

110-25A
State Board of Examiners Dkt. No. 1718-226
OAL Dkt. No. EDE 05049-21
Agency Dkt. No. 9-6/24A

New Jersey Commissioner of Education

Final Decision

In the Matter of the Certificates of Gina Cinotti,
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, Robert M. Tosti, Esq.

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

The Commissioner has reviewed the record and papers filed in connection with appellant Gina Cinotti's appeal of the Order of the State Board of Examiners (Board) dated June 27, 2024, suspending her Teacher of Mathematics Certificate of Eligibility with Advanced Standing, Teacher of Mathematics Certificate, Student Personnel Services Certificate, Director of Student Personnel Services Certificate, Supervisor Certificate, Principal Certificate of Eligibility, School Administrator Certificate of Eligibility, School Business Administrator Certificate of Eligibility, and School Administrator Certificate for a period of one year.

On or about July 3, 2018, after appellant's resignation from her superintendent position with the Netcong Board of Education (BOE) pursuant to the settlement of tenure charges filed against her, the Board issued an Order to Show Cause (OSC) regarding the revocation of appellant's certificates. The OSC alleged, in relevant part, that appellant: (1) created a

contentious relationship with the BOE and its individual members; (2) directed the school business administrator (SBA) to pay a teacher for a home instruction session cancelled by the students' parents on short notice; (3) stated at a BOE meeting that if two new classrooms were not approved, all classified students would be placed out-of-district regardless of their Individualized Education Plans (IEPs); (4) sent Rice¹ notices to teachers using the SBA's signature without her permission; and (5) shared confidential information with a teacher whose contract was not renewed and blind copied her brother on an email to the BOE. Appellant opposed the OSC and denied engaging in unbecoming conduct.

Following a contested hearing at the Office of Administrative Law (OAL) during which eleven witnesses testified, the Administrative Law Judge (ALJ) found that appellant committed unbecoming conduct when she sent the Rice notices using the SBA's signature without authorization and blind copied her brother, who is not a district employee, on BOE emails. As for the remaining allegations in the OSC, the ALJ found that appellant did not commit unbecoming conduct through a contentious relationship with the BOE, by directing the SBA to pay a teacher for a home instruction session cancelled on short notice, or by discussing options to rectify the classroom space issue at a BOE meeting. The ALJ further found no evidence to support a finding that appellant provided a teacher whose contract was not renewed with confidential information. When analyzing whether appellant's unbecoming conduct warranted a penalty, the ALJ determined that a reprimand was appropriate because suspension or revocation of appellant's teaching certificates would be too harsh.

¹ An employee is entitled to advance notice when a board of education intends to discuss in closed session a personnel matter that could adversely affect the employee. *Rice v. Union County Reg'l High Sch. Bd. of Educ.*, 155 N.J. Super. 64, 73 (App. Div. 1977).

After considering the exceptions filed by both parties, the Board adopted the ALJ's findings of fact and credibility determinations, disagreed with some of the ALJ's legal determinations regarding what facts constituted unbecoming conduct, and modified the recommended penalty.² While the Board agreed with the ALJ that appellant's unauthorized use of the SBA's signature on the Rice notices and blind copying of her brother on confidential BOE emails constituted unbecoming conduct, the Board determined that appellant had committed additional instances of unbecoming conduct as well. Contrary to what the ALJ had concluded, the Board concluded that directing the SBA to pay a teacher for home instruction that they did not provide was unbecoming conduct because it destroyed confidence in the operation of public schools. The Board also concluded that suggesting that classified students be placed out of district if a classroom space issue was not rectified was unbecoming conduct because it violated the students' IEPs and the Individuals with Disabilities Education Act (IDEA).

As for the penalty, the Board rejected the ALJ's determination that a reprimand was appropriate because a reprimand is not permitted by the applicable statutory authority or regulations. Instead, the Board concluded that a one-year suspension of appellant's teaching certificates was warranted due to the multiple instances of unbecoming conduct she committed that had the potential to compromise the operation of the public school.

