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State Board of Examiners Dkt. No. 2223-132

OAL Dkt. No. EDE 01477-23

Agency Dkt. No. 10-07/24A

## **New Jersey Commissioner of Education**

### **Final Decision**

In the Matter of the Certificates of Casey  
(Birchett) Blaha, State Board of Examiners, New  
Jersey Department of Education

Order of Suspension by the State Board of Examiners, dated June 27, 2024

For the Respondent-Appellant, Philip Feintuch, 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 appellant Casey Blaha's appeal of the Order of the State Board of Examiners (Board) dated June 27, 2024, suspending her Teacher of Elementary Grades K-8 Certificate of Eligibility with Advanced Standing and Teacher of Elementary Grades K-8 certificate for a period of two years.

On June 5, 2022, appellant was arrested and charged with four counts of Endangering the Welfare of a Child – DWI (2<sup>nd</sup> degree). It was alleged that appellant had four children in her vehicle while she was intoxicated after a carnival event. It was further alleged that law enforcement observed appellant stumbling while she walked to her vehicle following the event, and that she and the four children entered the vehicle. It was alleged that when law enforcement approached her, she stated that she intended to drive her vehicle. Appellant's blood alcohol level was 0.27%.

On October 5, 2022, appellant pled guilty to Driving Under the Influence, and the four counts of Endangering the Welfare of a Child – DWI (2<sup>nd</sup> degree) were dismissed. Thereafter, on January 31, 2023, the Board issued an Order to Show Cause (OSC) as to why appellant's certificates should not be revoked. On February 13, 2023, appellant filed an answer to the OSC. Appellant admitted that she was charged and acknowledged the outcome of the criminal charges but opposed the OSC. Appellant also contended that, "[s]tanding alone, a conviction of driving while intoxicated is not sufficient to put [appellant's] license in jeopardy." Answer to Board's Order to Show Cause at 2.

Following a contested hearing at the Office of Administrative Law (OAL), the Administrative Law Judge (ALJ) determined that the evidence was overwhelming that appellant committed conduct unbecoming a teacher when she had four children in her car, while intoxicated, and "undeniably started the engine of the vehicle." Initial Decision at 5. The ALJ further concluded that appellant's conduct "adversely affects the morale or efficiency of the School Board and has a tendency to destroy public respect for public employees and confidence in the operation of its services." *Ibid.* (internal quotation marks omitted). In reaching his determination, the ALJ found that the facts stated in the OSC were uncontested, as the parties had conceded that the penalty is the only issue in the instant matter. In addition, the ALJ found that appellant's testimony was not credible, particularly her claim that she only had two glasses of wine prior to attending the carnival and no drinks at the carnival, yet had a blood-alcohol level of 0.27% upon leaving the event just 90 minutes later.

Next, the ALJ found that appellant's unbecoming conduct was aggravated by 1) appellant's persistent attempts to evade admitting the full truth of her condition, such as blaming

her dizziness on an asthma attack rather than from her being intoxicated, and involving her mother and child in her efforts to avoid the consequences of her actions; 2) appellant's persistent attempts to minimize her conduct; and 3) appellant's "obviously contradictory statements" about why her vehicle was turned on and whether she intended to drive home. *Id.* at 4-6

Regarding the penalty, the ALJ determined that a revocation of appellant's certificates was "too severely punitive and inappropriate" and found that there were mitigating circumstances warranting a six-month suspension of appellant's certificates. *Id.* at 10. Specifically, the ALJ noted that appellant admitted her offense in municipal court, admitted that she was an alcoholic, attended daily Alcoholics Anonymous meetings, and had an unblemished record of 20 years as a schoolteacher. The ALJ further noted that the district chose to suspend her for three months rather than bring tenure charges, and she was already penalized by the district and the community.

After considering the exceptions filed by both parties, the Board adopted the ALJ's Initial Decision with modification as to the penalty. The Board agreed with the ALJ that appellant engaged in unbecoming conduct when she placed four children at serious risk by getting behind the wheel of her vehicle with a blood-alcohol level at more than three times the legal limit. The Board further found that appellant's conduct was "certainly unacceptable and certainly unbecoming of a teacher" and did "not comport with 'role model' behavior." Order of Suspension at 5. However, the Board disagreed with the ALJ that the mitigating factors warranted only a six-month suspension. The Board explained that although appellant had a long, unblemished career, she continued to "downplay her conduct" and "failed to acknowledge the potential danger that could have occurred had an officer not witnessed her staggering to her

vehicle” *Id.* at 5-6. Accordingly, the Board ordered that appellant’s teaching certificates be suspended for two years.

On appeal, appellant contends that the Board erred in increasing the suspension penalty since her DWI offense was unrelated to her performance as a schoolteacher, did not involve any of her students, and did not take place on school premises. Appellant further contends that the two-year suspension is excessive when compared to prior cases with similar facts. Lastly, appellant argues that in rendering his Initial Decision, the ALJ improperly considered the child endangerment charges that had been filed against appellant and later dismissed at the municipal court. Specifically, appellant contends that “by including the unproven allegations of child endangerment as part of its decision regarding ‘conduct unbecoming’ and in the penalty phase of its decision, the ALJ wrongfully engaged in speculation and supposition, regarding allegations that [appellant] did not admit and which the Board did not prove.” Appellant’s Brief at 8.

In its opposition brief, the Board contends that the ALJ did not improperly consider the child endangerment charges. The Board argues that the parties’ joint stipulation of facts includes the fact that child endangerment charges were filed against appellant and then dismissed in municipal court. The Board also argues that the analysis section of the Initial Decision did not mention the charges. Furthermore, citing case law, the Board contends that the ALJ can consider any relevant fact in the record when determining an appropriate penalty, and the fact that the charges were dismissed does not prevent the Board from considering that children were exposed to potential danger when determining an appropriate penalty. Next, the Board argues that the caselaw appellant cites are inapposite because 1) none of the teachers in those matters engaged in behavior that posed an immediate risk of physical harm to children, and 2) the teachers in

those matters expressed remorse. Finally, the Board contends that precedent indicates that a two-year suspension is the minimally appropriate penalty for a teacher who operates a vehicle with minors while intoxicated.

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 the State Board of Examiners . . . acted in a manner that was arbitrary, capricious, or contrary to law." See *Morison v. Willingboro Bd. of Educ.*, 478 N.J. Super. 229, 238 (App. Div. 2024) (citing *N.J.A.C. 6A:4-4.1(a)*).

"[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.

"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 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).

