

Pursuant to Referral by the Commissioner of Education
State of New Jersey
Before Timothy J. Brown, Esquire

In the matter of:

**The Tenure Hearing of Rene
Chakmakian**

and

**School District of the Borough of
Englewood Cliffs, Bergen County**

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: **Docket No. 238-9/19**
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:

Decision and Award

Appearances:

On behalf of Rene Chakmakian:

Stephen B. Hunter, Esquire
Detzky, Hunter & DeFillippo, LLC
1 Eastern Avenue, Floor 2W
Somerville, NJ 08876

**On behalf of School District of the Borough of
Englewood Cliffs, Bergen County:**

Stephen R. Fogarty, Esquire
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Introduction

This matter arises from tenure charges of unprofessional and unbecoming conduct sufficient to warrant dismissal against **Rene Chakmakian**, (Respondent) certified by the **Englewood Cliffs Board of Education**, (the District) and an October 10, 2019 referral of the tenure charges to the undersigned by the New Jersey Department of Education, Office of Controversies and Disputes pursuant to N.J.S.A. 18A:6-16.

By Order dated November 9, 2019, the undersigned denied Respondent's Motion to Dismiss. Thereafter, a hearing in the matter was conducted on November 12, 15, 20, 22, December 3 and 13, 2019 in Hackensack, New Jersey and December 12, 2019 in Englewood Cliffs, New Jersey. All parties were afforded the opportunity for argument, examination and cross-examination of witnesses and the introduction of relevant exhibits. Respondent Rene Chakmakian was present for the entire hearing and testified on her own behalf. A transcript of the hearing was taken, At the close of the hearing on December 13, 2019, the parties elected to submit written closing argument, upon the receipt of which by the arbitrator on January 23, 2019 the matter was deemed submitted.

This Decision and Award is made following my careful consideration of the entire record in the matter, including the undersigned's observations of the demeanor of all witnesses.

Issues

The issues presented in this matter may be accurately stated as follows:

Has the District met its burden of establishing the truth of its tenure charges against Respondent, and if so, what is the appropriate discipline, if any?

The Tenure Charges

The tenure charges in this matter were filed by Dr. Jennifer Brower, Superintendent of Schools, of the District on September 12, 2019. The six Charges filed by the Board (less their respective included statements/allegations of fact) provide:

Charge No. 1

Rene Chakmakian, a tenured teaching staff member in the employ of the Englewood Cliffs Board of Education, engaged in unprofessional and unbecoming conduct throughout the 2014-2015, 2015-2016, 2016-2017 and 2017-2018 school years when she repeatedly violated students' rights under the Family Education Rights and Privacy Act, and intentionally memorialized disrespectful and abhorrent comments about students, community members, and her colleagues in emails to another staff member, on the Englewood Cliffs School District's server, which warrants her dismissal according to N.J.S.A. 18A: 6-10 based on conduct unbecoming a teaching staff member.

Charge No. 2

Rene Chakmakian, a tenured teaching staff member in the employ of the Englewood Cliffs Board of Education, failed to meet the standards set forth in the new Jersey Professional Standards for Teachers, N.J.S.A. 6A:9-3.3, specifically Standards One, Three, Nine, Ten and Eleven, as evidenced by her inability to address the performances, essential knowledge, and critical dispositions embedded within those standards, when she wrote emails to Staff Member containing deplorable comments about her students, parents of students, and her colleagues, which warrants her dismissal as a teaching staff member pursuant to N.J.S.A. 18A:6-10.

Charge No. 3

Rene Chakmakian, a tenured teaching staff member in the employ of the Englewood Cliffs Board of Education, willfully violated Board Policy 3281. "Inappropriate Staff Conduct," by disregarding her professional responsibility to a student's health, safety, and welfare when she knowingly blind copied Staff Members on emails containing confidential and sensitive information about specific students, warranting her dismissal as a teaching staff member pursuant to N.J.S.A. 18A:6-10.

Charge No. 4

Rene Chakmakian, a tenured teaching staff member in the employ of the Englewood Cliffs Board of Education, willfully violated the Family Education Rights and Privacy Act, 20 U.S.S. 1232g; 34 C.F.R. 99.31; N.J.S.A.18A:36-19; N.J.AC. 32-7.5; and Board Policies 8330 “Pupil Records” and 8335 “Family Education Rights and Privacy Act” when she blind copied Staff Member on emails she wrote to colleagues regarding shared students, despite the fact that Staff Member did not have educational interest over the students, thereby inappropriately infringing upon each student’s privacy rights, thus warranting her dismissal according to N.J.S.A. 18A:6-10 based on conduct unbecoming a teaching staff member.

Charge No. 5

Rene Chakmakian, a tenured teaching staff member in the employ of the Englewood Cliffs Board of Education, engaged in *unprofessional and unbecoming conduct* throughout the 2015-2016, 2016-2017 and 2017-2018 school years when she repeatedly violated Board Policy 3321, “Acceptable Use of Computer Network(s)/Computers and Resources by Teaching Staff Members,” when she used the District computer server, during the District school day to draft and send emails to a fellow staff member’s District-issued email address containing deplorable comments about District supervisors, District staff members, students and parents, which warrants her dismissal according to N.J.S.A. 18A:6-10 based on conduct unbecoming a teaching staff member.

