

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
SCOTT P. SILVIS : ORDER OF SUSPENSION
_____ : DOCKET NO: 2122-203

At its meeting of August 5, 2022, the State Board of Examiners (Board) reviewed information the Warren County Prosecutor's Office and the Office of Student Protection (OSP) provided regarding Scott P. Silvis.

On or about June 9, 2022, Silvis was Accused of Conspiracy to Commit Official Misconduct (2nd degree), N.J.S.A. 2C:5-2A, after he allegedly conspired with other individual(s) to release embarrassing information about an individual unless that individual asserted influence on a tenure matter before the Phillipsburg Board of Education. Silvis provided the materials necessary to promote the conspiracy. On July 15, 2022, Silvis pled guilty to the charge and received an Order of Postponement and was entered into the Pre-Trial Intervention program for a period of twelve (12) months, along with other requirements.

Silvis currently holds a Teacher of Mathematics Certificate of Eligibility with Advanced Standing and a standard Teacher of Mathematics certificate. Upon review of the above information, at its August 5, 2022 meeting, the Board voted to issue Silvis an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Silvis the Order to Show Cause by regular and certified mail on September 20, 2022. The Order provided that Silvis had thirty days to respond. Silvis submitted an Answer on October 3, 2022. In his Answer, Silvis denied the allegations but admitted he received an Order of Postponement and was entered into the Pre-Trial Intervention Probation program for a period of 12 months. *See Answer at ¶¶ 3-4.*

Since there were material facts in dispute, on December 29, 2022, the Board transmitted the matter to the Office of Administrative Law (OAL) for hearing as a contested case. On October 26, 2023, Administrative Law Judge (ALJ) Nanci G. Stokes issued an Initial Decision in the case. *In the Matter of the Certificates of Scott P. Silvis*, Dkt. No. EDE 00064-23 (Initial Decision, October 26, 2023).

After reviewing the testimony and the record, the ALJ stated that the parties stipulated that the Board presented a prima facie case of Silvis' misconduct and Silvis did not dispute he exhibited unbecoming conduct. *Id.* at 4, 7. Silvis saved an email and then years later he was asked for a copy of that email which he provided. In doing so, he "attempted to conspire with other individuals in a blackmail scheme aimed at altering the BOE's votes in an official tenure proceeding regarding the high school's principal." *Id.* at 3. Silvis was a credible witness and straightforward in his testimony, his demeanor was professional, and he was remorseful. *Id.* at 4. The ALJ determined that given the nature of the email, a reasonable person should appreciate the potential for improper use. *Id.* at 5. The ALJ concluded that Silvis' actions demonstrated poor judgment and constituted conduct unbecoming a teacher. *Id.* at p. 8.

As to a determination of penalty, the ALJ noted that the Board urged revocation, citing decisions in support of its position. *Id.* at p. 9. The ALJ found the decisions cited differed from Silvis' circumstances. *Id.* at 9-10. The ALJ also found substantial mitigating factors against revocation, including an unblemished career as a teacher spanning more than two decades; the fact Silvis coached two sports, one for 16 years and the other for 21 years, and was district coach of the year twice and state assistant coach of the year in 2004; his dedication to the Phillipsburg school district; no prior criminal record; and the fact that many of Silvis' students became valedictorians. *Id.* at 5-6, 12. Further, the ALJ also noted that the criminal charges against him

were dismissed with prejudice when he completed his PTI term, his actions did not impact on his teaching or coaching capabilities, and they did not involve a student. *Id.* at 6, 9. Accordingly, while Silvis' conduct was improper, it did not warrant revocation but rather a six-month suspension. *Id.* at 12.

