

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
PAUL PENA : ORDER OF SUSPENSION
_____ : DOCKET NO: 2324-186

Paul Pena (Pena) is the holder of a Teacher of Bilingual/Bicultural Education Certificate of Eligibility (CE), issued July 2018; a Teacher of English As A Second Language (ESL) CE, issued June 2012; an Elementary School Teacher in Grades K-6 CE, issued November 2011; a Standard Elementary School Teacher In Grades K-6 certificate, issued July 2014; a Standard Teacher of ESL certificate, issued July 2014; and a Standard Teacher of Bilingual/Bicultural Education certificate, issued July 2020.

At its meeting of September 19, 2024, the State Board of Examiners (Board) reviewed information it received from the Department of Education - Office of Student Protection (OSP) and the Department of Education – Office of Legal Affairs, Accountability & Compliance (OLAAC) regarding Paul Pena, including information and/or documentation obtained from the Sussex County Prosecutor’s Office. On or about March 26, 2023, Pena was charged with Possession of Weapon for Unlawful Purpose (2nd degree), *N.J.S.A. 2C:39-4A(1)*; and Terroristic Threats (3rd degree), *N.J.S.A. 2C:12-3A*. It is alleged that Pena pointed a loaded firearm at individuals who trespassed on his property telling them to leave, followed them and then fired one round from his weapon while they were retreating, terrorizing them. On June 29, 2023, Pena entered Pre-Trial Intervention (PTI) program for a period of twelve (12) months with the condition of no contact with the victim and was ordered to pay penalties and fees.

After reviewing the above information, at its November 1, 2024 meeting, the Board voted to issue an Order to Show Cause (OSC) to Pena as to why his certificates should not be revoked.

On or about November 6, 2024, the Board sent Pema the OSC by regular and certified mail. The OSC provided that Pena must file an Answer within 30 days pursuant to *N.J.A.C.* 6A:9B-4.6(b). On November 18, 2024, Pema submitted an answer in which he admitted that he was charged with Possession of Weapon for Unlawful Purpose (2nd degree), *N.J.S.A.* 2C:39-4A(1); and Terroristic Threats (3rd degree), *N.J.S.A.* 2C:12-3A. *See Answer*, dated November 18, 2024, ¶ 3. However, he “denie[d] terrorizing anyone or committing any unlawful action on March 26, 2023. *Id.* at ¶ 4. He also admitted that he was entered in PTI. *Id.* at ¶ 5.

As there were material facts in dispute, the Board transmitted the matter to the Office of Administrative Law (OAL) for a hearing on February 11, 2025. The hearing in this matter was held on June 18, 2025, and October 7, 2025. Following the submission of post hearing briefs, the record closed on April 24, 2026.

On June 8, 2026, Administrative Law Judge (ALJ) Bindi Merchant issued an Initial Decision in the case. *In the Matter of the Certificates of Paul Pena*, OAL Dkt. No. EDE 03024-25 (Initial Decision, June 8, 2026). The ALJ heard testimony from two witnesses on behalf of the Board – Matthew Marziaz and Eric Gerstner, a friend of Matthew Marziaz. *Id.* at 10. The ALJ heard testimony from two witnesses on behalf of Pena – Angela Marziaz and himself. *Ibid.* The ALJ found that Pena engaged in conduct unbecoming a teacher warranting action a six-month suspension of his certificates. *Id.* at 7-8.

Specifically, the ALJ found Pena to be credible and reliable, particularly since Angela Marziaz was able to corroborate his testimony, and found the Board’s witness, specifically, Matthew Marziaz, not to be as credible since there were many contradictions to his version of events as compared to the testimony from Gerstner, and Angela Marziaz. *Id.* at 5. Based on the credibility determinations, the ALJ found as fact that Angela Marziaz and Pena developed a