Charge No. 6

Rene Chakmakian, a tenured teaching staff member in the employ of the Englewood Cliffs Board of Education, engaged in unprofessional and unbecoming conduct throughout the 2015-2016, 2016-2017 and 2017-2018 school years when she repeatedly violated

Board Policy 3211, “Code of Ethics,” by disclosing pupil information, and by making malicious statements about colleagues, which warrants her dismissal according to N.J.S.A. 18A: 6-10 based on conduct unbecoming a teaching staff member.

Summary of the Facts¹

These Tenure Charges concern the content of thirteen (13) emails and the manner in which they were sent or received by Respondent to her fiancé Dr. Mark Delcalzo – another teacher in the District – over a period of six school-years from 2012 to 2018, using District teacher-email accounts to either send or receive the emails. The District asserts that all of the emails violated the District’s acceptable use policy relating to the District server and District owned computers² and that certain of the emails violated

¹ These findings of fact are based upon my consideration of the entire record in the matter including my observation of the demeanor of all witnesses.

² District Board Policy 3321 Acceptable Use of Computer Network(s)/Computers and Resources by Teaching Staff Members provides in relevant part:

The Board recognizes that as telecommunications and other new technologies shift the manner in which information is accessed, communicated and transferred that those changes will alter the nature of teaching and learning. Access to telecommunications will allow teaching staff members to explore databases, libraries, internet sites, bulletin boards and the like while exchanging information with individuals throughout the world. The Board supports access by teaching staff members to information sources but reserves the right to limit in-school use to materials appropriate to educational purposes. The Board directs the Superintendent to effect training of teaching staff members in skills appropriate to analyzing and evaluating such resources as to appropriateness for educational purposes.

The Board also recognized that telecommunications will allow teaching staff members access to information sources that have not been pre-screened using Board approved standards. The Board therefore adopts the following standards of conduct for the use of computer network(s) and declares unethical, unacceptable, inappropriate or illegal behavior as just cause for taking disciplinary action, limiting or revoking network access privileges, instituting legal action or taking any other appropriate action as deemed necessary.

The Board provides access to computer network(s)/computers for administrative and educational purposes only. The Board retains the right to restrict or terminate teaching staff access to the computer network(s)/computers at any time for any reason. The Board retains the right to have the superintendent or designee, monitor network activity, in any form necessary, to maintain the integrity of the network(s) and ensure its proper use.

FERPA and related state law and District confidentiality policy,³ and/or New Jersey Professional Standards for Teachers,⁴ the District's Code of Ethics⁵ and the District's Inappropriate Staff Conduct policy.⁶ The District asserts that Respondent's email conduct amounts to unbecoming conduct and warrants her dismissal according to N.J.S.A. 18A:6-10.

N.J.S.A. 18A:6-10 provides in relevant part:

No person shall be dismissed or reduced in compensation,

(a) if he is or shall be under tenure of office, position or

Standards for Use of Computer Network(s)

Any individual engaging in the following actions declared unethical, unacceptable or illegal when using computer network(s)/computers shall be subject to discipline or legal action:

1. Using the computer network(s)/computers for illegal, inappropriate or obscene purposes, or in support of such activities. Illegal activities are defined as activities which violate federal, state, local laws and regulations. Inappropriate activities are defined as those that violate the intended use of the network(s). Obscene activities shall be defined as a violation of generally accepted social standards for use of publically owned and operated communication vehicles.

...

Violations

Individuals violating this policy shall be subject to appropriate disciplinary actions as defined by Policy No. 3150, Discipline which includes but are not limited to:

1. Use of computer network(s) computers only under direct supervision.
2. Suspension of network privileges;
3. Revocation of network privileges;
4. Suspension of computer privileges;
5. Revocation of computer privileges;
6. Suspension;
7. Dismissal;
8. Legal action and prosecution by the authorities; and/or
9. Any appropriate action that may be deemed necessary as determined by the Superintendent and approved by the Board of Education.

³ District Policy No. 8335 provides that the District's policies and regulations shall be in compliance with FERPA. In relevant part, the Policy states that; "FERPA permits disclosure of pupil records without consent if the disclosure is to school officials with legitimate educational interests." The policy also notes that N.J.A.C.6A-32-7 incorporates the requirements of FERPA.

⁴ N.J.A.C.6A:9-3.3

⁵ Board Policy 321. The policy endorses the code of ethics published by the National Education Association.

⁶ Board policy 3281 among other things, requires that "[s]chool staff conduct in completing their professional responsibilities shall be appropriate at all times."

employment during good behavior and efficiency in the public school system of the state, ...

except for inefficiency, incapacity, unbecoming conduct, or other just cause, and then only after a hearing held pursuant to this subarticle, by the commissioner, or a person appointed by him to act in his behalf, after a written charge or charges, of the cause or causes of complaint, shall have been preferred against such person, signed by the person or persons making the same, who may or may not be a member or members of a board of education, and filed and proceeded upon as in this subarticle provided...

Events Leading to the Charges

The District provides education to approximately 434 students, pre-K through eighth grade in two schools located in Englewood Cliffs, New Jersey; the Upper School for 3rd through 8th grades and the North Cliff school for K through 2nd grades. The District school board has nine members. The District employs approximately 50 teachers and five administrators. The District's administration is composed of Superintendent Dr. Jennifer Brower (Brower), Principal of Schools Siobhan Tauchert (Tauchert), Supervisor of Special Education Dawn Smith, Supervisor of Curriculum and Instruction Nicole Ferlise and Supervisor of Guidance Colin Winch.