Upon a comprehensive review of the record, the Commissioner finds that the Board’s determination — that appellant committed unbecoming conduct when she placed four children at serious risk by getting behind the wheel of her vehicle with a blood-alcohol level at more than three times the legal limit — is not arbitrary, capricious, or unreasonable. As noted by the Board in its Order of Suspension, the ALJ found that the allegations in the OSC were uncontested, as the parties conceded that the only issue in this matter is the penalty. Thus, the Commissioner finds no basis to overturn the Board’s determination.

As to the penalty, the Commissioner finds that the Board’s decision to increase the suspension of appellant’s certificates from the six months recommended by the ALJ to a period of two years was not arbitrary, capricious, or unreasonable. Relevant factors to consider when deciding whether revocation or suspension of certificates is warranted “include the nature and gravity of the offense, any evidence as to provocation, extenuation or aggravation, and any harm or injurious effect that the teacher’s conduct may have had on the maintenance of discipline and the proper administration of the school system.” *In re Certificates of Maffucci*, OAL Dkt. No. EDE 06423-2021, Initial Decision at 29 (June 29, 2023) (citing *In re Fulcomer*, 93 N.J. Super. 404, 422

(App. Div. 1967)), *adopted*, St. Bd. of Exam'rs, Dkt. No. 2021-163 (Oct. 27, 2023), *affirmed*, Commissioner Decision No. 179-24 (May 6, 2024).

The Commissioner finds that a two-year suspension of appellant's certificates is appropriate given the nature and the extent of the unbecoming conduct at issue. The Commissioner agrees with the Board and the ALJ that appellant's unbecoming conduct was aggravated by her behavior both on the night of the incident and throughout the hearing. Appellant misled law enforcement investigating her conduct by claiming that she only had one glass of wine prior to attending the carnival event, despite having a blood-alcohol level three times the legal limit for operating a vehicle. Appellant also attempted to minimize her conduct during the hearing by blaming her dizziness on an alleged asthma attack that she suffered prior to getting into the vehicle, and by stating that she turned on the engine for the air conditioner and not to drive home. The ALJ found that appellant's claim that she had an asthma attack contradicted 1) her admission to an investigating officer on the night of the incident that she turned on her vehicle for the radio, 2) her statement in her certified response to the OSC that she started the engine in order to roll down the window to speak to the police officer; and 3) her admission, on cross, that she "most likely" would have driven home. The ALJ also noted that he did not believe appellant's testimony that she told the police officer, when he approached her vehicle, that she would walk her kids home. Another factor aggravating appellant's unbecoming conduct was her attempt to avoid arrest by informing law enforcement that she had a "gold card" and that her husband is a Corrections Officer. Lastly, appellant failed to acknowledge the potential danger that could have occurred had an officer not witnessed her staggering to her car, nor has appellant expressed remorse for her conduct.

Turning to the specific points raised in her brief, appellant contends that the two-year penalty is excessive when compared to prior cases with similar facts. Appellant cites the following Board decisions in support of her claim that teachers who engaged in similar conduct received shorter penalties: *In re Certificate of Erika Caceres*, St. Bd. of Exam'rs, Dkt. No. 2223-173 (May 23, 2024) (school counselor received a six-month suspension for engaging in unbecoming conduct after reporting to work while intoxicated); *In re Certificate of Shannon M. Kennedy*, St. Bd. of Exam'rs, Dkt. No. 2223-178 (May 23, 2024) (teaching staff member received a three-month suspension for unbecoming conduct because she came to work intoxicated); *In re Certificates of SarahJane Melick (Freeman)*, St. Bd. of Exam'rs, Dkt. No. 2223-125 (June 29, 2023) (teacher received a one-year suspension for unbecoming conduct after coming to school inebriated). Appellant contends that the teachers in the cited matters were intoxicated in the presence of staff or students and some or all drove themselves to school, yet they received less serious penalties.

The Commissioner does not find appellant's argument to be convincing. While the staff members in the decisions cited did engage in unbecoming conduct on school grounds, the Board found that their penalties should be mitigated because they all displayed remorse for their conduct, they all took measures to avoid a reoccurrence of their behavior, and they all had unblemished careers prior to reporting to work drunk. While appellant had an otherwise unblemished career as a schoolteacher, and has taken steps to address her alcoholism, unlike the teachers in *Kennedy*, *Caceres*, and *Melick*, appellant has failed to take responsibility for her actions or display remorse for her unbecoming conduct. Rather, appellant attempted to mislead the police by providing contradictory reasons as to why she turned on her vehicle, attempted to

avoid the consequences of her actions on the day of the incident by invoking her husband's position as a Corrections Officer, and continued to minimize her conduct during the hearing. Lastly, none of the teachers in *Kennedy*, *Caceres*, or *Melick* engaged in conduct that involved getting behind the wheel of a vehicle filled with minor children while intoxicated.

Furthermore, even if those staff members were given less severe penalties, the Commissioner reviews each matter carefully on a case-by-case basis and does not find that the outcomes of other matters involving teacher discipline require a particular result here. 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)*.

Next, appellant contends that the ALJ improperly considered the child endangerment charges that had been filed against her and later dismissed at the municipal court. Appellant further contends that the Board should not have adopted the Initial Decision to the extent that it considered issues and drew factual conclusions where no evidence or testimony was provided in that regard. The Commissioner is not convinced by appellant's arguments. The fact that appellant was charged with child endangerment, and those charges were later dropped, is included in the parties' joint stipulation of facts. Furthermore, the parties' joint stipulation of facts include the fact that appellant entered her vehicle with four children, turned the vehicle on, that she twice confirmed to the Cedar Grove Police Officer that she was "in shape to drive," and that her blood alcohol level was 0.27%, which is more than three times the legal limit. In addition, appellant testified on cross that she most likely would have driven home. The ALJ did not mention the child endangerment charges in the analysis section of the Initial Decision; rather, he

discussed the aforementioned facts and the danger that might have befallen the children had the police officer not seen appellant stumbling to her vehicle. To the extent that appellant suggests that the dismissal of child endangerment charges requires the ALJ and the Board to ignore the potential harm to the children, no support is provided for that contention. As such, the Commissioner does not find that the ALJ improperly considered the child endangerment charges that had been filed against appellant and later dismissed at the municipal court; nor does the Commissioner find that the Board was arbitrary, capricious, or unreasonable in adopting the Initial Decision as modified.

