

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
MOJTABA KAHN : ORDER OF SUSPENSION
_____ : DOCKET NO: 2122-135

At its meeting of January 21, 2022, the State Board of Examiners (Board) reviewed information it received from the Bergen County Prosecutor's Office (BCPO) and the Office of Student Protection (OSP) regarding Motjaba Kahn. On November 9, 2021, after waiving indictment, Kahn was Accused of Robbery (1st degree), *N.J.S.A. 2C:15-1A(2)*; two counts of Aggravated Assault (3rd degree), *N.J.S.A. 2C:12-1B(2)*; Possession of a Weapon (3rd degree), *N.J.S.A. 2C:39-4D*; Burglary (2nd degree), *N.J.S.A. 2C: 18-2B(1)*; and a disorderly person offense of Theft by Unlawful Taking, *N.J.S.A. 2C:20-3A*.

It was alleged that Kahn, during the course of committing a theft and/or robbery, hit two victims in the face by swinging a steel cigarette butt collector, causing serious bodily injury. On November 9, 2021, Kahn received an Order of Postponement and was entered into the Pre-Trial Intervention Probation program for a period of twelve (12) months.

Kahn currently holds a Teacher of Biological Sciences Certificate of Eligibility with Advanced Standing, a standard Teacher of Biological Sciences certificate, and a Supervisor certificate. After reviewing the above information, at its March 4, 2022, meeting, the Board voted to issue an Order to Show Cause (OSC) to Kahn as to why his certificates should not be revoked.

On March 7, 2022, the Board sent Kahn the OSC by regular and certified mail. The OSC provided that Kahn must file an Answer within 30 days pursuant to *N.J.A.C. 6A:9B-4.6(b)*. On April 1, 2022, Kahn submitted an answer, wherein he denied the allegations against him. As there were material facts in dispute, on April 12, 2022, the Board transmitted the matter to the Office of

Administrative Law (OAL) for a hearing. On November 22, 2022, the Petitioner filed a motion for summary decision which was denied by Administrative Law Judge (ALJ) Matthew G Miller on March 9, 2023.

The hearing in this matter was held on June 19 and 20, 2023. The record closed on January 22, 2024. On February 29, 2024, the ALJ issued an Initial Decision in the case. *In the Matter of the Certificates of Mojtaba Kahn*, OAL Dkt. No. EDE 02889-22 (Initial Decision, February 29, 2024). Two witnesses testified on behalf of the Petitioner and Respondent Kahn testified. *Id.* at 7-16. The ALJ also viewed a video, Exhibit P-4, from a video-only camera that was mounted at the scene of the incident. *Id.* at 16.

The ALJ found, as undisputed, the following facts: Kahn was involved in an incident in a parking lot of a restaurant; Kahn's criminal charges were ultimately amended to a single accusation of Burglary (3rd degree), *N.J.S.A. 2C:18-2*; Kahn entered the Pretrial Intervention (PTI) program without a guilty plea being required; Kahn successfully completed PTI and the burglary charge was dismissed; Kahn had no prior criminal convictions or action on his certificates; Kahn was terminated from his district following his arrest and is currently employed as a science teacher at Orange Public School District at STEM Innovation Academy. *Id.* at 4-5. The ALJ also found as undisputed fact: Kahn recently bought his black Ford F-150 pickup truck; the other vehicles in the incident were a white Ford F-150 pickup truck and a white Range/Land Rover. *Ibid.*

The responding police officer, Thomas Spear, Mark Quilter and David Casey, co-owners of the restaurant, and Aaron Scanlon, manager of the restaurant, provided testimony on behalf of the Board. *Id.* at 7. Spear testified that he spoke with Casey or Quilter and one of them told him that Kahn went into their car and took their customized hat, and when they encountered Kahn, a fight ensued, causing injuries to Scanlon's face. *Id.* at 7-8. He further testified that Kahn, was

already in handcuffs as he was the second officer to arrive to the scene, appeared to be having some kind of “mental episode” and that Kahn never explained to him how he obtained the hat. *Ibid.* Further, he testified that the video of the altercation shows Kahn waving the cigarette collector around and striking Casey and Scanlon. *Id.* at 9.

Quilter testified that when he sat down in his white pickup truck, he noticed the seat had been moved and that there was another hat, along with a can of tobacco chew, on his seat and then he saw Kahn getting out of Casey’s white Range Rover. *Id.* at 10. He asked Kahn where he was going and Kahn seemed very disoriented and said he was leaving, so they corralled Kahn towards the entrance of the restaurant, Scanlon came out, and when Kahn attempted to leave, Casey and Scanlon restrained him while Quilter called police. *Ibid.* Further, Quilter, testified that Kahn, while he was on the ground, hit Casey in the face with the collector and split his lip, necessitating stitches, while mentioning Afghanistan and screaming “Ramirez, Ramirez” and “Afghanistan, we killed him.” *Ibid.* Upon review of the video, Quilter testified that Kahn kicked the collector over and that its base hit Casey in the face. *Id.* at 11.

After hearing testimony, the ALJ found that the video cemented his impressions of the witness testimony and that the basics of the event are clear. *Id.* at 19. The ALJ determined that although Kahn admitted to the act, he did not admit to intent. *Id.* at 22. The ALJ also found that there is clear agreement between the parties that Kahn was suffering from a psychiatric episode during this incident in question, specifically post-traumatic stress disorder (PTSD). *Id.* at 23. Further, the ALJ found that from the evidence that was entered, this episode was not instantaneous or a sudden occurrence, but one that was building for almost a week and went unaddressed by Kahn. *Id.* at 24.