On appeal, appellant advances the following arguments: (1) the OSC should never have been issued by the Board under *N.J.A.C.* 6A:3-5.6 because the tenure charges were withdrawn

² Although page 9 of the Board's Order of Suspension indicates that it voted to adopt the Initial Decision with modification as to penalty, a review of the Order in its entirety reflects that the Board expressly rejected some of the ALJ's legal conclusions. Additionally, the sentence on page 7 regarding appellant Blaha is not relevant to this matter and will be disregarded.

by agreement; (2) a clear and convincing evidence standard of review should apply in this matter, similar to those involving attorney discipline governed by *N.J. Ct. R. 1:20-6(c)(2)(B)*; and (3) the Board denied appellant both procedural and substantive due process.

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)*).

A superintendent of schools "occupies a crucial position within the school district and community" and serves as a role model to the Board, teachers, and students. *In re Napoli*, 1988 S.L.D. 284, 288-89. Superintendents are "entrusted with the responsibility for providing educational leadership and for administering the school district so as to ensure proper implementation of board policy with respect to personnel matters as well as educational programming." *Id.* at 288. As such, they are expected to exercise restraint and self-control to avoid committing unbecoming conduct. *Id.* at 289.

"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. Atl. City*, 152 N.J. 532, 555 (1998)).

Upon review, the Commissioner finds that the Board’s determination that appellant committed unbecoming conduct through unauthorized use of the SBA’s signature on the Rice notices and by blind copying her brother on confidential BOE emails is not arbitrary, capricious, or unreasonable. The ALJ found, and appellant concedes, that she utilized the SBA’s signature on the Rice notices without her permission and sent confidential BOE emails to her brother. Appellant admits that she could have used her own signature on the Rice notices. The fact that appellant opted to use the SBA’s signature instead of her own was inappropriate, demonstrated poor judgment and a lack of restraint, and had a tendency to destroy the public trust and confidence in school administrators and the operation of public schools. Similarly, appellant’s intentional sharing of confidential BOE information with her brother was inappropriate, demonstrated poor judgment and a lack of restraint, and had a tendency to destroy the public trust and confidence in school administrators and BOE operations.

The Commissioner further finds that the Board’s determination that appellant committed unbecoming conduct by directing the SBA to pay a teacher for a home instruction session canceled on short notice is not arbitrary, capricious, or unreasonable. Although the SBA did not ultimately pay the teacher, appellant’s actions were inappropriate, demonstrated poor judgment and a lack of restraint, and had a tendency to destroy the public trust and confidence in school

administrators and the operation of public schools. Had the SBA followed appellant's directive, the teacher would have been paid for services that were not rendered based upon appellant's authorization of same. The Commissioner has previously held that a teacher seeking and receiving payment for home instruction services that were not rendered committed conduct unbecoming. *In re Certificate of Mary Ann Bauer*, 96 N.J.A.R.2d (EDE) 9 (1996).

However, the Commissioner finds that the Board's determination that appellant committed unbecoming conduct by suggesting that classified students could be placed out of district if a classroom space issue was not rectified is unreasonable and not adequately supported by sufficient, credible evidence in the record. As noted by the Board in its Order of Suspension, the ALJ found that appellant provided three proposals as discussion points during a meeting to address the classroom space issue, and that one option was to place middle school learning language disabled (LLD) students out of district. Nothing in the record indicates that appellant stated that out-of-district placement was the preferred option. In fact, appellant's Power Point Presentation (PPP) contained in the record recommended that the Board approve splitting a former computer room to create an additional classroom for the LLD students. Appellant's PPP cautioned that sending the LLD students to an out-of-district school would be costly and would not provide the least restrictive environment in which to educate these students. Appellant did not change or violate any student IEPs or the IDEA by having this discussion at a public meeting.