Accordingly, the Order of the State Board of Examiners suspending appellant's certificates for a period of two years, effective June 27, 2024, is affirmed.<sup>1</sup>



COMMISSIONER OF EDUCATION

Date of Decision: February 26, 2026  
Date of Mailing: February 26, 2026

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<sup>1</sup> 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  
CASEY (BIRCHETT) BLAHA : ORDER OF SUSPENSION  
\_\_\_\_\_ : DOCKET NO: 2223-132

At its meeting of December 29, 2022, the State Board of Examiners (Board) reviewed information it received from the Office of Student Protection (OSP) regarding Casey (Birchett) Blaha. On June 5, 2022, Blaha was charged with four (4) counts of Endangering the Welfare of a Child – DWI (2<sup>nd</sup> degree), N.J.S.A. 2C: 24-4A(2). It was alleged that Blaha had four (4) children in her vehicle while she was intoxicated after leaving a carnival event at which law enforcement observed her stumbling while she walked to her vehicle. It was also alleged that, when law enforcement approached her, she stated that she intended to drive her vehicle. Blaha’s blood alcohol level was 0.27%.

On October 5, 2022, the charges were heard in municipal court. Blaha pled guilty to Driving Under the Influence, N.J.S.A. 39:4-50, and the four counts of Endangering the Welfare of a Child – DWI (2<sup>nd</sup> degree), N.J.S.A. 2C: 24-4A(2) were dismissed.

Blaha currently holds a Teacher of Elementary Grades K-8 Certificate of Eligibility with Advanced Standing and a Teacher of Elementary Grades K-8 certificate. After reviewing the above information, at its January 26, 2023 meeting, the Board voted to issue an Order to Show Cause (OSC) to Blaha as to why her certificates should not be revoked.

On January 31, 2023, the Board sent Blaha the OSC by regular and certified mail. The OSC provided that Blaha must file an Answer within 30 days pursuant to *N.J.A.C. 6A:9B-4.6(b)*. On February 13, 2023, Blaha submitted an answer in which she admitted she was charged, as well as the outcome of the criminal charges, but denied the allegations as to her conduct. As there were

material facts in dispute, on February 15, 2023, the Board transmitted the matter to the Office of Administrative Law (OAL) for a hearing.

The hearing in this matter was held in-person on November 27, 2023. The record closed on February 7, 2024. On March 25, 2024, Administrative Law Judge (ALJ) Ernest M. Bongiovanni issued an Initial Decision in the case. *In the Matter of the Certificates of Casey A. (Birchett) Blaha*, OAL Dkt. No. EDE 01477-23 (Initial Decision, March 24, 2024).

After the hearing in this matter, the ALJ found that the evidence was overwhelming that Blaha committed conduct unbecoming a teacher, warranting a six-month suspension of her certificates. *Id.* at 6, 10. In so doing, he found that the parties agreed to a Stipulation of Facts and as a result the facts as stated in the Order to Show Cause were uncontested. *Id.* at 2. Blaha was charged with four counts of Endangering the Welfare of a Child – DWI after she had four children in her vehicle with her while her blood alcohol level was .27% and stated to law enforcement that she intended to drive her vehicle to leave a carnival event. *Id.* at 2-3. Subsequently, Blaha pled guilty to DUI and the endangering charges were dismissed. *Id.* at 3.

Further, the ALJ found that Blaha's testimony was not credible, particularly that she only had two glasses of wine prior to attending the carnival, when she tested more than three times the legal limit upon leaving the carnival, and that she had an asthma attack prior to getting into the vehicle. *Ibid.* Further, she minimized her conduct and misled law enforcement. *Ibid.* During cross-examination and questioning by the Court, Blaha admitted that she "most likely" would have driven home. *Id.* at 4. Moreover, the ALJ found that if Blaha had admitted the obvious – that she intended to drive her car when she entered it and turned on the engine – her conduct would appear less egregious. *Ibid.* However, her conduct unbecoming was aggravated by her persistent attempts

to evasively not admit the full truth and her obviously contradictory statements. *Id.* at 5-6. The ALJ concluded that Blaha committed conduct unbecoming an educator. *Id.* at 6.

As to penalty, the ALJ found there were mitigating circumstance that warranted less than revocation of her certificates. *Id.* at 10. He found that she admitted she was an alcoholic when she committed the DWI, she sought rehabilitation through daily attendance at AA, she had an unblemished record of 20 years as a teacher, the district chose not to suspend her rather than bring tenure charges, and that she was already penalized by the district as well as by the community by the penalties imposed in municipal court. *Ibid.* He concluded that due to the mitigating factors a penalty of six-month appeared fair and reasonable. *Ibid.*

The Deputy Attorney General (DAG) representing the Board filed Exceptions which argue that Blaha's established conduct warrants a four-year suspension of her teaching certificates. *See* Exceptions at p. 2. The DAG argues that the facts determined in this matter, when measured against the standards of conduct expected of an educator, clearly demonstrates a four-year suspension is warranted. *Id.* at 5. The DAG argues that "Blaha's undisputed conduct, coupled with her obfuscation and evasive tactics, fell far below the level of honesty and behavior that is expected." *Ibid.* Next, the DAG argues that the Board has consistently ordered lengthy suspensions for teachers who operate a vehicle with minors while intoxicated as evidenced by the cases cited in his summation brief. *Ibid.*

Further, the DAG asserts the ALJ afforded too much weight to any potential mitigating factors given that "Blaha repeatedly failed to acknowledge, let alone express remorse for, the level of her demonstrated drunkenness and intent to drive minors while intoxicated" and tried to obfuscate the truth, with a pattern of immoral and dishonest attempts to avoid the consequences of her action, such as invoking her husband's position as an officer of the law. *Id.* at 8. Lastly, the

DAG argues that the Board has revoked the certificates of educators who failed to express remorse or take responsibility for the consequences of their unbecoming conduct. *Id. at 9.*

Blaha filed Exceptions which argue that the ALJ was clearly influenced by Blaha's attitude, and that the ALJ's "use of pejoratives throughout the Initial Decision was uncalled for" and made the ALJ biased. (Reply Exceptions, p. 1). Further, Blaha argues that the parties were before the Court to determine the penalty to be imposed for a DUI. *Id. at 2.* And a simple DUI has never warranted revocation of certificates. *Id. at 3.* Blaha further argues that she was not guilty of DUI because her vehicle never moved. *Id. at 4-5.* And that although she entered a plea as to the DUI, she is not guilty of DUI with children in her vehicle. *Id. at 5.* Lastly, Blaha argues that "certificates of teachers who are found guilty of a sole charge of Disorderly Conduct are not affected." *Id. at 6.*

The Board must now determine whether to adopt, modify, or reject the Initial Decision in this matter. At its meeting of May 23, 2024, the Board reviewed the Initial Decision, and Exceptions filed by both parties. After full and fair consideration of the Initial Decision and submissions, the Board voted to adopt the Initial Decision, with modification as to penalty.