relationship even though Angela Marziaz was married to Matthew Marziaz, that Angela Marziaz expressed fear of Matthew Marziaz, and that Angela Marziaz told Pena that she was going to divorce Matthew Marziaz due to allegations of abuse. *Id.* at 3. The ALJ also found that on March 26, 2023, while Angela Marziaz and Pena were at Pena's home, Pena saw Matthew Marziaz's vehicle pull into his driveway. *Ibid.* Further, the ALJ found that Pena and Angela Marziaz heard banging on the bedroom window and front door, saw Matthew Marziaz and Gerstner outside the home, felt vibrations at the garage door, feared that Matthew Marziaz would smash the back glass door, and so Pena opened his firearm safe and retrieved his firearm. *Ibid.* The ALJ also found that Pena then pointed the firearm at Matthew Marziaz and asked Matthew Marziaz to leave, after which Matthew Marziaz walked backwards towards his car with Pena following, looking for the location of Gerstner. *Id.* at 3-4. After Matthew Marziaz and Gerstner got in Matthew Marziaz's car, Matthew Marziaz started to back his car down the driveway but then stopped. *Id.* at 4. At that point, Pena claimed he felt threatened that he would be run over and he shot a round into the air. *Ibid.* For these reasons, the ALJ concluded that when Pena fired his weapon into the air he acted in an unbecoming manner and there was just cause to warrant action against Pena's certificates. *Id.* at 7.

In determining the appropriate penalty, the ALJ noted that relevant factors included the nature and gravity of the offense, any evidence as to provocation, extenuation or aggravation, and any harm or injurious effect. *Id.* at 7. The ALJ found that Pena had no prior discipline history and that "revoking Pena's certificates would negatively impact his school district" because "he is the only teacher in the elementary school who holds a Teacher of Bilingual/Bicultural Education certificate." *Id.* at 8. Further, the ALJ found that Pena "is the sole caretaker of his 101-year-old grandma and 72-year-old mother." *Ibid.* The ALJ concluded that given the totality of the

circumstances and the mitigating factors, Pena's certificates should be suspended for six months. *Ibid.*

On June 11, 2026, Pena filed exceptions to the Initial Decision. *See* Pena Exceptions. In his exceptions, Pena argued that the "ALJ's conclusion that unbecoming conduct was proven is contradicted by the Judge's own findings and completely unsupported by the record[.]" and that the initial decision "should be rejected and the OTSC dismissed." *Id.* at 4, 10. Pena claimed that the ALJ found Pena's testimony credible and "rejected the Board's witnesses' testimony as incredible." *Id.* at 3. Pena also argued that the "ALJ failed to articulate any wrongful conduct" constituting unbecoming conduct, and that he "acted lawfully and exercised his right to self-defense of his property" when he possessed a weapon and fired a warning shot in the air. *Id.* at 4, 5. Further, Pena argued that his arrest or initial criminal charges cannot be "probative evidence of unbecoming conduct." *Id.* at 10.

On June 25, 2026, the Deputy Attorney General (DAG) representing the Board in this matter filed reply exceptions to the Initial Decision. *See* Board Exceptions. In his reply exceptions, the DAG argued there was sufficient evidence to support "the ALJ's finding that Pena engaged in conduct unbecoming a teacher when he fired a weapon without justification." *Id.* at 6. The DAG also argued that not all of the cases relied on by the ALJ "turned on whether the teacher's use of a firearm was lawful or reasonable[.]" *Id.* at 7. Further, the DAG argued that "the ALJ's credibility determinations do not render the factual basis of the OTSC false." *Ibid.* Lastly, the DAG argued that Pena's conduct here warrants a lengthier suspension or revocation of his certificates. *Id.* at 9.

The Board must now determine whether to adopt, modify, or reject the Initial Decision in this matter. At its meeting of August 7, 2026, the Board reviewed the Initial Decision, Exceptions

filed by Pena, and Reply Exceptions filed by the DAG. After full and fair consideration of the Initial Decision and submissions, the Board voted to adopt the findings of facts and the legal conclusion finding unbecoming conduct by the ALJ and modify the appropriate penalty to a one year suspension.

The Board, in reviewing this matter, does not find the ALJ's factual and credibility findings to be arbitrary or not based on sufficient credible evidence. The ALJ's credibility determinations were well supported and based on his 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 has the authority to "issue appropriate certificates to teach or to administer" and "may revoke the same under rules and regulations prescribed by the State board." *N.J.S.A.* 18A:6-38; *see also N.J.A.C.* 6A:9B-3.2 and -4.4); *Morison v. Willingboro Bd. of Educ.*, 478 N.J. Super. 229 (App. Div. 2024), *cert. denied* 258 N.J. 143 (July 11, 2024). The Board may take action against a 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; *see also Morison*, 478 N.J. Super. at 246, 248 (the Board is responsible for protecting schoolchildren from improper teacher conduct and may suspend or revoke an educator's continued ability to serve as a teacher at any public school based on unbecoming conduct).