Turning to the specific points appellant raised in her brief, she contends that the OSC should never have been issued by the Board because the tenure charges were withdrawn by agreement per *N.J.A.C. 6A:3-5.6* and her resignation was not unilateral. The Commissioner finds this argument to be unavailing. Initially, the Commissioner notes that, according to the OSC, the

Board initiated proceedings after receiving information from the BOE, not after receiving a referral from the Commissioner. *N.J.A.C. 6A:9B-4.3(a)(1)* requires a district to notify the Board when a tenured staff member who is accused of unbecoming conduct resigns; Cinotti acknowledged this obligation in the agreement settling her tenure matter. As such, it is irrelevant whether the Board was permitted to issue an OSC based on *N.J.A.C. 6A:3-5.6* in this instance, because it did not do so.

Nonetheless, even entertaining appellant's argument, the Commissioner finds no basis for overturning the Board's actions here. *N.J.A.C. 6A:3-5.6* governs how tenure charges may be withdrawn or settled after they are certified to the Commissioner; it does not limit the Board's statutory authority to issue an OSC to suspend or revoke an educator's certificates. *See N.J.S.A. 18A:6-38* (authorizing the Board to issue and revoke certificates). The Board "may revoke or suspend the certificate(s) of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher, or other just cause," independent of the withdrawal or settlement of tenure charges. *Morison*, 478 *N.J. Super.* at 237 (quoting *N.J.A.C. 6A:9B-4.4(a)*). This is because the tenure statutes, and the processes described therein, are "administered independently" of the statewide teacher certificate suspension and revocation process. *Id.* at 235. *See also N.J.A.C. 6A:9B-4.5(b)* (explaining that the Board is not precluded "from issuing an order to show cause on its own initiative when the Board of Examiners determines grounds for revocation or suspension of a certificate may exist").

Next, appellant argues that a "more rigorous" evidentiary standard, such as clear and convincing evidence, should apply in this matter because it involves a potential license revocation. In particular, appellant asserts that the Board should have to prove that she

committed unbecoming conduct by clear and convincing evidence akin to what occurs during attorney disciplinary proceedings, which are governed by *N.J. Ct. R. 1:20-6(c)(2)(B)*. The Commissioner rejects this argument because the applicable evidentiary standard in these matters is well-established, and *N.J. Ct. R. 1:20-6(c)(2)(B)* is inapplicable. Contested hearings pertaining to the suspension or revocation of certificates are conducted at the OAL “in accordance with the Administrative Procedure Act, *N.J.S.A. 52:14B-1 et seq.*, and the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1*.” *N.J.A.C. 6A:9B-4.6(d)*. “[T]he usual burden of proof for establishing claims before state agencies in contested administrative adjudications is a fair preponderance of the evidence.” *In re Polk*, 90 *N.J.* 550, 560 (1982). “In the absence of an administrative rule or regulation to the contrary, the traditional preponderance of the evidence standard applies to administrative agency matters.” *SSI Med. Servs. v. N.J. Dep’t of Human Servs.*, 146 *N.J.* 614, 622 (1996). Accordingly, the Board is required to prove its claims by a preponderance of the evidence.

Additionally, appellant argues that she was denied procedural and substantive due process for various reasons, including that the OSC should not have been issued as discussed above, the Board only had 5 members when it voted on the OSC (although appellant concedes this was sufficient for a quorum), she essentially had no notice or warning that the insignificant actions she took constituted conduct unbecoming a certificate holder, and that the penalty imposed by the Board is unduly harsh, extreme, and disproportionate to the offense committed. The Commissioner disagrees and finds that appellant received procedural and substantive due process throughout these proceedings.