The Board, in reviewing the matter, does not find that the ALJ's findings to be arbitrary or not based on sufficient credible evidence. The ALJ's credibility determinations were well supported and based on his first-hand observations. Accordingly, the Board is constrained by the ALJ's findings of facts and credibility determinations in this matter. The Board does not find a sufficient basis by which it could overturn same. *N.J.A.C. 1:1-18.6(b).*

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 the allegations in the OSC were uncontested and concluded that Blaha’s actions here placed her child and three other minors in great danger after being seen staggering to her vehicle and failing all the field sobriety tests. In this case, Blaha’s conduct was certainly unacceptable and certainly unbecoming of a teacher. The Board agrees that Blaha’s conduct, placing four children at serious risk by getting behind the wheel of her vehicle to leave a carnival with a blood alcohol content at more than three times the legal limit, does not comport with “role model” behavior. Thus, the Board finds Blaha engaged in unbecoming conduct.

The ALJ determined that a six-month suspension was appropriate for the conduct. However, the Board disagrees that the mitigating factors here warrant only a six-month suspension. Although Blaha had a long, unblemished career, she continued throughout this matter to downplay her conduct. She has failed to responsibility for the four minors in her vehicle at the time of her DUI and has failed to acknowledge the potential danger that could have occurred had an officer

not witnessed her staggering to her vehicle and stopped her before leaving the carnival event. Thus, the Board finds that a two-year suspension is warranted in this matter.

Accordingly, on May 23, 2024, the Board voted to adopt the Initial Decision with modification as to penalty and ordered a two-year suspension of Blaha's certificates from the date of this Decision. On this 27<sup>th</sup> day of June, 2024, the Board formally adopted its written decision to adopt, with modification as to penalty, the Initial Decision in this matter and it is therefore ORDERED that Casey A. (Birchett) Blaha's Teacher of Elementary Grades K-8 Certificate of Eligibility with Advanced Standing and Teacher of Elementary Grades K-8 certificate are hereby SUSPENDED for a period of two years, effective immediately. It is further ordered that Blaha 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.



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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**

OAL DKT. NO. EDE 01477-23

AGENCY DKT. NO. 2223-132

**IN THE MATTER OF THE TEACHING  
CERTIFICATES OF CASEY A. (BIRCHETT)  
BLAHA.**

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

**Philip Feintuch**, Esq., (Feintuch, Porwich and Feintuch attorneys) for  
respondent

Record Closed: February 7, 2024

Decided: March 25, 2024

BEFORE **ERNEST M. BONGIOVANNI**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner, the New Jersey Department of Education, State Board of Examiners (Petitioner/Board) seeks to permanently revoke the Teaching Certificates of respondent, Casey A. Blaha (Respondent/ Blaha). Because the Board gave sufficient reason in showing that respondent committed egregious conduct unbecoming a teacher, I agree that her teaching certificates should be suspended, but not revoked.

By Order dated January 26, 2023, the Board directed Blaha to show cause why her certificates should not be revoked. Respondent filed her Response on February 13, 2023. . The contested case was transmitted to the Office of Administrative Law (OAL) on February 15, 2023. An in-person hearing was held before me on November 27, 2023. The record was held open until post hearing submissions could be received, the last being on February 7, 2024 at which time the record closed.

### **FACTUAL BACKGROUND, DISCUSSION AND FINDINGS**

The parties agreed that the issue in this case is the penalty sought by the Board and not the facts as stated in the Order to Show Cause. Furthermore, the parties agreed to a Stipulation of Facts, which is attached hereto and made a part hereof, as if set forth at length as part of my **FINDINGS OF FACTS**. Further, as the penalty is conceded to be the only issue, I **FIND** that the Facts as stated in the Order to Show Cause are uncontested. Furthermore, many of the relevant facts were admitted to in Request for Admissions. (J-2), and accordingly, most of the relevant facts are uncontested. After reviewing the Joint Exhibits, stipulated facts and after hearing the testimony of the witnesses, and having assessed the credibility of same, I also summarize and **FIND** the following as **FACTS**:

1. Blaha and been employed as an elementary school teacher by the Jersey City Board of Education for twenty years.
2. She holds a Teacher of Elementary Grades K-8 Certificate of Eligibility with Advanced Standing and a Teacher of Elementary Grades K-8 Standard Certificate. She has no prior employment disciplinary history.
3. Blaha was charged with 4 counts of Endangering the Welfare of a Minor-DWI (2<sup>nd</sup> degree) after she had four children with her in her vehicle while she was intoxicated.
4. Blaha was leaving a carnival event when a law enforcement officer observed her stumbling toward her vehicle. Four children entered the vehicle with her. Blaha admitted to the police officer she intended to drive the vehicle.
5. Her Blood alcohol level was .27%

6. On October 5, 2022 the Endangering the Welfare of Minors charges were dismissed, and Blaha pleaded guilty to operating her vehicle while under the influence.
7. During the officer's investigation of the incident, respondent told him she was "in shape to drive." She also told the officer she put the engine on "for the radio...I didn't start it to run."
8. The officers conducted the standardized field sobriety tests.
9. Blaha failed the Horizontal Gaze Nystagmus Test, the walking heel to toe test, and the one leg stand test.
10. Blaha admitted to drinking alcohol prior to getting in the car with the four children and I **FIND** she minimized her conduct and misled the law enforcement officers investigating her conduct by claiming she had only one glass of wine prior to coming to the carnival event, when in fact she was heavily intoxicated, being more than three times the legal limit for operating a vehicle when she operated the vehicle in full view of the officer.
11. The Alcotest reading is uncontested and showed Blaha's blood alcohol level was .27% when she entered her vehicle with the four children.
12. As stated in the Joint Stipulation of Facts, Blaha admits that her conduct precipitating the guilty plea to and conviction of DWI subjects her teaching credentials to a penalty but disagrees that revocation of same if the appropriate consequence for such conduct.
13. Although Blaha testified she is an alcoholic, and has been receiving appropriate treatment for same since, August 8, 2022, the date she plead guilty to DWI, and presented herself appropriately as a sympathetic witness, she still claimed, incredibly, that she had just two glasses of wine (although in cross examination, she had to admit the alcohol reading contradicted her story about having only two glasses of wine.) before arriving at the carnival event. Her testimony overall was severely and overwhelmingly contradicted by her field sobriety tests and alcohol breath test readings. That, and the remaining evidence shows Blaha's testimony was not credible.
14. Consequently, I disbelieved her story that she had an asthma attack prior to getting in the car, which caused dizziness, that she turned on the engine of the car to get air conditioning (which contradicted her admission to the investigating