Respondent is a tenured teacher and has been employed by the District as a full-time teaching staff member since August 2002. She is certified in elementary education and special education and has served the District as a general education teacher and a special education/resource center teacher. At the time of the Tenure charges, she was employed as a special education teacher.

Prior to the circumstances of the instant Tenure Charges, Respondent had no discipline in her record and consistently received good evaluations and observation results, (effective or highly effective). Respondent received the "Teacher of the Year"

award for her work during the 2017-2018 school year. Respondent worked primarily at the North Cliff school. Respondent and her fiancé Dr. Mark Delcalzo (Delcalzo) have been together as a couple for 12 years. They live together. At all times relevant, Delcalzo has taught physical education in the District. Delcalzo performs his job in both District schools, although primarily at the North Cliff School.

In late March 2019 District teacher Therese Najarian reported to Principal Tauchert that Delcalzo was not present for a scheduled responsive classroom professional development training and that another teacher had reported observing Delcalzo lying down on the couch in Respondent's classroom during the training. Tauchert looked into the matter and learned from the professional developer presenter that Delcalzo had signed into the training session, said his neck hurt and left the room saying he would be back, but that Delcalzo did not return to the training. The presenter also informed the principal that Delcalzo had also missed a full day of professional development in January 2019. Tauchert spoke with Delcalzo about both professional development days and the physical education teacher told her that on one of the days his neck hurt and on the other day he had a stomachache. The principal asked Delcalzo why he had not reached out to an administrator, that if he had come to her she would have told him to go home. Tauchert reported her findings to Brower. Brower responded by saying she would look into the District computer to see what Delcalzo's search histories were on the two days involved.

Brower thereafter had the District's network specialist grant the Superintendent access to Delcalzo's internet and email accounts on the District owned computer network. Brower reviewed Delcalzo's emails and internet usage on the dates of the development meetings, in her words; "to see if he was able to utilized his computer while

he was supposed to be so sick.” As a result of her search, Brower discovered that Delcalzo, a licensed chiropractor, had spent significant time on the days in question looking up facts relating to chiropractic issues, performing on-line banking and receiving and sending emails. While reviewing Delcalzo’s email activity, Brower noticed that Delcalzo was emailing Respondent a lot. By policy, District email accounts are supposed to be used for District purposes. Brower then performed a search in Delcalzo’s account for emails to and from Respondent and discovered that the two staff members had emailed one another consistently over a long period using District accounts to send and/or receive emails. In addition to the number of emails involved, Brower became concerned that the two teachers were using the email service for what she believed were inappropriate purposes, including communications about students and what she felt were inappropriate comments. As a consequence, Brower determined to conduct an investigation into Respondent’s email use.

Brower thereafter had the network specialist gain her access to Respondent’s District email account. Between March 27 and April 1, 2019 Brower personally reviewed Respondent’s email account including between 100 and 500 emails between the two teachers; some originating from or going to, one of the teacher’s District email accounts and others originating from or going to one of the two teacher’s personal Gmail accounts. As a result of her search, Brower became concerned that some of the emails sent to or from Gmail accounts addressed school-related and student-related matters that according to District policy and governing law should be kept exclusively on the District’s confidential server and that other of the emails contained content that Brower found to be inappropriate; offensive; demeaning or derogatory of staff, students, or parents;

unprofessional and at times abhorrent. Of the up to 500 emails she reviewed covering a period from the 2012-2013 school year to the 2017-2018 school year, Brower identified thirteen emails upon which the instant Tenure Charges are based.

The Emails

The emails⁷ identified by Brower included: (1) a blind copy of an email to Delcalzo of an email that forwarded a behavior chart of a student in Delcalzo's class; (2) a blind copy of an email to Delcalzo of an email to a parent concerning disruptive behavior of the parent's student/child and asking the parent to speak with the student; (3) an email to Delcalzo containing Respondent's response to a group email blind copied her by Delcalzo about a challenging student and –using vulgar and derogatory language about the student - recommended that if the student acted up Delcalzo should remove the student from his class;⁸ (4) in an email to Delcalzo referred to a group of mothers of students in a pejorative manner and to their conduct in a vulgar way; (5) an email from Respondent's District account in reply to a blind copy from Delcalzo at his personal email referring to the Principal in an offensive and vulgar manner; (6) a blind copied email to Delcalzo of an email to the parent/guardian of a student explaining Respondent's intended strategies for tutoring the student; (7) a blind copied email to Delcalzo of an email to the parent/guardian of a student offering Respondent's available times for tutoring the student; (8) an email to Delcalzo that disparaged Delcalzo's supervisor⁹ and

⁷ Due to privacy considerations and a desire to avoid the potential of further impact of the emails, these are very generalized descriptions of the emails. They however do contain my relevant findings as to the character of the emails.

⁸ Brower and District witnesses Tauchert and School Board President Shanna Jafri testified that they considered the content of this email to be "violent" in nature. I find that although the choice of words used by Respondent were forceful, they cannot be reasonably interpreted to communicate either an intent or a recommendation toward violence of any sort.