“The concept of procedural due process assures that the government will not deprive citizens of certain rights without notice and an opportunity to be heard.” *Morison*, 478 N.J. Super. at 247 (citing *Mathews v. Eldridge*, 424 U.S. 319, 322 (1976)). Here, the Board provided appellant with formal written notice of the charges against her in the OSC, she filed an answer, and she had the opportunity to be heard at the OAL, where she testified on her own behalf and vigorously presented a defense with the assistance of counsel. Her appeal is now being heard by the Commissioner, and she may pursue judicial review of the Commissioner’s decision at the Appellate Division of the Superior Court. In short, appellant’s claim that she was denied procedural due process is belied by the record. Furthermore, the Appellate Division has previously held that Board action to revoke or suspend certificates does not violate principles of substantive due process because it “does not amount to ‘an egregious governmental abuse’ nor does it ‘shock the conscience.’ Nor does it offend ‘judicial notions of fairness’ or human dignity.” *Morison*, 478 N.J. Super. at 247-48. Here, the Board lawfully acted to carry out its statutory responsibility to revoke or suspend certificates when warranted.

However, the Commissioner finds that a one-year suspension of appellant’s certificates is unreasonable given the fact that the Board based that determination, in part, upon its finding that appellant committed unbecoming conduct by suggesting during a meeting that classified students could be placed out of district if a classroom space issue was not rectified. For the reasons explained herein, appellant did not commit unbecoming conduct during the meeting discussion regarding the classroom space issue. While the ALJ recommended a reprimand, the Board correctly noted that its regulations expressly permit revocation or suspension of

certificates; they do not empower the Board to issue censures or reprimands. *See N.J.A.C. 6A:9B-4.4.*

Relevant factors to consider when determining 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 [administrator’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).

Having considered the above factors, the Commissioner finds that the Board’s recommended one-year suspension should be reduced to six months. Appellant has demonstrated three instances of poor judgment and lack of restraint that, when taken together, fall short of the conduct expected of a superintendent. Therefore, the Commissioner finds that some period of suspension of her certificates is warranted. Appellant’s unauthorized use of the SBA’s signatures on the Rice notices, her sharing of confidential BOE emails with her brother, and her directive to the SBA that a teacher be paid for home instruction services not rendered all had the ability to destroy the public trust and confidence in the proper administration of the school system. On balance, the record does not reflect any prior instances of unbecoming conduct on appellant’s part. The Commissioner recognizes that fear over conflict with another Board member may have motivated her to seek support from her brother, but that does not excuse or mitigate the fact that she inappropriately forwarded confidential BOE emails to him.

Accordingly, the Order of the State Board of Examiners suspending appellant's certificates for one year is modified, and the period of suspension is reduced to six months, effective June 27, 2024.³



COMMISSIONER OF EDUCATION

Date of Decision: March 31, 2025
Date of Mailing: March 31, 2025

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

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
GINA CINOTTI : ORDER OF SUSPENSION
_____ : DOCKET NO: 1718-226

At its meeting of May 24, 2018, the State Board of Examiners (Board) reviewed information it received from the Commissioner of Education and the Netcong School District (Netcong) regarding a tenure matter involving Gina Cinotti. The Netcong Board of Education (Netcong BOE) certified tenure charges against Cinotti for unbecoming conduct after she allegedly created a contentious relationship with the Netcong BOE, improperly used her position to direct the School Business Administrator (SBA) to pay for home instruction services not rendered, made false statements to the public regarding potential special education placement(s), sent out Rice letters under the SBA's signature without authorization, and shared confidential legal information with Board staff and her family. On or about March 6, 2018, Cinotti entered into a settlement with Netcong BOE regarding the tenure charges and thereafter, Cinotti resigned her position. *In the Matter of the Tenure Charges Against Gina Cinotti*. Agency Ref. No. 254-11/17 (Stipulation of Settlement, March 6, 2018).