- officer that she wanted to turn on the radio, as her reason to start the car, and that she had no intention of driving the vehicle. I also disbelieve her claim she told the officer “when he first approached the vehicle” that she would walk the kids home.
15. Further, Blaha’s story that she told the officer as he approached the vehicle she would walk the children home is proof only that she knew she was caught red-handed trying to drive while intoxicated, which was further evidenced by her trying to avoid being arrested for her conduct, by her immediate reaction to the officers in advising them she had a “gold card” and that her husband was a Corrections Officer (“a CO ..a sergeant”)
  16. Blaha admitted to the Court’s questioning that if she hadn’t had the so-called asthma attack, that she “most likely” would have driven the children home.
  17. Although Blaha’s 14-year-old son testified his mother asked him to call her mother before they got in the vehicle, he said Blaha stated she “didn’t feel well” and did not mention the so-called asthma attack.
  18. Blaha’s mother testified that Blaha’s son called her only when the field sobriety tests were being conducted.
  19. Blaha admitted (reluctantly) under cross and under questioning by the Court, that she “most likely” would have driven home, despite her obviously highly inebriated state had she not had the alleged “asthma attack.”

### **LEGAL ANALYSIS AND CONCLUSION OF LAW**

As the parties stipulated the only issue was the penalty, I understood Blaha’s complaint that the Board focused unnecessarily on the details of the DWI investigation. However, it was Blaha who caused that focus by minimizing her conduct, first to the police officers when arrested, and much worse during her less than credible testimony. If she had simply admitted the obvious that she intended to drive her car when she entered it, and turned on the engine, her conduct would appear less egregious. Having been caught red handed in placing her son and three other minors in great danger, first, by driving two of the children to the carnival after consuming what is obviously untrue just “two glasses of wine” then in attempting approximately an hour later to drive four of the children home after being seen staggering to her vehicle and failing all the field sobriety tests followed

by an uncontested and therefore valid .27% alcohol reading, she demonstrated clearly that her desire for alcohol outweighed her concern for the welfare of children, at least on this occasion, which is highly disturbing conduct for any parent, mother, neighbor and more pertinently a teacher.

Although the burden of proof the Board has to meet is only proving its claims by a preponderance of competent and credible evidence, here the evidence is overwhelming that Blaha was guilty of conduct unbecoming in that her conduct “adversely affects the morale or efficiency” of the School Board” and has “a tendency to destroy public respect for [public] employee” and confidence in the operation of its services. In Re Emmons, 63 N.J. Super 136, 140 (App. Div. 1960). Conduct unbecoming does not require the conduct occur in a school or school setting, nor that the behavior be in any way within the scope of her employment. I disagree with petitioner’s closing argument that DWI can never be, or in respondent’s words “certainly not conduct unbecoming a teacher”. (emphasis supplied). To the contrary, rarely could a DWI incident constitute, in these circumstances not constitute conduct unbecoming. Here, the respondent had four Intermediary school age children in her car, waiting for a ride home with her and she undeniably started the engine of the vehicle before being forcibly removed from an alert, caring and professional police officer. Further, all three children, although in my view did not appear shaken or disturbed by the incident, (possibly because Blaha was prevented from driving on the road while “triple drunk”) were put in circumstances of great and unnecessary risk by Blaha. Those children are members of a neighboring community to the school district. The police officers stop, and required field sobriety tests of Blaha, were performed in broad daylight for members of the public most probably attending and many just leaving or arriving at an entertainment event, and doubtless, this exposed to the public that Blaha, a school teacher was arrested for trying to drive with four school age children in her car. Thus this is “textbook case” of conduct which “adversely affects the morale or efficiency” of the School Board and had “a tendency to destroy public respect for [public] employee” and confidence in the operation of its services. In re Emmons, supra. Further, here the conduct unbecoming was aggravated by Blaha’s persistent attempts to minimize her conduct, to evasively not admit the full truth of her condition (e.g. blaming her “dizziness” on an asthma attack rather than from being “triple drunk”, involving her child and mother into her efforts to escape the consequences of her actions.) This conduct was worsened

by her obviously contradictory statements as to why the engine was turned on, first telling the officer she turned on the engine for “the radio”, but stating in her certified Response to the OTSC that she started the engine in order to roll down the window to speak to the police officer, then finally testifying in court that, using the radio story again, stating the inconsistency about the air conditioning could be explained that when you turn the radio on the air conditioning comes on, which all add up to a completely unconvincing fabrication. There were several other unconvincing aspects of her story regarding whether she had the intent to drive home, such as her testimony that she had told the officer she could walk the children home rather than wait for the grandmother, when there is no video evidence of that, the statement appears in none of the police reports, and Blaha had two years to come up with this explanation. There is the possibility that Blaha believes some of her implausible stories because she was so drunk at the actual time she can’t recall clearly, and she candidly admitted that heavy alcohol consumption causes memory problems. But there is no excuse for her most incredible story initially given to the police and then reiterated to the court, that she had only two glasses of wine to drink before going to the carnival, had nothing to drink at the carnival and about 90 minutes after leaving her home to go from the carnival, she had a .27% alcohol reading. That is either blatantly untrue or she has wine glasses the size of which, when full, only weightlifters would find easy to drink from. I **FIND** and **CONCLUDE** that Blaha was guilty of conduct unbecoming a teacher.

### **PENALTY**

The Board bears the burden by a preponderance of the evidence to demonstrate that it has valid reasons to revoke or suspend an individual’s teaching certificate. State v. Bd. Of Exam’r v. Ferreira, 2005 N.J. AGEN LEXIS 313 AT 8081 (July 5, 2005) See also In Re Certificate of Papadanill, EDE 08821-00 Initial Decision (March 13, 2002) adopted State Bd. Of Exam’rs (May 9, 2002). Many cases, some which emphasize the teaching abilities of the respondent and the lack of disciplinary history against him or her, have resulted in a finding that the State has not met its burden and the individual’s certificate should not be revoked or suspended. In some cases, the charges were dismissed. See e.g. in the Matter of the Teaching Certificates of Jennifer Rome, EDE 0403718 (Initial

Decision August 4, 2022; In the Matter of Kathleen Valencia, EDE 13241-19 (Initial Decision October 28, 2021);

Also, In the Matter of the Certificate(s) of Johnathan Coniglio, EDE 04282-2019 (Initial Decision June 14, 2022, a teacher with a Teacher of Elementary School, Grades K-8 Certificate and Certificate of Eligibility with Advanced Standing, and a Teacher of Elementary School with Subject Matter Specialization, Social Studies in Grades 5-8 Certificate and Certificate of Eligibility with Advanced Standing , had received 12 months Pre-Trial Intervention after charged with a third degree crime by cashing a check of \$2,044.92 to which he had no legal claim to when the future of the League was in doubt. Citing his effectiveness as a teacher, no tenure charges were brought. However, despite having been charged criminally with a third-degree theft, and having served 12 months PTI and repaying the money wrongfully taken as a Condition of PTI, the Court dismissed the case for revoking his Teacher's Certificates.