The Deputy Attorney General (DAG) representing the Board filed Exceptions to the ALJ's Initial Decision. Silvis filed a Reply to Exceptions. In the Exceptions, the DAG argues that the ALJ's recommendation of a six-month suspension should be rejected. *See* Exceptions at p. 12. The DAG argues that, given Silvis' admission of guilt to the charges, the Board is not precluded from revoking teaching credentials because the teacher successfully completed PTI. *Id.* at 15. Further, the fact that the conduct did not occur in the classroom setting does not preclude the Board from determining revocation is appropriate. *Id.* at 16. And the actions of Silvis involved the votes of a school matter. *Id.* at 18. Thus, the ALJ incorrectly found that a six-month suspension was appropriate, specifically in light of Silvis' guilty plea to the second degree charge of official misconduct. *Id.* at 19-20. The DAG argues that the appropriate penalty for conduct that also happens to be a disqualifying offense should be revocation no matter whether the conduct actually resulted in a disqualification. *Id.* at 21-22. Lastly, the DAG argues that regardless of any mitigating factors, the penalty warranted is revocation. *Id.* at 23.

Silvis, in his Reply to Exceptions, seeks to affirm the ALJ's findings and conclusions. *See* Reply to Exceptions, at p. 1. Silvis argues the facts were well reported by the ALJ who carefully applied those facts to the law and determined a suspension, rather than revocation, was appropriated. *Id.* at 2. Silvis argues that the DAG's attempt to undermine the ALJ's authority in judging credibility and ruling is contrary to longstanding law. *Ibid.* Although the DAG argued that the Board is not precluded from revoking, it is not imperative that the Board does, as there is

no such mandate. *Id.* at 3. Further, the ALJ provided a litany of caselaw to support her decision. *Ibid.* Lastly, Silvis argues that the ALJ correctly applied credibility determinations and issued a decision with full legal support. *Ibid.*

The Board must now determine whether to adopt, modify or reject the Initial Decision in this matter. At its meeting of January 19, 2024, the Board reviewed the Initial Decision and the Exceptions. After full and fair consideration of the Decision and Exceptions, the Board voted to adopt the Initial Decision and accept the ALJ's recommended penalty of a six-month suspension.

The Commissioner'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. Moreover, unfitness to hold a position in a school system may be shown by 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).

In this instance, the Board finds that Silvis' conduct demonstrated a lack of integrity and does not comport with "role model" behavior. Nevertheless, the Board agrees with the ALJ in this matter that there are significant mitigating factors. Further, this case is distinguishable from the ones cited by the DAG regarding convictions of disqualifying offenses. Silvis was never convicted of official misconduct. A guilty plea for purposes of PTI does not automatically result in the entry of a judgment of conviction. "Pursuant to N.J.S.A. 2C:43-13(b), a guilty plea entered as a condition of admission to PTI 'shall be held in an inactive status pending termination of the supervisory treatment,' under subsection (d) (successful completion of the program, resulting in dismissal of the charges) or (e) (dismissal from the program, thereby reactivating the charges)." *State v. Lavrik*, 472 N.J. Super. 192, 215-16 (App. Div. 2022) (quoting N.J.S.A. 2C:43-13(b)). "Therefore, the guilty plea has no force or effect, unless PTI is violated. It is neither a judgment of conviction nor an adjudication. If a defendant successfully completes the program, the charges are dismissed." *Id.* at 216 (quoting Attorney General, Uniform Guidelines on the Pretrial Intervention Program (March 1, 2016) (Directive 2016-2)) (internal quotation marks omitted). Here, Silvis successfully completed PTI and, as a result, all charges were dismissed and there is neither a judgment of conviction nor an adjudication of any disqualifying offense. The Board therefore agrees with the ALJ that the appropriate penalty is a suspension of his educator certificates.

Accordingly, on January 19, 2024, the Board voted to adopt the Initial Decision and ordered a six-month suspension of Silvis' certificates. On this 1st day of March 2024, the Board voted to adopt its formal written decision and it is therefore ORDERED that Silvis' Teacher of Mathematics Certificate of Eligibility with Advanced Standing and a standard Teacher of Mathematics certificates are hereby SUSPENDED for a period of six-months, effective

immediately. It is further ORDERED that Silvis 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.