Specifically, the Netcong BOE alleged that during the 2015-2016 and 2016-2017 school years, Cinotti created an ongoing and contentious relationship with the Netcong BOE, as a whole and with individual members who expressed any disagreement with her; she vocally and openly disagreed with the Netcong BOE members in public meetings; she publicly engaged in outbursts and chastised the Netcong BOE and would not listen to the Netcong BOE's point of view; she developed such a contentious relationship with the Netcong BOE president, David Costanzo, that attorneys needed to become involved in order to develop strategies to better communicate and to

develop a more productive and peaceful working relationship; she hired an independent investigator to conduct an investigation, during school hours and without authorization, into Costanzo's presence at the school after she barred him from the premises, although the Netcong BOE had done its own investigation; and she brought criminal trespassing charges against Costanzo.

The Netcong BOE also alleged that Cinotti used her position as Chief School Administrator (CSA) to direct the SBA, Nicole Sylvester, to pay for home instruction services to a teacher who never actually provided the services to the student in question. And that when Sylvester questioned Cinotti's directive, Cinotti ordered Sylvester to comply, knowing full well that the teacher was not entitled to payment from the district.

The Netcong BOE further alleged that Cinotti made false statements at Netcong BOE meetings whereby she told members of the public that, if the Netcong BOE did not approve the creation of two classrooms, all of the district's classified students would be given out-of-district placements without regard to the content of their Individualized Education Plans (IEPs).

Further, the Netcong BOE alleged that Cinotti directed a secretary in the Business office to send Rice notices, to then Netcong employees that Netcong BOE would be considering personnel action, to several teachers under the SBA's signature even though Cinotti did not consult with the SBA prior to sending out the Rice notices and did not have the authority to send out notices under the SBA's signature.

Lastly, the Netcong BOE alleged that Cinotti shared confidential legal information with a teacher whose contract was not renewed and had started legal action against the Netcong BOE; blind copied her brother on an email to the Netcong BOE even though her brother was not a district employee; failed to inform the Netcong BOE of the district's budgetary needs in the 2015-16 and

2016-17 school years and include the Netcong BOE on budgetary decisions for those years; and, in an attempt to harass the district and the Netcong BOE, filed an OPRA request for investigation materials that had previously been provided to her attorney and, when the request was denied, filed a complaint with the Government Records Council resulting in a claim to the district's insurance carrier.

Cinotti currently holds a Teacher of Mathematics Certificate of Eligibility with Advanced Standing, a standard Teacher of Mathematics certificate, a Student Personnel Services certificate, a Director of Student Personnel Services certificate, a Supervisor certificate, a Principal Certificate of Eligibility, a School Administrator Certificate of Eligibility, a School Business Administrator Certificate of Eligibility, and a standard School Administrator certificate. After reviewing the above information, at its June 29, 2018 meeting, the Board voted to issue an Order to Show Cause (OSC) to Cinotti as to why her certificates should not be revoked.

On July 3, 2018, the Board sent Cinotti the OSC by regular and certified mail. The OSC provided that Cinotti must file an Answer within 30 days pursuant to *N.J.A.C. 6A:9B-4.6(b)*. On July 20, 2018, Cinotti submitted an answer in which she admitted that the tenure charges filed against her had been settled and that she had resigned her position, but denied any wrongdoing and denied she engaged in any unbecoming conduct whatsoever. Moreover, counsel for Cinotti advised that there was pending civil litigation regarding the facts of this matter. Accordingly, the OSC was placed in abeyance pending the outcome of that litigation. Thereafter, counsel for Cinotti provided information regarding a settlement of the civil litigation.

As there were material facts in dispute, on June 8, 2021, the Board transmitted the matter to the Office of Administrative Law (OAL) for a hearing.

The hearing in this matter was held on November 3, 2022; December 21, 2022; March 6, 2023; and July 26, 2023. The record closed on February 26, 2024. On March 15, 2024, Administrative Law Judge (ALJ) Kimberly A. Moss issued an Initial Decision in the case. *In the Matter of the Certificates of Gina Cinotti*, OAL Dkt. No. EDE 05049-21 (Initial Decision, March 15, 2024).