⁹ The supervisor is no longer employed by the District.

concluded; “I can’t wait til serve her head on a platter;” (9) an email to Delcalzo that disparaged another teacher and the teacher’s children/district students; (10) a blind copied email to Delcalzo of a group email about a classified student’s unpacking routine; (11) a reply to an email from Delcalzo about a grade question from a parent disparaging the parent and advising that he answer the email and move on, to which she added, “hate this place and kids and parents --- like my --- will never get additional help;” (12) a response to an email copied Respondent by Delcalzo about his potential training on a computer program by another staff member by mocking the staff member and disparaging the staff member’s ability to do the training; (13) an email to Delcalzo that two teachers whom she described with unflattering nick-names were being two-faced in their treatment of another staff member.

Post Investigation Events

Brower conducted her review of the emails and thereafter concluded that Respondent should be subject to discipline. Brower informed the president of the School Board of the general findings of the investigation and of Brower’s intention to suspend Respondent pending further consideration. On April 8, 2019 Respondent was asked to meet with the superintendent following a meeting of the staff. Respondent was told to bring her union representative. Respondent had no prior notice or knowledge of the subject of the unscheduled meeting. After the staff meeting, Respondent and her NJEA representative met with Brower and Tauchert. Brower handed Respondent a five-page “Evaluative Memorandum” written by Brower to:

...memorialize my serious concerns, profound disbelief, and deep disappointment with the content of emails you exchanged with another staff member during school hours on the District’s server. These emails are in no uncertain terms shockingly

inappropriate, vituperative, and completely antithetical to the respect and professionalism expected of teachers in our District. As a result of your conduct, I am placing you on a Professional Improvement Plan [PIP] for the remainder of the 2018-2019 school year and the first half of the 2019-2020 school year.

The Memorandum summarized seven of the subject emails (emails between Respondent and Delcalzo), then referenced Board Policy 3281, Inappropriate Staff Conduct, and advised that inappropriate conduct outside of a staff members professional responsibilities may be considered conduct unbecoming, and that Respondent's conduct was unacceptable. Next, the Memorandum notified that Respondents' conduct was inconsistent with certain of the State of New Jersey Professional Standards for Teachers as well as the District's Acceptable Use of Computer Networks/Computer and Resources, Policy 3321 and notified Respondent that as a part of her Performance Improvement Plan (PIP), she would be required to attend two professional development courses; one relating to creation of a safe and supportive environment and another on effective workplace interactions.

The Memorandum then reviewed four emails relating to students that Respondent blind copied to Delcalzo, and asserted that; (1) the emails violated the state's Teacher Standards, and (2) because Delcalzo had no "legitimate educational interest" in the involved students and Respondent had not received parental consent to forward the emails, the emails also violated FERPA. The Memorandum advised Respondent that if she had any question as to who may have a legitimate educational interest, she was encouraged to "seek guidance from your immediate supervisor before sending such emails."

The Memorandum concluded by informing Respondent:

In closing, please be advised that this evaluative memorandum will be included as a component of your 2018-2019 annual summary evaluation. Pursuant to Board Policy No. 3152, "Withholding an Increment" this is formal notice that the within evaluative memorandum is a reasonable effort to inform you that the concerns expressed herein may result in the withholding of your increments for the 2019-2020 school year pursuant to N.J.S.A.18A:29-14 and N.J.A.C. 6A:3-4.1.

Respondent signed an acknowledgement of receipt of the Memorandum and wrote: "I am not in agreement with the memorandum," and on the advice of her Union representative, did not orally respond to the memorandum.

At the April 8 meeting, Brower then handed Respondent a letter notifying the teacher of her immediate suspension with pay. The letter provides, in relevant part:

This is to advise you that, as a result of your unprofessional, inappropriate, contemptuous and vituperative email correspondence with another staff member on the District's server during school hours, you are being suspended with pay pending further action by the Englewood Cliffs Board of Education. More information regarding the administration's concern with your email correspondence is set forth in the Evaluative Memorandum provided to you on April 8, 2019.

Please be advised that this action is being taken with the approval of the Board President pursuant to the provisions of N.J.S.A.18A:25-6. During the period of your suspension, you are not to be present on the District's campus for any reason without prior written authorization from me. Your suspension shall be reported to the Board forthwith and the Board shall determine what further action is appropriate.

Brower testified that at the time she served the April 8, 2019 Evaluative Memorandum upon Respondent, Brower had no intention to work with Respondent on the PIP or give Respondent the opportunity to comply with the PIP. Brower wrote the Evaluative Memorandum and PIP "as part of progressive discipline" and gave

Respondent the suspension to give herself “more time to think about the process due to the seriousness pending further action.”

Respondent has not worked in the District since the April 8, 2019 meeting. In her July 23, 2018 to July 1, 2019 Annual Evaluation Respondent received a composite score of 3.42. Her Domain 4, components 4a, 4b, 4c, and 4d reflected ratings of “Effective.” However, in each of those four components Brower noted: “Although the score in this area is warranted for ‘effective’, it was noted that Ms. Chakmakian demonstrated profound lack of judgement and professionalism this year as noted in 4f.” In Component 4f Respondent received an “Ineffective” rating. In the “Notes and Evidence” section of the component, Brower wrote:

During this school year, certain emails developed that demonstrated profound lack of judgement and professionalism.

Due to lack of professionalism toward students, staff, and community, Ms. Chakmakian is being recommended for non-renewal/dismissal as indicated in the composite score report.

In the “recommendation” portion of the composite score report, the Evaluation states:

Recommended for Dismissal/Non-renewal. (This teacher has failed to make progress on a Corrective Action Plan, or the educator consistently performs below the established standards, or in a manner inconsistent with the school’s mission and goals.