See also, In the Matter of the Certificate of Dawn M. Karpinski, EDE 04108-18 (Initial Decision June 21, 2021) where the teacher was charged with Conduct Unbecoming, and In the Matter of the Certificates of Randi Drogin, EDE 00599-20 (Initial Decision May 31, 2023) See also In the Matter of Certificates of Gaeton C. Luciello, EDE 10578-22 (Initial Decision September 7, 2023) and see In the Matter of Brandon E. Lighten, EDE 03604-21 (Initial Decision February 9 2023).

On occasions the Court, rather than dismissing a petition altogether has imposed a much less draconian measure than revocation. In a recently decided case, In the Matter of the Certificates of Antoinette Terlizzi, EDE 08114-21 (Initial Decision, December 16, 2022), a somewhat troubled teacher had smacked the hand of the Superintendent while telling him not to bite his fingernails, and later refused to undergo a justified medical examination. The Court denied the request to revoke her teacher's certificates and imposed instead a suspension of those certificates for three months; In the Matter of Certificates of Rita O/Mailey, EDE 10769-16 (Initial Decision, August 31, 2020, where the teacher admitted she submitted inaccurate mileage records on at least four occasions, out of the several occasions alleged by the Board and \$949.79 in reimbursements were claimed by the Board. A myriad of other charges were filed and sustained by the court

such as administering reporting on subtests erroneously as well as administering Writing Samples incorrectly. It was not disputed that such conduct and her other failures to maintain records within school protocols could have affected the services to which the students were entitled. She also used violated protocol when using vacation days instead of personal days (although inadvertently). The court noted “extensive documentation to rebut the charge that on a wholesale basis [the teacher] had submitted false requests (for mileage reimbursements) The Court noted the teacher had already been penalized through the loss of her tenure and position with Woodbridge schools, and imposed a suspension of three years and reinstatement upon successful completion of an educational program on testing procedures. See also In the Matter of the Certificates of Barbara L. Moazamian, EDE 06425-17 (Initial Decision July 30, 2020) a teacher of French and Spanish for 17 years was found to have been teaching Spanish from 2002-2016 without obtaining the required Teacher of Spanish Certificate. Despite the 15-year period, was a lack of evidence of fraudulent intent. The Court rejected the case for revocation, but “it was incumbent upon [the teacher] to be aware of the job requirements,” and imposed a six-month suspension of her teaching certificates.

Here, and despite my strong disagreement with respondent that her actions did not constitute conduct unbecoming a teacher, I do not see her conduct, even with all of her somewhat pitiful attempts to obfuscate the truth about her alleged lack of intent to drive while drunk, an offense which admitted to in municipal court, as warranting the extreme penalty of revocation of her teaching credentials.

While the case cited by the Board, In re Emmons, supra, dealt with DWI of a public employee, that employee was a police officer, who not only was possibly drunk but refused to cooperate into the investigation of an accident investigation by refusal to submit to a sobriety test. That was considered a breach of the public trust where that employee’s job was to investigate accidents and incidents of DWI, and to not commit such conduct is necessity to maintain respect for law enforcement and law and order. There the conduct was by one whose very public employment depended on him comporting himself in such a way as was the complete opposite of how he behaved. Here while it is important that public teachers set a good example for children, teachers are not required as part of their job to conduct investigations into drunk driving or car accidents caused by them. Although

the offense committed by the teacher in this case did (as they usually will) occur in public, and this time in broad daylight at a time and place where the school children in her district could easily learn of her behavior, there is no indication that this case became notorious. To the contrary the fact that the School District treated the matter with a three months suspension, rather than by tenure charges or dismissal, indicates the community's lack of interest in revoking her credentials or even indicates tolerance and understanding of this one time only incident of bad behavior by respondent.

While petitioner maintains that Boards have consistently found teachers who engage in operating vehicles with minors while intoxicated are guilty of conduct unbecoming, warranting suspensions, e.g. for two years, four years, etc. even where the teacher presented mitigating circumstances, no case of permanent revocation was noted in the Boards' previous findings. Further, none of the cases involving teachers and DWI convictions involve judicial proceedings such as a summary decision or Initial Decision by a decision from the OAL, nor a final decision by an Agency, nor a decision of an upper court reviewing same. Thus, the revocation of a teacher's credentials for DWI can literally be said to be without judicial precedent.

Contrarily, I disagree with respondent's summation argument that, in drawing a distinction to her conduct here, the Court need take "judicial notice that a criminal conviction automatically results in a revocation of teacher credentials." There was insufficient evidence or precedent for such a belief. Moreover some criminal conduct by teachers have doubtless led to lesser penalties than revocation especially where as here, the conduct (not criminal anyway) has nothing to do with behavior by a teacher involving students nor did it happen on school property or during school activities. In the case of . IMO of John McCabe, OAL DKT. No. EDE 15745-17 (August 2, 2018), <http://njlaw.rutgers.edu/collections/oal/> OAL Judge Cookson found, where the actual criminal charges against the teacher had been conditionally dismissed, made her own evidentiary findings and determined petitioner did indeed engage in public lewdness by being observed masturbating in public on two occasions. None of the conduct took place on school grounds, there was no finding the teacher intended his conduct to be seen and there was no evidence presented that minors observed the conduct. Although this was found to be conduct unbecoming of a teacher, the court modified the penalty from

revocation to three years suspension of the teaching certificates, notwithstanding the teacher's criminal behavior. Here, unlike the situation in McCabe, where there was a finding that the respondent did in fact commit criminal charges, there was a driving offense, although a serious one. Again, in contrast to McCabe, where the ALJ noted that "no mitigation evidence" was presented, here I find a strong and persuasive mitigating factor, in that Blaha was an admitted alcoholic when she committed the DWI, and presented convincing, even unrefuted evidence that since the DWI conviction, she obtained necessary rehabilitation through daily attendance at AA. Further she has an unblemished record of 20 years as a school teacher except for this one incident, and here the District chose not to bring tenure charges and terminate her but rather suspended her from teaching for about three months. I find it a mitigating factor in that while the District chose to perhaps treat the matter lightly (although probably evenhandedly), and therefore Blaha is probably more valued by the District than can perhaps be considered in an OTSC. Further, she has already been penalized by the District as well as by the community by the penalties imposed in municipal court. Thus, I find it compelling that the penalty be less than those cases cited by the Board and as documented in the cases cited above. Therefore I **CONCLUDE** that a penalty of six months suspension of her teaching credentials appears fair and reasonable under all the circumstances, whereas revocation is clearly too severely punitive and inappropriate.