During the hearing, the ALJ heard testimony from eleven witnesses. *Id.* at 2-23. After reviewing the testimony, the ALJ found two of the witnesses, David Costanzo and Bernadette D'Alesandro, to be less credible than the other witnesses because she found their testimony conflicted with that of the other witnesses. *Id.* at 24. Further, she found that many of the witnesses testified that D'Alesandro wanted control and could be a bully. *Ibid.*

As to the facts, the ALJ found that Cinotti and the Netcong BOE did not have a good relationship. *Id.* at 25. There was a disagreement regarding the Annex, which was not a priority for Cinotti, even though the insurance company stated it could not fully insure the Annex without necessary repairs. *Id.* at 26. Cinotti asked Nicole Sylvester to pay a teacher for home instruction for services not provided due to a cancellation by the parents, and Cinotti was upset when Sylvester refused to pay the teacher. *Ibid.* Cinotti sent out Rice notices using Sylvester's signature, without Sylvester's consent to use her signature, which upset Sylvester. *Ibid.*

The ALJ also found that Costanzo requested inappropriate things and yelled and cursed at Cinotti and that Cinotti became fearful of Costanzo. *Id.* at 27. Cinotti had Costanzo banned from the school and called the police due to him standing three feet from her and Elizabeth Julainao in an intimidating manner with his arms across his chest glaring and breathing heavily. *Ibid.* Cinotti filed harassment and trespass charges against Costanzo for entering the school after he was banned from entering. *Ibid.* The Netcong BOE hired a licensed private investigator to look into

allegations that Costanzo was not following the guidelines regarding entering the school and the investigation was inconclusive. *Id.* at 27-28. Cinotti challenged the findings of the report and hired an educator to investigate, without authorization or notice to the Netcong BOE. *Id.* at 28.

The ALJ further found that Cinotti did blind copy her brother on emails to the Board even though her brother was not a member of the Board. *Ibid.* There was no evidence that she shared confidential legal information with a teacher whose contract was not renewed. *Ibid.* Cinotti was not the superintendent when the 2015-2016 budget was prepared or approved by the Netcong BOE. *Ibid.* Cinotti filed an OPRA request regarding the private investigator's investigation, which was denied because the documents were advisory, consultative, deliberate material relating to an investigation. *Ibid.* The Netcong BOE had twenty superintendents in twenty-five years and was extremely difficult to work for and had its own agenda. *Ibid.*

As to the first charge in the Order to Show Cause, the ALJ found that there was no testimony that Cinotti engaged in public outburst or chastised the Netcong BOE; Cinotti filed harassment and criminal charges against Costanzo, which necessitated an attorney becoming involved; and Cinotti hired an educator to investigate Costanzo, but there was no evidence that the Netcong BOE paid for it. *Id.* at 32. The ALJ concluded that these actions do not rise to the level of unbecoming conduct. *Ibid.*

As to the second charge, the ALJ found that Cinotti requesting Slyvester pay a teacher for home instruction after cancellation on short notice was not conduct unbecoming. *Ibid.* As to the third charge, regarding Cinotti stating that if the Board did not approve the creation of two classrooms, then all classified students would be given out of district placements regardless of their IEPs, the ALJ found that Cinotti provided three proposals to address the space issue and that one of the options was that the learning language disabled (LLD) student be placed out of district

because there was no room at the school. *Id.* at 33. The ALJ concluded that such actions were not unbecoming conduct. *Ibid.*

As to the fourth charge, the ALJ found that it was undisputed that Cinotti sent out Rice notices to teachers using Sylvester's signature, without Sylvester's permission, and concluded that Cinotti's actions were unbecoming conduct. *Ibid.* As to the fifth charge, the ALJ found that there was no evidence to verify D'Alesandro's testimony that Cinotti provided Bret Huss with insider information regarding a Donaldson hearing. *Ibid.* However, Cinotti did blind copy her brother, who is not a district employee, on board emails and the ALJ concluded this was unbecoming conduct. *Id.* at 34.