By letter dated August 1, 2019, Brower notified Respondent that the Superintendent was recommending that the school board withhold Respondent’s employment and adjustment increments for the 2019-2020 school year. By letter dated August 7, 2019 Respondent was notified that the Superintendent had filed tenure charges against Respondent. By letter dated August 13, 2019 the District notified Respondent that

the school board had approved the withholding of Respondent's employment and adjustment increments for the 2019-2020 school year. By letter dated September 5, 2019 the District notified Respondent that the school board had certified tenure charges against Respondent on September 4, 2019.

Brower testified that even if she saw only one violation of FERPA by Respondent, she would have filed tenure charges against Respondent.

The Intentions of Respondent and Delcalzo

Both Respondent and Delcalzo were familiar with the District's acceptable use policy. However, both teachers had the impression that their emails to one another using their private email accounts were private notwithstanding that the sender or recipient may have used their District-issued computer. Respondent was told by the District's then superintendent Kravitz when she first received a computer that she was permitted to put her private email account on the computer. Prior to the March/April 2019 events relevant here, Respondent knew of no other teacher who had his or her emails reviewed by the District administration. Both Respondent and Delcalzo expected their emails to remain private and neither intended that anyone else would ever view the emails.

Prior Email Monitoring by the District's Superintendents

The record discloses prior monitoring of computer use by the District's superintendent limited to Brower's review of emails of two teaching staff members and one secretarial staff member. Each of the three staff members received a written memorandum with one also suffering a loss of pay for falsifying sick days. None of the

three faced tenure charges because, according to Brower, the staff members had not made outrageous comments about students.

The Dissemination of the Emails

In addition to Respondent; Delcalzo; counsel, the arbitrator and the court reporters involved in this Tenure matter, the emails at issue have been seen by Brower, Tauchert the nine members of the District's School Board and possible Supervisor of Curriculum Dawn Smith.

Admissions of Respondent

Respondent admitted to having knowledge that the Superintendent had authority to access the District's network to monitor compliance with District Policy, but that she was not aware of such occurring before. Respondent admitted that in some of the emails at issue she made inappropriate comments about colleague and staff in violation of the District's Policy; that she engaged in the use of inappropriate language and made malicious statements about staff members in violation of the District's Code of Ethics; and that her forwarding student records to Delcalzo at his private email address violated FERPA. Much of what she wrote were expressions of her frustration; she knows she was wrong, "100 percent wrong" in expressing herself as she did.

Respondent wrote Brower an apology dated May 2, 2019.

Delcalzo's Discipline History

Delcalzo was also disciplined for his email conduct, conduct that included the demeaning and mocking of staff, inappropriate use of the District's computer network, inappropriate language - conduct described by Brower as "outrageous" - and FERPA violations. Delcalzo received an April 3, 2019 Evaluative Memorandum from principal

Tauchert withholding the teachers' annual increment and placing Delcalzo on a PIP. The April 3, 2019 discipline was based upon: (1) Delcalzo's FERPA violations; (2) critical emails directed toward district personnel, (3) failure to attend mandatory professional development meetings, (4) his absence from almost 50 percent of "extended faculty meetings" and (5) raising his voice to a colleague in front of a student. Prior to his April 2019 discipline, Delcalzo had received two warnings; a February 4, 2016 Evaluative Memorandum concerning his shouting at a student, and a May 21, 2018 Warning relating to his cell phone use.

Arguments of the Parties

The parties submitted lengthy and detailed post hearing briefs presenting factual and legal arguments on the Tenure Charges; briefs that have been fully and carefully considered by the undersigned and will only be summarized herein.

Position of the School District

The District asserts that the evidence supports its tenure charges. The District has shown, and to a large degree Respondent admits, that Respondent sent the emails in question and that her emails violated Board policies. Respondent showed little or no remorse for her conduct at the time she was presented her evaluative memorandum on April 8 or thereafter. The District has shown that: (1) the five emails alleged to have violated federal and state privacy law and related Board policy were confidential pupil records; (2) that Delcalzo did not have a "legitimate educational interest" in the records such that he needed to review the records to fulfil his professional responsibility; (3) that Respondent emailed the records to Delcalzo's private email address thereby exposing the

student records to public dissemination and (4) Respondent disclosed confidential information without the appropriate parental written consent for disclosure.

Respondent was trained on the Board's privacy policies and FERPA and admitted at the hearing that she had an understanding of the law during the relevant period. Although Respondent asserted in regard to most of the FERPA related emails that Delcalzo had previously, or at the time of the emails had the child as his student, or that the two teachers were attempting to coordinate their schedules, such is insufficient to establish a legitimate educational interest within the meaning of the law, regulations and policy. If Respondent had honestly believed that it was necessary to share student information with Delcalzo, she should have sought guidance and permission from the administrator with the authority to grant permission for disclosure. Respondent did not do so.

The evidence establishes that in her emails to Delcalzo Respondent violated Board Policy 3281 related to Inappropriate Staff Conduct, Board Policy 3211 Code of Ethics and New Jersey Professional Teacher Standards by making malicious statements and using inappropriate language. Respondent's email language was antithetical to the collaborative, professional development, ethical and professional-relationship requirements of the Teacher Standards.

