

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
KIMBERLY KILLION : ORDER OF REVOCATION
_____ : DOCKET NO: 2021-186

At its meeting of July 30, 2021, the State Board of Examiners (Board) reviewed information from the Office of Student Protection (OSP) and Camden County Prosecutor's Office regarding Kimberly Killion. Killion currently holds a Teacher of Elementary Grades K-6 Certificate of Eligibility with Advanced Standing and a Teacher of Elementary Grades K-6 certificate.

On or about August 6, 2019, Killion was indicted on three counts of Assault by Auto While DWI in School Zone (3rd degree), *N.J.S.A. 2C:12-1C(3)(A)*, after she allegedly drove her vehicle into a storefront while intoxicated, with a blood alcohol content of .195%, causing bodily injury to three individuals inside the restaurant. On October 23, 2019, her application for the Pre-Trial Intervention Program (PTI) was denied. On March 6, 2020, Killion was convicted by guilty plea of one count of Assault by Auto While DWI in School Zone (3rd degree), *N.J.S.A. 2C:12-1C(3)(A)*. On July 8, 2021, she was sentenced to probation for a period of four years, along with community service and other fines and/or assessments. As a result of her conviction, Killion is disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.*

Killion did not challenge the accuracy of her criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted, at its meeting of September 17, 2021, to issue Killion an Order to Show Cause as to why her certificates should not be revoked.

The Board sent Killion the Order to Show Cause by regular and certified mail on September 21, 2021. The Order provided that Killion had 30 days to respond pursuant to *N.J.A.C. 6A:9B-4.6(b)*. On October 21, 2021, Killion submitted an Answer to the Order to Show Cause. In her Answer, Killion stated she was in the process of appealing the trial court's denial of her motion to withdraw her guilty plea, which she had filed on March 21, 2021 with the trial court. On November 10, 2021, the Board held the matter in abeyance with instruction to Killion to notify the Board once a decision on her appeal was issued.

On March 14, 2023, the Superior Court of New Jersey, Appellate Division, affirmed her conviction and the Law Division's order denying Killion's motion to vacate her guilty plea. *State of New Jersey v. Kimberly Killion*, (App. Div. Docket No. A-3724-20) (March 14, 2023).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on May 12, 2023 and October 23, 2023, the Board sent Killion a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute. Thus, Killion 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 her offense warranted action against her certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Killion was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned, and the regular mail copy was not returned. Killion did not file a response, nor did she notify the Board that she wished to appear for a hearing.

The threshold issue before the Board in this matter is whether Killion's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Consequently, at its meeting of April 11, 2024, the Board considered the allegations in the Order to Show Cause, Killion's Answer, and the Appellate Division's decision affirming her conviction. The Board concluded that no material facts related to Killion's offense were in dispute since the court confirmed Killion had been convicted of the offense charged and Killion admitted that she would be disqualified from public school employment if her conviction was upheld. *See Answer*, ¶ 4. The Board therefore determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*. The Board finds that Killion engaged in conduct unbecoming of an educator. Driving while intoxicated within a school zone, crashing into a building, and causing injuries is clearly unbecoming conduct and provides the basis for the Board's finding.

The Board must now determine whether Killion's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against her certificates pursuant to *N.J.A.C. 6A:9B-4.4*. 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).

Further, in enacting the Criminal History Review statute, *N.J.S.A.* 18A:6-7.1 *et seq.*, in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger. A conviction for Assault by Auto While DWI in School Zone (3rd degree), *N.J.S.A.* 2C:12-1C(3)(A) is clearly one of the listed crimes for which an individual is permanently disqualified from public school employment. *N.J.S.A.* 18A:6-7.1(c)(2). The strong legislative policy statement is also in accord with the Commissioner's long-standing belief that teachers must serve as role models for their students.

In this instance, the Board finds that Killion's conduct and conviction of driving while under the influence within 1,000 feet of school property and crashing into a store front and injuring individuals provides just cause to take action against her certificates. The record established that Killion was under the influence while driving within a school zone and crashed into a building causing injury to three individuals. Her behavior falls far short of a role model.

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. 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.

The strong policy statement on the part of the Legislature set forth in *N.J.S.A.* 18A:6-7.1(c) also offers guidance to the Board as to the appropriate sanction in this matter. An individual whose offense is so great that he or she is barred from service in public schools should not be permitted to retain the certificate that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Thus, because the Legislature and the Commissioner consider Killion's offense so significant, the Board

believes that the only appropriate sanction in this case is the revocation of her certificates. Moreover, it is well established that the Board has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. *See Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); *State Board of Examiners v. Krupp*, 3 N.J.A.R. 285 (1981). "A teacher's whole life is subject to scrutiny, not just his [or her] actions within the schoolhouse doors." In re Certificates of Kevin Jordan, OAL Dkt. No. EDE 00460-07, Initial Decision (Dec. 6, 2007), adopted, Final Decision, Comm'r, Agency Dkt. No. 0506-287 (Feb. 28, 2008), aff'd, In re Certificates of Kevin Jordan, 2009 N.J. Super. Unpub. LEXIS 2439 (App. Div. 2009).

Accordingly, on April 11, 2024, the Board voted to revoke Kimberly Killion's Teacher of Elementary School Grades K-6 Certificate of Eligibility with Advanced Standing and Teacher of Elementary School Grades K-6 certificate. On this 23rd day of May 2024, the Board voted to adopt its formal written decision and it is therefore ORDERED that Killion's certificates be revoked, effective immediately. It is further ORDERED that Killion 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:
By 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.