After the hearing in this matter, the ALJ found that the evidence demonstrated that Cinotti committed conduct unbecoming a teacher warranting a reprimand. *Id.* at 33-35. In so doing, she found that Cinotti sent out the Rice notices and that Cinotti used the SBA's signature on the notices without the SBA's consent or permission. *Id.* at 33. Further, she found that Cinotti blind copied her brother, who was not a district employee, on district emails. *Id.* at 34. As to these acts of unbecoming conduct, the ALJ found that a "suspension or revocation of a teaching certificate was not warranted in this case and would be unfairly harsh and not commensurate with the conduct." *Id.* at 35. The ALJ concluded that the appropriate penalty for Cinotti blind copying her brother on emails and signing the SBA's name on the Rice notices without the SBA's approval was a reprimand. *Ibid.*

Cinotti filed Exceptions which agree with the ALJ that "neither suspension of any length nor especially revocation of her certificates is appropriate." *See* Respondent's Exceptions, p. 1. She also agrees that "the ALJ found she was subject to a reprimand for only including her brother on emails and using the B.A.'s electronic signature on a notice to an employee[,]" but claims they

were both “innocuous events.” *Id.* at 2. Cinotti argues that her certificates should not be impacted in any way because the “facts in this case are light years away from the cases relied on by the [Deputy Attorney General representing the Board,]” and that departing from the ALJ’s finding that a reprimand is appropriate is ultra vires. *Id.* at 2-3.

Cinotti then argues that the OSC should never have been issued. *Id.* at 3. Specifically, she argues that there is no authority for the Board to issue an OSC in this case “under the regulation which guides the Board of Examiners’ actions in tenure settlements” and cites to *N.J.A.C. 6A:3-5.6*. *Ibid.* Cinotti argues in detail why she believes the subsections of that regulation do not provide the authority for the Board to issue an OSC. *Id.* at 3-5. 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 Deputy Attorney General (DAG) representing the Board also filed Exceptions which argue that Cinotti is culpable of conduct unbecoming warranting revocation of her certificates and that the ALJ erroneously issued a penalty of a reprimand. *See* Petitioner’s Exceptions at p. 2. Further, the DAG takes exception with the ALJ dismissing “all of the allegations in the [OSC} other than Cinotti’s use of [the SBA’s] signature on the Rice notices and Cinotti’s blind copying her brother to emails to the Board.” *Id.* at 12. Specifically, the DAG argues that the ALJ found that Cinotti attempted to pay teachers for services not rendered and that such is clearly unbecoming conduct warranting a severe penalty. *Id.* at 14. The DAG also argues that Cinotti committed multiple instances of insubordination requiring action against her certificates. *Id.* at 17.

In support of the allegation of insubordination, the DAG points to the trespass and harassment charges against the district’s board of education president that were investigated by the district board, which found he was not trespassing, and that Cinotti chose to ignore and hire a

separate investigator, which was not authorized by the district board. *Id.* at 17-20. Further, the DAG argues that Cinotti stated that if the district board did not approve her plan, she would send all of the classified students to out-of-district placements. *Id.* at 17.

Lastly, The DAG takes exception to the ALJ's finding that a suspension or revocation would be too harsh and incommensurate with Cinotti's unbecoming conduct. *Id.* at 23. The DAG also argues that the law does not provide for a penalty of a reprimand. *Ibid.* Specifically, *N.J.S.A.* 18A:6-38 states the Board may revoke teaching certificates under the rules and regulations prescribed by the Board. *Ibid.* And that *N.J.A.C.* 6A:9B-3.2(b) states that the Board may suspend or revoke certificates and does not provide authority for any other form of penalty. *Ibid.* The DAG argues that these incidences in this case indisputably establish that Cinotti committed unbecoming conduct warranting the revocation of her certificates. *Id.* at 22-24.