In certain of her emails Respondent made inappropriate comments about District pupils that undercuts the public's trust to protect the well-being of students. Some of Respondent's emails contained inappropriate statements about colleagues in violation of Board Policy 3211. All of the emails at issue were in violation of the Board's Acceptable Use of Computer Networks(s)/Computers and Resources Policy 3321 as Respondent used

District computers and the District's network to either send or receive the emails and the emails either violated disclosure law or –considering their content- were for shameful, inappropriate and obscene purposes.

Contrary to the argument of Respondent, she did not have an expectation of privacy in her email communications with Delcalzo. Both teachers were subject to the Board's Policy 3321 which provides, in pertinent part that:

The Board provides access to computer network(s)/computers for administrative and educational purposes only. The Board retains the right to restrict or terminate teaching staff members access to the computer network(s)/computers at any time, for any reason. The Board retains the right to have the Superintendent or designee, monitor network activity, in any form necessary, to maintain the integrity of the network(s) and insure its proper use...

The District's Policy clearly put Respondent on notice that the District Superintendent could monitor Respondent's network activity at any time. Thus, Respondent was clearly put on notice that her use of the District's network was not private. Respondent used the network either to send or receive her emails. As consequence, the District Superintendent had authority to review emails sent from, or received by, Respondents' District email account. Considering her emails were not otherwise confidential or privileged, Respondent did not have an expectation of privacy using her District email account.

Respondent did not exhibit contrition about her conduct. When first presented with the results of the district's investigation, Respondent chose to write that she did not agree with the Superintendent's evaluative memorandum and said nothing; made no apology. In fact, the only written apology made by Respondent was a narrow one, addressing only her harm to the Superintendent and making no apology to the other staff members, students or parents who were subjects of her emails. As further evidence of

Respondent's insincerity, her written apology was sent a full month after her suspension and only at a time when the employee realized her continued employment was in jeopardy.

Termination is appropriate here. It is well settled that a teacher's unfitness for employment may be demonstrated by a single incident, if such is sufficiently flagrant. Here, each of the several emails involved are sufficient to warrant termination. Prior cases have established that even when the teaching ability of an involved teacher is well regarded, where the teacher's statements engender a lack of faith on the part of parents, teachers or administrators results in the loss of trust and that trust cannot be rehabilitated, dismissal is warranted. Additionally, it is also well established that where a respondent initially denies wrongdoing – such a theft - a later admission and willingness to cooperate in a district's investigation does not mitigate an employee's misconduct.

As for the *Fulcomer* test for determining whether termination is appropriate when a staff member is determined to be guilty in a tenure charge matter, the facts here support the termination of Respondent. Respondent's acts – the language she wrote - were "premeditated, cruel and vicious." Respondent used a written medium and such establishes that there was always some degree of premeditation in her conduct of writing, and there is no evidence that she was ever compelled to say anything. Respondent would be able to find employment elsewhere. The District has not sought to revoke Respondent's teaching certificates. The District admits that Respondent has a generally good history of performance; has demonstrated that she is a capable teacher who has achieved positive results for her students and has no notable disciplinary history. But, the

District here asserts only that she can no longer be effective in this district considering the gravity of the damage she has done to the trust previously placed in her.

Finally, it is well settled in labor arbitration that there are circumstances where an employee's offense is so serious that progressive discipline is not required and the employee may be terminated based solely upon a single serious offense. Respondent's actions here fall within such a category. This is particularly so where, as here, Respondent is held to a very high standard of conduct; a standard that reflects the high level of public trust and confidence afforded public school teachers.

Respondent cannot be permitted to continue to teach in a district she has so often maligned, teach students she has denigrated and work alongside staff and administrators she has ruthlessly mocked and criticized. Respondent is beyond rehabilitation and should be dismissed. Dismissal is a reasonable and proportionate response by the District. The tenure charges should be sustained.

Position of Respondent

Respondent maintains that the District has failed to support its tenure charges. Applying the well-recognized test for determining the appropriateness of termination of a tenured teacher's employment for unbecoming conduct articulated in *In re Fulcomer*, 93 N.J. Super. 404 (App. Div. 1967), and cases citing *Fulcomer*, the arbitrator should consider a number of factors, including: the potential impact on Respondent's teaching career; the longevity of Respondent's teaching career; Respondents overall teaching record; Respondent's teaching ability; Respondent's attitude and whether the acts at issue were premeditated, cruel or done with an intent to punish; Respondent's disciplinary

record; the nature and gravity of the offenses under all of the circumstances; evidence of provocation, extenuation or aggravation; any harm or injuries Respondent's conduct may have had on maintenance of discipline and the proper administration of the school system; the likelihood of such behavior recurring and whether the discipline is generally fair and proportional to discipline imposed for similar offenses by other public employees. It is also well established that where an incident of conduct unbecoming is found to have occurred, in most cases progressive discipline should be used.

Applying the *Fulcomer* standards, there is no reasonable basis for the District to take any disciplinary action against Respondent aside from the Professional Improvement Plan issued to her on April 8, 2019. If Respondent is terminated, pursuant to N.J.A.C. 6A:9B-4.5 the District would be required to report such to the New Jersey State Board of Examiners for possible revocation of her teaching certificates. Such could potentially end her eighteen year, unblemished teaching career. Respondent has an outstanding teaching record with no prior discipline and has unquestioned ability. Her 13 emails were sent over a seven-year period and were intended to be private. The five emails identified by the District as FERPA violations all related to students about whom Respondent and Delcalzo had legitimate educational interests. As none of the emails have been disseminated beyond a very few – members of the Board and three administrators – Respondent's conduct did not harm nor have injurious effect on the maintenance of discipline and proper administration of the District.

