

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JENNIFER PECHKO (BURKE) : ORDER OF SUSPENSION
_____ : DOCKET NO: 1718-163

At its meeting of December 8, 2017, the State Board of Examiners (Board) reviewed information the Fairfield Township School District provided to the State Board of Examiners (Board) regarding Jennifer Pechko (Pechko). Pechko resigned her tenured position with Fairfield, following allegations that she was intoxicated while responsible for students. Fairfield alleged that on February 22, 2017, Pechko became hysterical during a lock-down drill because she was not with her second-grade students, who were in physical education class at the time. The Superintendent told Pechko to take her time collecting herself and that other staff members would cover her classroom until she felt ready to resume teaching. When the Superintendent saw Pechko later that day, she was still crying and very upset.

The school security officer noted that Pechko was staggering, very emotional and appeared to be intoxicated. He also detected a sweet odor coming from her breath. While Pechko was talking to the school nurse, the security officer saw a white Styrofoam cup in the front of Pechko's bag that contained what appeared to be an alcoholic beverage. Pechko was sent for a blood alcohol test which came back with a result of .223.

Pechko was charged with Possessing Alcohol on School Property, a disorderly persons offense. Fairfield also referred the matter to the Department of Children and Families, Institutional Abuse Investigation Unit (IAIU). IAIU investigated the matter and confirmed that Pechko was intoxicated and in possession of alcoholic beverages on school property. However, IAIU concluded that "Neglect/Substance Abuse of Caregiver Threatens Child is Not Established." During the course of its investigation, Fairfield also discovered that Pechko had a DUI on her driving record.

Pechko currently holds a Teacher of the Handicapped and Teacher of Elementary School in Grades K-8 certificates. Upon review of the above information, at its January 19, 2018 meeting, the Board voted to issue Pechko an Order to Show Cause as to why her certificates should not be revoked.

The Board sent Pechko the Order to Show Cause by regular and certified mail on January 23, 2018. The Order provided that Pechko had 30 days to respond. Pechko filed an Answer on March 6, 2018.

In that Answer, Pechko admits that she resigned her position in Fairfield, but she was without knowledge to admit or deny what was reported from Fairfield. (Answer at ¶¶ 3, 4). She admitted that she was charged with possession of alcohol on school property and that the charge was later unconditionally dismissed. *Id.* at ¶ 6. Pechko submitted additional defenses, indicating that there is no valid cause of action, the statute of limitations expired, and the claim is barred by collateral estoppel and res judicata. *Id.* at Additional Defenses.

Thereafter, the matter was transmitted to the Office of Administrative Law (OAL) after it was determined that material facts were in dispute. On June 6, 2019, via letter Pechko withdrew her answer and the OAL returned the matter to the Board. Accordingly, pursuant to *N.J.A.C.* 6A:9B-4.6(e), on July 2, 2019, the Board sent Pechko a hearing notice by regular and certified mail. The notice explained that there were no material facts in dispute. Thus, Pechko was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause provided just cause to take action against her certificates as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against her certificates. It also explained that upon review of the charges against her and the legal arguments tendered in his defense, the Board would determine if Pechko's conduct warranted action against her certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Pechko was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Pechko filed a written response on September 2, 2019.

In that response, Pechko stated that the conduct at issue is inconsistent with her character. (Pechko Submission at p. 1). She stated that this is the first disciplinary issue she ever faced after nearly 30 years of teaching. *Id.* She further provided information on her success as an educator, her exemplary attendance record, participation in workshops, and her desire to go above and beyond regular job duties. *Id.* at p. 2. Moreover, she acknowledged that the incident at issue was serious and she is remorseful for her conduct. *Id.* at p. 3. She explained that she was dealing with some personal issues at the time, namely severe Post Traumatic Stress Disorder (PTSD). *Id.* at p. 4. She claims that this disorder manifested itself in the

workplace when she arrived at school having inadvertently brought a bottle of Jack Daniels with her to school. She says when the lockdown drill began at school she believed that there was actually an active shooter in the building and it triggered her PTSD. *Id.* at p. 4. After the incident Pechko promptly enrolled in intensive, inpatient treatment program of her own volition. *Id.* at p. 5. She was discharged after she successfully completed the program in less than 2 weeks and was thereafter admitted into intensive outpatient treatment. *Id.* at p. 6. Pechko believes that she deserves another chance and that it would be unfair to strip her of her teaching credentials and take something she is so passionate about away from her. *Id.* Pechko requested to appear before the Board,

The hearing was scheduled for the Board's December 13, 2019 meeting. Ms. Pechko appeared with her counsel, Nicholas Poberezhsky, Esquire. She pointed out that the OSC had an inaccuracy regarding the number of DUIs she had on her record. She also reiterated much of what was in her paper submissions. She further explained the circumstances that led to the conduct at issue. She acknowledged that she held herself accountable and sought necessary treatment. She brought numerous momentos from her childhood and years of teaching that demonstrate her passion and care for the profession of teaching. She explained that she was a 3rd generation educator in her family and that this is in her blood. She stated that she has a continuing quest for knowledge from cradle to grave. Finally, she asked for forgiveness and stated that she has her "problem under control."

The threshold issue before the Board in this matter is whether Pechko's conduct constitutes conduct unbecoming a certificate holder or other just cause. At its meeting of January 23, 2020, the Board considered the allegations in the Order to Show Cause as well as Pechko's Hearing Response and testimony. The Board determined that no material facts related to Pechko's offense were in dispute since she admitted that she engaged in the alleged conduct. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C.* 6A:9B-4.6(h). After reviewing the allegations, the Board found that Pechko engaged in unbecoming conduct.

The Board must now determine whether Pechko's conduct, as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to *N.J.A.C.* 6A:9B-4.4. The Board finds that it does.

The Board may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9B-4.4*. “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. 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). Pechko’s conduct in being intoxicated at work, along with bringing alcohol to school clearly indicates a serious lapse in judgment. However, given Pechko’s presentation of mitigation, specifically her explanation of her PTSD, her passion for teaching, the fact that this was her first disciplinary action, she maintained an exemplary record prior to this incident, as well as the fact that she obtained treatment after the incident, the Board concludes that the appropriate response to her breach is a two-year suspension of her certificates.

Accordingly, on January 23, 2020, the Board voted to suspend Jennifer Pechko’s Teacher of the Handicapped and Teacher of Elementary School in Grades K-8 certificates for a period of two years. On this 28th day of February, 2020 the Board voted to adopt its formal written decision and it is therefore ORDERED that Pechko’s certificates are hereby suspended for a period of two years, effective immediately. It is further ORDERED that Pechko return her 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*.