Were it not for Blaha's extremely unwise and somewhat pitiful efforts to minimize her conduct and obfuscate the clear misconduct, I would perhaps impose a still lesser penalty. However, her conduct considering the incident does also include her admitting the offense in municipal court, being suitably punished, most importantly perhaps making the commitment to permanently change her alcoholism to reformed by daily participation in AA and continuing to teach, after the suspension for as additional two school years without any cited infractions. Thus I conclude for offense of conduct unbecoming a teacher by committing a DWI with four children in her car, and one she should have more fully admitted, a penalty of six months suspension of her teaching certificates, which is additional to the District suspension is a strong, sufficient, and appropriate penalty. I also **CONCLUDE** the extreme penalty of revocation, is not warranted and is without precedent.

I note, however, I would still not impose a more severe penalty than a six months suspension even if there were some yet unfound precedent for revoking a teacher's credentials for a single incident of DWI which did not involve the use of her position as teacher nor involved a school activity or school grounds.

I therefore **REVERSE** and **MODIFY** the penalty of revoking permanently Blaha's teaching certificates for the conduct unbecoming a teacher and instead impose a six months suspension on her teaching certificates.

### **ORDER**

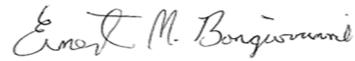
For the facts and reasons set forth above, I **CONCLUDE** that the Board has not met its burden of proof by a preponderance of credible evidence to revoke the respondent's teaching credentials for conduct unbecoming a teacher. I further **CONCLUDE** that the record does support **MODIFYING** the revocation to six months suspension of her teaching credentials, and it is so **ORDERED**.

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 and unless such time limit is otherwise extended, 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.

March 25, 2024



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DATE

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**ERNEST M. BONGIOVANNI, ALJ**

Date Received at Agency:

03/25/24

Date Mailed to Parties:

03/25/24

id

**APPENDIX**  
**LIST OF WITNESSES**

**For Petitioner:**

None

**For Respondent**

Casey Blaha

Claudia Hecht

M.B., a minor

**JOINT STIUPULATION OF FACTS \*\***

**LIST OF EXHIBITS IN EVIDENCE**

**Joint Exhibits**

- J-1 Petitioner's First Request for Admissions
- J-2 Cedar Grove Police Dept. report of Sgt. Rivers, dated June 5, 2022
- J-3 DVD
- J-4 Cedar Grove Police Dept., report of PO Grawehr
- J-5 DVD
- J-6 DVD
- J-7 Alcotest showing .27% reading
- J-8 Criminal Summonses, endangering the welfare of minors

**For Petitioner**

None

For Respondent

R-1 Letter affirming daily AA attendance of Casey Blaha

R-2 Professional endorsement of Blaha as a PS #31 elementary school teacher by  
Lidia De Los Santos, "lead teacher" and Preschool Instructional Coach

**\*\*Joint Stipulation of Facts**

1. Respondent Casey Blaha the holder of a Teacher of Elementary Grades K-8 Certificate of Eligibility with Advanced Standing, and Teacher of Elementary Grades K-8 Standard Certificate.
2. On June 5, 2022, Respondent drove her minor son and three of his minor friends to the Saint Catherine's of Sienna carnival in Cedar Grove, New Jersey.
3. Approximately 1 hour later, Respondent and the 4 children returned to her vehicle which was parked in the nearby CVS parking lot on 387 Route 23, Cedar Grove, New Jersey. (Exhibit J-1 at No. 5).
4. Upon Respondent and the 4 children entering her vehicle, Respondent turned her vehicle on. (Exhibit J-1 at Nos. 6-7).
5. While Respondent was inside her turned-on vehicle, an officer from the Cedar Grove Police Department ("CGPD") knocked on her driver's seat window and asked her to step out of the vehicle, which she did. (Exhibit J-1 at No. 8; Exhibit J-2 at DOE022).
6. The CGPD officer then asked Respondent how much alcohol she had to drink. (Exhibit J-2 at DOE022).
7. Respondent told the CGPD officer that she only had a glass of wine at her home before arriving to the carnival event. (Exhibit J-1 at No. 10; Exhibit J-3 at 0:00:01).
8. Respondent twice confirmed to the CGPD officer that she was positive that she was "in shape to drive," and informed him that her home was nearby. (Exhibit J-1 at No. 11; Exhibit J-3 at 0:00:14).
9. The CGPD officer told Respondent that because he suspected her of being drunk, he was not permitting her to drive her vehicle. (Exhibit J-1 at No. 12).
10. The CGPD officer also told Respondent to arrange a ride for the 4 kids, to which she responded "ok." (Exhibit J-3 at 0:00:35).

11. When the CGPD officer asked Respondent if she started her vehicle, Respondent initially answered “yes.” (Exhibit J-3 at 0:01:32).

12. Shortly thereafter, Respondent told the CGPD officer that she “put the key in for the radio. I didn’t start [the vehicle] to run, I started it for the radio.” (Exhibit J-1 at No. 13; Exhibit J-3 at 0:01:43).

13. Respondent then told the CGPD officer “I will get everyone home safely.” (Exhibit J-1 at No. 16; Exhibit J-3 at 0:02:17).

14. The CGPD officer reiterated that somebody else would have to drive the kids home, to which Respondent answered “ok, and I will do that. . . I can do that.” (Exhibit J-1 at No. 17; Exhibit J-3 at 0:02:40).

15. After the CGPD officer again reiterated to Respondent that she would need to contact somebody “to get [the kids] a ride home,” Respondent answered “yes,” and went to her car to retrieve her phone. (Exhibit J-3 at 0:03:13).

16. Upon returning from her vehicle with her phone, Respondent told the CGPD officer that her mother was coming to the parking lot. (Exhibit J-1 at No. 20; Exhibit J-3 at 0:03:50).

17. Approximately one minute later, another CGPD officer arrived at the parking lot in order to perform sobriety tests on Respondent. (Exhibit J-1 at Nos. 21 and 23; Exhibit J-2 at DOE023; Exhibit J-3 at 0:04:20).

