2017),

https://njlaw.rutgers.edu/collections/oal/html/initial/ede15142-16_1.html, adopted, Bd. of Examr's (Dec. 8, 2017), <https://www.nj.gov/education/legal/examiners/2017/dec/1415-223.pdf>.

The fact that a teacher's criminal activities did not occur during his or her employment as a teacher does not preclude the Board from revoking his or her teaching certificates for unbecoming conduct. See In re Certificates of Winkelried, Agency Dkt. No. 1112-131, Order of Revocation, State Bd. of Exam'rs (May 16, 2013), <https://www.nj.gov/education/legal/> ("it is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom") (citing Cox v. State Bd. of Exam'rs, No. A-3527-81T3 (App. Div. Nov. 18, 1983); State Bd. of Exam'rs v. Krupp, 3 N.J.A.R. 285 (1981)).

In this matter, respondent's undisputed actions—terroristic threats against his fiancée—are not what we expect of an individual who is held to a high standard of conduct and a role model to our children. In State Board of Examiners v. Toler, initial decision, EDE 05946-02 (Sept. 23, 2004), http://njlaw.rutgers.edu/collections/oal/html/initial/ede05946-02_1.html,³ the Honorable Elinor Reiner, ALJ, considered the proper sanction for an individual involved in attempting insurance fraud. Noting that she was "not persuaded by petitioner's assertion that these criminal offenses warrant revocation of his teaching certificates because they require disqualification and/or forfeiture," she nevertheless found

[T]hat it is petitioner's admission that he participated in a fraudulent scheme that provides the basis of the revocation. By participating in the fraudulent insurance scheme, which is in fact a crime, respondent failed to meet the high standard of conduct expected of a teacher. As was stated in State Board of Examiners v. Charlton, 96 N.J.A.R.2d (EDE) 18, 21:

³ Toler, EDE 05946-02, adopted, State Bd. of Exam'rs (Oct. 28, 2004), aff'd, State Bd. of Educ. (June 1, 2005), remanded, 2006 N.J. Super. Unpub. LEXIS 221 (App. Div. Mar. 30, 2006), penalty affirmed on remand, initial decision, EDE 07638-06 (Feb. 13, 2007), http://njlaw.rutgers.edu/collections/oal/html/initial/ede07638-06_1.html, adopted, State Bd. of Exam'rs (May 7, 2007), <https://www.nj.gov/education/legal/examiners/2007/may/0405-209.pdf>.

It is well established that teachers are held to a high standard of conduct because of the influence they exercise over the students. Thus, a teacher should possess personal qualities valued by our society because a teacher helps to shape the attitudes of young minds toward that society. Bradley, 92 N.J.A.R.2d (EDE) 13, Adler v. Board of Education of the City of New York, 342 U.S. 485, 493 (1952)); Fargo, 91 N.J.A.R.2d (EDE) 1. It is recognized that the state has a vital concern. It must preserve the integrity of the schools. Consequently, that school authorities have the right and duty to screen officials, teachers, and employees as to their fitness to maintain the integrity of the schools as a part of ordered society, cannot be doubted. Adler v. Board of Education of the City of New York, supra, at 342 U.S. 485, 493. . . .

. . . [Thus, a] teacher's fitness cannot be measured solely by his/her academic ability to perform the teaching function. In Re Tenure Hearing of Grossman, 127 N.J. Super. 12 (App. Div. 1974), certif. den., 65 N.J. 292 (1974). A teacher's behavior outside the classroom may be relevant in determining that person's qualification and continuing fitness to hold a license to teach. Ibid.; New Jersey Board of Examiners v. Krupp, 3 N.J.R 285 (1981).

See also Saunders v. New Jersey Dep't of Educ., 91 N.J.A.R.2d (EDU) 12, 14, wherein the Administrative Law Judge said:

The educator imparts on her students not only academic knowledge, but also the development of social and moral values that are expected from parents, law enforcement officials, and the general public. Thus, teachers must be held to a higher standard of conduct than others who do not in their profession have direct contact with molding habits and nurturing young minds. Suffice it to say, children mimic what they see and they learn by example. Clearly, teachers play a direct role in influencing the opinions of their pupils and, indeed, teachers are role models. Teachers often impart the goals set by their students and the direction they take in achieving those goals.

Since teachers play a direct role in the influence and the opinions of their pupils, fraud is simply not an acceptable mode of behavior for a teacher, who serves as a role model.

The same holds true here. Respondent's actions fall far short of the high standard of conduct expected of a teacher, who is a role model of behavior and has influence over the minds of vulnerable children. I **CONCLUDE** that such actions on respondent's part warrant revocation of his teaching certificates.

ORDER

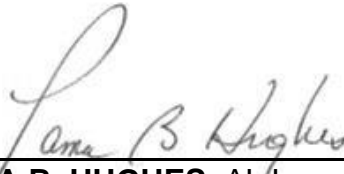
For the reasons cited above, the Board's motion for summary decision is hereby **GRANTED**, and the respondent's cross-motion for summary decision is **DENIED**.

I hereby **FILE** my initial decision with the **STATE BOARD OF EXAMINERS** for consideration.

This recommended decision may be adopted, modified or rejected by the **STATE BOARD OF EXAMINERS**, which by law is authorized to make a final decision in this matter. If the **STATE BOARD OF EXAMINERS** does not adopt, modify or reject this decision within forty-five days, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE STATE BOARD OF EXAMINERS**, 100 Riverview Plaza, PO Box 500, Trenton, New Jersey 08625-0500, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

May 17, 2024
DATE


TAMA B. HUGHES, ALJ

Date Received at Agency:

May 17, 2024

Date Mailed to Parties:

TBH/dc/jm

APPENDIX

Board's brief in support of Motion for Summary Decision

Respondent's brief in opposition to Motion for Summary Decision

Board's reply to opposition and opposition to Respondent's Cross-Motion for Summary Decision

Respondent's Cross-Motion for Summary Decision

Respondent's reply to opposition