Of the hundreds of emails over a seven-year period reviewed by Brower, the emails raised in the Tenure Charges are thirteen, all of which were between Respondent and her fiancé Delcalzo. Five of the emails identified by the district as FERPA violations

actually related to legitimate educational interests of the two teachers in the students involved. The remaining eight emails that contained certain unprofessional and obscene comments were private communications and do not justify the termination or a long-term suspension. Numerous Commissioner decisions and arbitration awards have found termination inappropriate in circumstances involving significantly worse conduct and disciplinary histories than involved here.

Respondent's performance as a teacher in the District has been exceptional. She received "highly effective" observations and evaluations for almost two decades, during which she performed as a 4th grade teacher, a Kindergarten teacher, a Basic Skills teacher and a Special Education teacher. She performed work with other teaching staff (including then-teacher Dr. Brower) on various areas of curriculum and individually developed the District's first Basic Skill curriculum, a curriculum still used by the District. Respondent went above and beyond in the 2017-2018 school year when she voluntarily added the regular education duties to her special education duties for her classroom following the resignation of her classroom's regular education teacher. As a consequence of her work and in the words of Brower, for being the ultimate team player, Respondent was awarded the Teacher of the Year Award.

Respondent is an outstanding teacher with 18 years of experience in the District with a heretofore unblemished record. She sent five emails to her fellow teacher and fiancé concerning the education of students. Both teachers had legitimate educational interests in the students involved. She sent eight other emails to her fiancé during a seven-year period - emails that she believed were private – using the District's server. Respondent's conduct does not warrant termination, particularly where, as here, Dr.

Delcalzo was accused by the District of FERPA related emails to Respondent and multiple violations of the District's Acceptable Use policy that included criticism of District staff that Brower characterized as "outrageous," but despite the fact that Delcalzo had been disciplined twice before, the District issued only an increment withholding to Delcalzo. The District has treated Respondent disparately.

The District has also failed to apply progressive discipline to Respondent and has inappropriately subjected her to double jeopardy. The District has made an effort to apply different levels and incidents of discipline for the very same acts by Respondent. Such is not progressive discipline and has resulted in Respondent being disciplined multiple times for the same conduct; having first received an Evaluative Memorandum, then a PIP, then a suspension and then a termination. There is nothing "corrective" about the District's disciplining Respondent a number of time for the same conduct.

Finally, contrary to the District's assertion, Respondent did have remorse for her conduct. She followed the advice of her Union representative on April 8, 2019 when she was subjected to an unexpected meeting with the Superintendent and did not say anything. She later wrote a letter of apology to the Superintendent who had personally read Respondent's emails and she truthfully expressed remorse during the hearing. Termination of the outstanding teacher that is Respondent is grossly disproportional to the conduct in which Respondent engaged. What would be fair is to give Respondent the opportunity to comply with the PIP provided her on April 8, 2019 and thereby allow the District to positively address its concerns while maintain the employment of a wonderful teacher.

Discussion

A. Summary

The parties present differing narratives about the nature and impact of the Superintendent's discovery of the emails involved herein on the District's important interests, and the degree, if any, to which they should be considered violations of law and District policy. The allegations of the Tenure Charges themselves presented by the District are sweeping and severe in nature; they allege conduct throughout many years that amounted to willful and intentional violations of Board policy and conduct that was abhorrent and deplorable that will have a continuing impact upon the District's important mission. In contrast, Respondent asserts that the content of the emails should not be subject to judgment by the District as they were intended to be private between Respondent and her fiancé and were few in number and written over the course of many years; that to the extent they addressed specific students, Respondent and Delcalzo had legitimate educational interests in the students; and because the emails have not been disseminated, they represent no harm. Neither party is entirely correct in its narrative. However, it is the District that bears the burden of supporting its Tenure Charges and here I find that it has established the truth of only some of its allegations.

Based upon careful consideration of the record as a whole, including all testimony and other admitted evidence and the arguments of the parties, as well as my observation of the demeanor of all witnesses, I find that Respondent engaged in conduct that warrants significant discipline, but does not warrant termination. I find that Respondent violated the District's Policies by: (1) using her private email to send information about students to her fiancé and doing so without parental permission; (2) using the District's email

account for private emailing, (3) using inappropriate and unprofessional language on emails sent from her District account and (4) making demeaning and at times vile statements in emails about her administrators, coworkers and students. I find that the District has failed to establish the truth of its assertions that Respondent willfully violated law and policy, did so on an ongoing basis, cannot be rehabilitated, or is a risk to students. I also conclude that the District has failed to establish that termination is an appropriate level of discipline.

B. Notwithstanding that Respondent was on Notice that her Computer Use Could be Reviewed, Respondent's Expectation of Privacy was not Unreasonable Under the Circumstances

Although I find that Brower's review of Respondent's emails was permitted by published District policy, I am not persuaded that Respondent had no basis upon which to expect that her emails to her fiancé would remain private. The District's Acceptable Use Policy Number 3321, establishing the right of the Superintendent to monitor network activity was adopted by the District in March 2004. The record establishes that although the right was so given to the District's Superintendent, monitoring has not been a consistent practice of the District and there is no evidence in the record that it was done during the approximately eleven years of the Policy's existence prior to Dr. Brower becoming superintendent in 2015. Additionally, the evidence of any monitoring of network activity since 2015 is limited to reviews by Brower involving two teaching staff and one non-teaching staff and the reviews of Respondent and Delcalzo.