18. Respondent told the second CGPD officer that she was at the carnival for approximately one hour and only had some wine prior to arriving but was “100% fine” to drive. (Exhibit J-1 at No. 22; Exhibit J-4; Exhibit J-5 at 0:01:32).

19. The first sobriety test that Respondent was asked to perform is the Horizontal Gaze Nystagmus Test. (“Exhibit J-4 at DOE026).

20. In order to perform the Horizontal Gaze Nystagmus Test, the CGPD officer instructed Respondent that she would need to follow with her eyes, without moving her head, the golden tip of a pen that he would be moving with his hand. (Exhibit J-1 at No. 27; Exhibit J-5 at 0:02:38).

21. Despite Respondent confirming that she understood the CGPD officer's instructions, the CGPD officer reminded her multiple times to keep her "head still and follow with [her] eyes and [her] eyes only" during her numerous attempts to take the test. (Exhibit J-1 at Nos. 28 and 31; Exhibit J-5 at 0:02:56 to 0:04:55).

22. The second sobriety test that Respondent was asked to perform was the Walk and Turn Test. ("Exhibit J-4 at DOE026).

23. In order to perform the Walk and Turn Test, the CGPD officer instructed Respondent that she would need to "take [her] right foot, place it heel to toe in front of [her] left foot . . . take [her] hands and place them down at [her] sides, and stay in that position until [he] tells her to begin." (Exhibit J-5 at 0:07:00).

24. Despite Respondent confirming that she understood the CGPD officer's instructions, she placed her left heel in front of her right foot and immediately began to walk forward before being told to begin. (Exhibit J-1 at Nos. 36 and 37; Exhibit J-5 at 0:07:10).

25. As such, the CGPD officer immediately told Respondent to stop and repeated his instructions on the correct standing position for the Walk and Turn Test. (Exhibit J-1 at Nos. 39; Exhibit J-5 at 0:07:15).

26. The CGPD officer then told Respondent that to perform the Walk and Turn Test she would need to walk a straight line using 9 heel-to-toe steps while counting her steps out loud, and upon reaching the ninth step, she would need to turn around and take an

additional 9 heel-to-toe steps in the straight line back to her starting position. (Exhibit J-1 at No. 40; Exhibit J-5 at 0:07:24).

27. While attempting to assume the instructed standing position, Respondent found it extremely difficult to maintain her balance and told the CGPD officer that it was due to her shoes being too large for her feet. (Exhibit J-1 at Nos. 41-42; Exhibit J-5 at 0:09:04 to 0:09:42).

28. The CGPD officer then offered Respondent the opportunity to take the Walk and Turn Test without her shoes, which she accepted. (Exhibit J-1 at No. 43; Exhibit J-5 at 0:09:44).

29. After Respondent took her shoes off, the CGPD officer performed a demonstration of how to perform the Walk and Turn Test. (Exhibit J-1 at No. 44; Exhibit J-5 at 0:10:12; Exhibit J-6 at 0:09:15).

30. Despite Respondent again confirming that she understood the CGPD officer's instructions for the Walk and Turn Test, she again began the test with her left foot in front of her right foot and raised her arms. (Exhibit J-5 at 0:10:30; Exhibit J-6 at 0:09:42).

31. The third sobriety test that Respondent was asked to perform was the One Leg Stand Test. (Exhibit J-4 at DOE027).

32. After the CGPD officer described the One Leg Stand Test as "a simple balancing test," Respondent elected to wear the same shoes that she claimed were the cause of her imbalance during the Walk and Turn Test. (Exhibit J-1 at No. 50; Exhibit J-5 at 0:11:03).

33. In order to perform the One Leg Stand Test, the CGPD officer instructed Respondent that she would need to "stand with [her] feet together, hands down at her sides . . . and when [he] tells [her] to begin, [she's] going to pick up either foot of [her] choosing, left or right, [and] lift it 6 inches off the ground keeping the bottom of [her] foot

parallel to the ground . . . count[ing] out loud . . . until [he] tell[s] [her] to stop.” (Exhibit J-5 at 0:11:17).

34. Despite Respondent confirming that she understood the CGPD officer’s instructions, “she continually raised her arms for balance,” and was twice reminded to continue counting until she was told to stop. (Exhibit J-4 at DOE027; Exhibit J-5 at 0:12:24 to 0:13:04).

35. Respondent “placed her foot back on the ground a total of five times throughout the thirty second [One Leg Stand] test.” (Exhibit J-4 at DOE027; Exhibit J-5 at 0:12:24 to 0:13:04).

36. The CGPD officer then handcuffed Respondent and placed her under arrest for “driving while intoxicated.” (Exhibit J-5 at 0:13:07).

37. From the time Respondent was first stopped by the CGPD officer to the time she was handcuffed, Respondent repeatedly told the arresting CGPD officers that she has a “gold card” and that her “husband is a CO . . . a sergeant . . .” (Exhibit J-3 at 0:02:08; Exhibit J-5 at 0:02:01 and at 0:13:20 to 0:14:15).

38. Despite being told by the CGPD officers that such information was of no concern to them, before being placed in the CGPD vehicle Respondent asked the arresting officers to let her “do one more [sobriety] test. My husband, my husband is a sergeant! Ok, so please give me a little . . .” (Exhibit J-5 at 0:15:29).

39. After being taken to CGPD headquarters for processing that same evening, Respondent was administered a breathalyzer test at approximately 8:00 p.m. (Exhibit J-1 at No. 58).

40. Respondent does not contest the authenticity of the results of her June 5, 2022 breathalyzer test. (Exhibit J-1 at Nos. 60-61)

41. At the moment of her arrest, Respondent's blood alcohol content was at least 0.27%, which is more than three times the legal limit of 0.08% under N.J.S.A. 39:4-50. (Exhibit J-7).

42. On June 6, 2022, CGPD charged Respondent with four counts of endangering the welfare of child by operating a vehicle while intoxicated, in violation of N.J.S.A. 2C:24-4(a)(2). (Exhibit J-8).

43. The charges were heard in municipal court on October 5, 2022, whereupon the endangering the welfare of child charges against Respondent were dismissed after she pled guilty to driving under the influence ("DUI").

44. On January 26, 2023, the Board issued an order to show cause ("OTSC") as to why the behavior that precipitated Respondent's guilty plea and DUI conviction did not provide just cause for the revocation of her credentials and certificates.

45. While Respondent admits that the conduct precipitating her guilty plea and DUI conviction subjects her teaching certificates and credentials to a penalty, she disagrees that revocation would be the appropriate consequence for such conduct.