

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
NANCEY A. NIKIPEROWICZ : ORDER OF SUSPENSION
_____ : DOCKET NO: 1920-186

At its meeting of May 14, 2020, the State Board of Examiners (Board) reviewed information the Brick Township School District (Brick) provided to the State Board of Examiners (Board) regarding Nancey A. Nikiperowicz. Nikiperowicz was a teacher in Brick who resigned from her position after she was allegedly intoxicated at school on at least three (3) occasions.

On September 15, 2017 a substitute teacher aide smelled alcohol on Nikiperowicz' breath and reported it to administration on September 27, 2017. Nikiperowicz reported for work on September 29, 2017 and met with the nurse who indicated that Nikiperowicz did not seem well; there was an odor in the room. Nikiperowicz was driven home by a colleague and Brick scheduled an appointment for her at Seashore Family Services.

In March 2018 Nikiperowicz was found sleeping during a child study team meeting. After receiving paperwork that Nikiperowicz was under some medical care from March 28, 2018 to April 2, 2018, Nikiperowicz was permitted to return to work on April 18, 2018.

On October 24, 2018, Nikiperowicz was again suspected of being under the influence of alcohol or drugs during school hours on school property. A physical examination at Meridian Occupational Health was scheduled and she tested positive at .150 blood alcohol. She was subsequently suspended from her position and thereafter entered into a Separation Agreement.

Nikiperowicz currently holds Teacher of Handicapped, Teacher of Elementary School in Grades K-8, and Teacher of Nursery certificates. Upon review of the above, at its July 30, 2020 meeting, the Board voted to issue Nikiperowicz an Order to Show Cause as to why her certificates should not be suspended.

The Board sent Nikiperowicz the Order to Show Cause by regular and certified mail on August 12, 2020. The Order provided that Nikiperowicz had 30 days to respond. On September 10, 2020,

Nikiperowicz filed an Answer. Since, based upon the Answer, there appeared to be material facts in dispute, the matter was transmitted on September 18, 2020 to the Office of Administrative Law (OAL) for a hearing as a contested case.

Beginning about September 2021, counsel for Nikiperowicz notified the OAL that he was unable to contact Nikiperowicz in order to complete discovery. During a January 19, 2022, telephone conference, counsel for Nikiperowicz confirmed that she had not responded to his calls or emails for close to 6 months. Accordingly, the assigned Administrative Law Judge scheduled a telephone conference for February 2, 2022, notifying Nikiperowicz that she needed to appear and if she did not, the file would be returned to the transmitting agency for action, which could include revoking her teacher certificate(s).

Nikiperowicz did not appear for the February 2, 2022 conference and the OAL returned the file for failure to appear on February 4, 2022. On April 7, 2022, the Board voted to retain the matter from OAL after Nikiperowicz' failure to appear. The Board notified Nikiperowicz that she had 15 days to notify the Board of the reason for her failure to appear, or her Answer would be stricken. She did not respond.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on December 30, 2022, the Board sent Nikiperowicz a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted as a result of her failure to appear. Thus, Nikiperowicz was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against her certificates. It also explained that, upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if Nikiperowicz' offense warranted action against her certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Nikiperowicz was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as "Unclaimed", and the regular mail copy was not returned. Once again, Nikiperowicz did not file a response.

The threshold issue before the Board in this matter is whether Nikiperowicz' conduct constitutes conduct unbecoming a certificate holder or other just cause. Since Nikiperowicz failed to respond to the Order to Show Cause as a result of striking the answer, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, at its meeting of April 13, 2023, the Board considered only the allegations in the Order to Show Cause and the information received from Brick. The Board concluded that no material facts related to Nikiperowicz' offense were in dispute since she did not deny 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 Nikiperowicz engaged in unbecoming conduct.

The Board must now determine whether Nikiperowicz' conduct, as set forth in the Order to Show Cause, provides just cause to act against her 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). Nikiperowicz' conduct in attending work while intoxicated on more than one occasion clearly indicates a serious lapse in judgment. A review of prior similar cases indicates that the appropriate response to this breach is a two-year suspension. *See In Re Certificates of Jennifer Pechko (Burke)*, Agency Docket No. 1718 (January 23, 2020) (The Board suspended educator for two years after she was intoxicated at work and brought alcohol to school). The Board therefore concludes that the appropriate response to her breach is a two-year suspension of her certificates.

Accordingly, on April 13, 2023, the Board voted to suspend Nancey A. Nikiperowicz' Teacher of Handicapped, Teacher of Elementary School in Grades K-8, and Teacher of Nursery certificates for a period of 2 years. On this 18th day of May 2023 the Board voted to adopt its formal written decision and it is therefore ORDERED that Nikiperowicz' certificates are hereby suspended for two years, effective immediately. It is further ORDERED that Nikiperowicz 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.