Unbecoming conduct is defined as "conduct 'which adversely affects the morale or efficiency of the [department]' or 'has a tendency to destroy public respect for [government] employees and confidence in the operation of [public] services.'" *Bound Brook Bd. of Educ. v. Ciripompa*, 228 N.J. 4, 13 (2017) (quoting *In re Young*, 202 N.J. 50, 66 (2010), *Karins v. Atl. City*, 152 N.J. 532, 554 (1998)). "[A] finding of unbecoming conduct 'need not be predicated upon the

violation of any particular rule or regulation, but 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 legal correct.” *Id.* at 13-14 (quoting *Karins*, 152 N.J. at 555). “It focuses on the morale, efficiency, and public perception of an entity, and how those concerns are harmed by allowing teachers to behave inappropriately while holding public employment.” *Id.* at 14. “The touchstone of the determination lies in the certificate holder’s ‘fitness to discharge the duties and functions of one’s office or position.’” *Young*, 202 N.J. at 66 (citing *In re Grossman*, 127 N.J. Super. 13, 29 (App. Div. 1974)).

As noted above, after reviewing the record, the ALJ concluded that Pena engaged in conduct unbecoming by firing his firearm in the air while Matthew Marziaz was in his vehicle and in Pena’s driveway. The Board agrees with the ALJ’s legal conclusion. The ALJ found that Pena pointed the firearm at Matthew Marziaz and asked him to leave, that Matthew Marziaz and Gerstner got in Matthew Marziaz’s car, that Matthew Marziaz started to back his car down the driveway and stopped and then Pena fired his weapon. At the time Pena fired his weapon, the record demonstrates that Matthew Marziaz was retreating and there was no testimony otherwise. Under the circumstances, the Board finds that Pena’s firing of his weapon into the air here was unbecoming conduct of an educator and not the behavior we would expect for a role model.

Having found that Pena engaged in unbecoming conduct, the Board must now determine the appropriate penalty to be applied. In doing so, the Board considers the “nature and gravity of the offenses under all the circumstances involved, any evidence as to provocation, extenuation or aggravation,” and any “harm or injurious effect” on the maintenance of discipline and the proper administration of the school system. *In re Fulcomer*, 93 N.J. Super. 404, 422 (App. Div. 1967). “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. Fitness to teach depends on a broad range of factors, including the teacher’s impact and effect upon the students, because a “teacher works in a sensitive area in a schoolroom” and “shapes the attitude of young minds toward the society in which they live.” *Grossman*, 127 N.J. at 30 (*quoting Adler v. Bd. of Educ. of City of New York*, 342 U.S. 485, 493 (1952)). Importantly, unfitness to hold a position in a school system may be shown by one incident if sufficiently flagrant. *Fulcomer*, 93 N.J. Super. at 421; *Redcay v. State Bd. of Educ.*, 130 N.J.L. 369, 371 (1943), *aff’d*, 131 N.J.L. 326 (E & A 1944).

In this instance, the ALJ determined that, after consideration of mitigating factors, a six-month suspension was appropriate for Pena’s conduct here. However, the Board disagrees that a six-month penalty is sufficient given the totality of the circumstances in this matter. Rather, the Board finds that a one-year suspension of his teaching certificates is warranted. The Board agrees with the ALJ’s mitigation determinations as to Pena’s unblemished record as an educator but disagrees that a negative impact on Pena’s district and his personal caretaking duties are relevant factors. Pena displayed a lapse of sound judgment for a role model for students when he fired his weapon into the air during the incident with Matthew Marziaz. Thus, the Board finds that the appropriate penalty for Pena’s conduct here is a one-year suspension of his certificates.

Accordingly, on August 7, 2026, the Board voted to adopt the factual findings and legal conclusion in the Initial Decision and modify the penalty to a one-year suspension of Pena’s certificates. On this 18th day of September 2026, the Board formally adopted its written decision to adopt the factual findings and legal conclusion in the Initial Decision in this matter, with modification of the penalty, and it is therefore ORDERED that Paul Pena’s Teacher of

Bilingual/Bicultural Education Certificate of Eligibility (CE), Teacher of English As A Second Language (ESL) CE, Elementary School Teacher in Grades K-6 CE, Standard Elementary School Teacher In Grades K-6 certificate, Standard Teacher of ESL certificate, and Standard Teacher of Bilingual/Bicultural Education certificate are hereby SUSPENDED for one year, effective immediately. It is further ordered that Pena 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.



Kimberly A. Gatti, Acting 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 and *N.J.A.C.* 6A:4-1.3.