Thus, the ALJ found that Kahn's actions, although bizarre and appeared to be completely out of character, were his own doing and to some degree, purposeful. *Ibid.* Further, the ALJ concluded that "Kahn was clearly the one at fault in this scenario and while technically the physical confrontation was initiated by the other parties, it began because [Kahn] attempted to leave the scene after getting caught entering two vehicles and taking property out of one of them." *Ibid.*

Accordingly, the ALJ found Kahn committed conduct unbecoming an educator. *Id.* at 25. The ALJ further concluded that the explanation for Kahn's conduct plays a role in the mitigation of his penalty, but not of his guilt. *Ibid.* As to penalty, the ALJ found that this isolated incident should not be "a career-ending act, but the [penalty] should serve as a warning that [Kahn] must continue to take his mental health seriously and act accordingly if it appears he is backsliding." *Ibid.* The ALJ concluded that, given the totality of the circumstances, the appropriate penalty was to suspend Kahn's certificates for 184 days from July 1, 2024 through December 31, 2024. *Id.* at 25-29.

The Deputy Attorney General (DAG) representing the Board filed Exceptions which argue that Kahn's unbecoming conduct in this matter warrants revocation of his teaching certificates. *See* Petitioner's Exceptions at p. 2. Specifically, the DAG takes exception to the extent the ALJ relied upon Kahn's mental state as a mitigating factor, to the ALJ's finding that Kahn is not a danger to his students or staff, and to the ALJ's penalty of 184-day suspension to begin on a future date. *Id.* at 9. Further, the DAG argues that the ALJ failed to consider aggravating factors; specifically, that the ALJ had previously found that Kahn had acted purposely to some degree, which warrants a more significant penalty. *Id.* at 9, 13. The DAG provided caselaw that she argues demonstrates the Board's typically harsh penalty assessed when a certificate holder uses physical force that leads to injuries. *Ibid.*

In this case, the DAG argues that Kahn engaged in a violent altercation leading to injuries and the record is devoid of mitigation that would warrant less than revocation. *Id.* at 12-13. The DAG also argues that Kahn's conduct exposed others to danger and undermines the public's confidence and trust to safely supervise students. *Id.* at 13. The DAG further argues that whether Kahn was removed from the classroom and thus already served an approximate one-year suspension is irrelevant to the imposition of the penalty for his unbecoming conduct. *Id.* at 14. Lastly, the DAG argued that the ALJ cannot dictate when the penalty shall commence because *N.J.A.C. 6A:9B-4.16* provides that the effective date of the penalty is the date of the Board's decision. *Id.* at 15.

Kahn filed Reply Exceptions¹ and argued that he didn't steal or sell any of the individual's belongings, never committed such a crime, and was never convicted of such a crime. *See* Respondent's Reply Exceptions, p.2. Further, he argued that this matter was "a sad and embarrassing moment in the life of a person who wasn't yet aware that he was suffering from a mental health issue." *Id.* at 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 and the Exceptions and Reply Exceptions. After full and fair consideration of the Initial Decision and submissions, the Board voted to adopt the Initial Decision, with modification as to penalty.

¹ Gerald Fitzhugh, II, Ed. D., Superintendent of Schools for Orange Township Public Schools submitted a letter to the Board, dated March 28, 2024, regarding this matter. The DAG filed a reply arguing: the letter was untimely; only parties can file exceptions and Fitzhugh is neither a party to this matter nor Kah's legal representative; to the extent new information was introduced it must be excluded; and that the letter is substantively deficient. Because the letter was not submitted by Kahn, or his legal representative, and because it is substantively deficient, in that it does not take exception to any of the findings in the ALJ's decision, the letter was not considered by the Board as Exceptions to Initial Decision.

The Board, in reviewing the matter, does not find the ALJ's factual findings to be arbitrary or not based on sufficient credible evidence. Further, the Board finds that the ALJ's credibility determinations were well supported 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 his credibility determinations and concluded that Kahn committed conduct unbecoming an educator when he took items from vehicles and then, upon being confronted with his actions, physically struggled with others and swung a metal cigarette butt collector near the heads of others. In this case, Kahn's conduct was certainly unacceptable and certainly unbecoming of a teacher. Taking

items that are not yours and then attempting to harm the individuals from whom you took the items is not conduct of a role model. Thus, the Board finds Kahn engaged in unbecoming conduct.

As to the appropriate penalty, the ALJ determined that a 184-day suspension, to commence July 1, 2024, was warranted. The Board generally agrees with the ALJ as to the length of the suspension warranted here, but it is not for the ALJ to determine when a penalty is to begin. The Board agrees that Kahn's conduct was serious, inappropriate and not conduct we would expect of a role model for students. The Board also agrees with the ALJ that there were mitigating factors here. This was an isolated incident, Kahn has never been convicted of a crime, and it appeared Kahn was experiencing a mental health issue at the time of his actions. Thus, the Board finds that a six-month suspension, commencing on the date of this decision, 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 six-month suspension of Kahn'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 Mojtaba Kahn's Teacher of Biological Sciences Certificate of Eligibility with Advanced Standing, Teacher of Biological Sciences certificate, and Supervisor certificate are hereby SUSPENDED for a period of six months, effective immediately. It is further ordered that Kahn 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.