Cinotti filed reply exceptions arguing that the DAG distorted the record and attempts to rely on testimony that the ALJ discredited. *See* Respondent's Reply Exceptions, p. 2. Cinotti also argues that, regarding the use of the electronic signature of the SBA, she could have, as the superior administrator, simply signed the letters herself. *Ibid.* Cinotti further argues that she was never charged with insubordination and is "guilty of no significant misconduct." *Ibid.* Lastly, Cinotti argues that the ALJ's decision is supported by substantial credible evidence in the record, including her successes, and the negative experiences in the district are all distinguishable and irrelevant from the cases the DAG cites. *Id.* at 2-3.

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, Exceptions filed by both parties, and the Reply Exceptions filed by Cinotti. 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 factual findings to be arbitrary or not based on sufficient credible evidence. Further, the ALJ's credibility determinations were well supported by the facts in the record and based on her 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 made findings of fact based on her credibility determinations and concluded that Cinotti committed conduct unbecoming an educator

when she sent out Rice notices to teachers, using the SBA's signature without the SBA's permission, and blind copied her brother, who was not a district employee, on emails with the Netcong BOE. The Board agrees with the ALJ that using the SBA's signature without her permission to send out Rice notices is conduct that is not acceptable, as it is essentially forgery. Further, her disclosure of communications with the Netcong BOE by blind copying a family member is equally unacceptable. Such conduct has the tendency to destroy public respect for school administrators and confidence in the operation of public schools.

The ALJ did not find unbecoming conduct relating to Cinotti actions in filing harassment and criminal charges against Costanzo, which necessitated an attorney becoming involved; hiring an educator to investigate; requesting the SBA pay a teacher for home instruction that was not provided due to cancellation; and providing three alternatives regarding the space issue, one of which was that the LLD students be placed out of district. The Board agrees that the filing of harassment and criminal charges against Costanzo when she felt threatened is not unbecoming conduct. As there was no evidence that the Netcong BOE had to pay for the investigation Cinotti started, the Board also agrees this was not unbecoming conduct.

However, the Board disagrees that directing your staff to pay a teacher for home instruction they did not provide is not unbecoming conduct as it destroys confidence in the operation of public schools. Further, the Board disagrees that suggesting an option regarding the space issue where LLD students be placed out of district is not unbecoming conduct because it violates the students IEPs and the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq., which require the least restrictive environment. Thus, suggesting an option that the LLD students be placed out of district due to a space issue is unbecoming conduct.

Accordingly, the Board finds Cinotti engaged in unbecoming conduct. As to the appropriate penalty, the Board rejects the ALJ's determination that a reprimand was appropriate for the conduct. The Board finds that neither the applicable statutory authority, nor the Board's regulations, permit the imposition of a reprimand for unbecoming conduct. *See N.J.S.A. 18A:6-38; N.J.A.C. 6A:9B-3.2(a); N.J.A.C. 6A:9B-4-4.* More importantly, Cinotti's conduct here warrants a suspension of her teaching certificates. Copying her brother on emails regarding the district board of education, particularly to the extent she disclosed confidential information, is completely inappropriate. Signing someone else's signature without their permission and directing your staff to pay a teacher for home instruction they did not provide are likewise inappropriate and not conduct we would expect of a CSA. Further, suggesting an option where LLD students are placed out of district thereby violating the students IEPs and the IDEA is completely inappropriate. Cinotti's actions here had the potential to compromise the operation of the public school. Thus, the Board finds that a one-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 one-year suspension of Cinotti's certificates from the date of this Decision. On this 27th 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 Gina Cinotti's Teacher of Mathematics Certificate of Eligibility with Advanced Standing, Teacher of Mathematics certificate, Student Personnel Services certificate, Director of Student Personnel Services certificate, Supervisor certificate, Principal Certificate of Eligibility, School Administrator Certificate of Eligibility, School Business Administrator Certificate of Eligibility, and School Administrator certificate are hereby SUSPENDED for a period of one year, effective immediately. It is further ordered that Cinotti 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.

A handwritten signature in blue ink, appearing to read "Rani Singh", is positioned above a horizontal line.

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.