A close examination of the language of the Policy itself establishes that rather than focusing upon staff email use, the Policy is primarily focused upon use of the

internet generally, including inappropriate internet searches, misappropriation of accounts, violations of law, etc. The policy is also confusing as it uses ambiguous language such as “inappropriate activities” and then offers a circular definition of the phrase as activities that violate the Policy. The Policy references email only within the context of forging electronic mail messages or using an account owned by others. The catch-all example of unauthorized use provides; “k. Engages in other activities that do not advance the educational purposes for which computer networks/computers are provided,” but does not clearly prohibit employees from using the District network for their personal email accounts.

Additionally, Respondent testified without contradiction that when she was first issued her computer, then-Superintendent Kravitz told her she could use the computer for her personal email account. Respondent also offered un-contradicted testimony, testimony I credit, that she was never told that she could not use her District-issued computer for personal emails. Other than directing staff to read the Board’s Policies, there is little evidence of any education of staff on the question of privacy of their personal email accounts on the District server.

Although the Policy does plainly provide that the Superintendent may monitor the network at any time, considering the language of the Policy itself focusing on non-email use of the network, the infrequency of prior monitoring of the network, the statements by the District’s former superintendent, the content of the emails themselves – content that on their face suggest that they were not intended to be seen by anyone besides the addressee - I find that Respondent intended her emails to be private and that her belief that her email communications to her fiancé were, and would remain, private was not

unreasonable. As a result of such considerations, to the extent that the Tenure Charges suggest that Respondent willfully, intentionally or carelessly violated District policy and that she should have known or assumed her emails would be susceptible to dissemination either within the District or to the public, I find such is not supported by the evidence.

C. In Context, the Emails Were Isolated

I find the emails at issue cannot fairly be described, as the Tenure Charges assert, as statements made “throughout” the school years involved. Respondent did not constantly send emails over a seven-year period expressing disgruntlement at her administrators, coworkers, students and parents. Instead, given the time span involved, the emails at issue were rare. They became known to the District’s Superintendent when the Superintendent was reviewing the internet use of another teacher. As such, Respondent’s emails were revealed only as the result of a chance discovery by the Superintendent of isolated artifacts of Respondent’s communications to a single, intimate colleague, the majority containing Respondent’s private feelings and opinions, some as old as seven years. They were few and far between and there is no dispute that if Respondent had such thoughts and kept them to herself, and/or orally communicated with Delcalzo the subject information about students in private, there would be no basis for the Tenure Charges.

D. The Nature of Violations Found

The content of Respondent’s expressions, some made long ago, caused hurt and concern and two or three of them could rightly be considered statements of betrayal to the Superintendent who spent many years working closely with Respondent. But,

notwithstanding these scattered, yet disturbing glimpses of Respondent's frustrations, expressed at times with vulgar and at times with vitriolic words, the evidence fails wholly to show that such feelings of Respondent were made manifest in any conduct by Respondent toward her students, her coworkers, her administrators or the parents of children in the District. In fact, the evidence establishes just the opposite. Respondent has a long history of high performance in her professional responsibilities and good relations with all.

I find the content of some of Respondent's emails did disparage and were in instances vile. As such, Respondent violated the District's Policies relating to professionalism and Code of Ethics. However, as a result of considerations described above, I find that there is insufficient evidence to establish that Respondent intentionally violated any policy or law or had any intent to do harm to anyone. Instead, I credit her testimony that she was frustrated and find that her motivation in sending many of the emails was to vent. In her doing so, her choice of words reflected poor judgment and at times a poor attitude. But, her venting did not result in any contemporaneous harm whatsoever to the District or its students.

On the witness stand, Respondent admitted that her five emails relating to students copied to Delcalzo amounted to violations of District privacy policies, and I find that considering the emails were either sent from or to private email accounts, Respondent did not comply with District policy requirements on confidentiality.

E. Is Discharge is not an Appropriate Level of Discipline Under the Circumstances.

Having found merit to a portion of the allegations contained in the tenure Charges, I make the following conclusions based upon the *Fulcomer* and Just Cause standards:

1. Applying the *Fulcomer* Test

I find that Respondent has a significantly long teaching career of eighteen years, that she has a very good overall teaching record, she has no prior record of discipline and the record well establishes that Respondent has very good teaching ability. The potential impact of termination on Respondent's teaching career would be substantial. Some of Respondent's language in her emails reflected a poor attitude, but the record is insufficient to establish any intent on her part to punish anyone. In such regard, as found above, the evidence fails to show that any poor attitude evidenced in her emails was reflected or otherwise made manifest in any conduct by Respondent toward her students, her coworkers, her administrators or the parents of children in the District. As for the nature and gravity of the Respondent's offenses under all of the circumstances, I find they are significantly mitigated by the fact herein found that Respondent intended the emails to be private and expected that they would remain so. The emails have been disseminated only to District Board members and administrators. Although both Superintendent Brower and Principal Tauchert have read the emails, both administrators exhibited a high degree of professionalism on the witness stand and both are aware of their own requirements to comply with Board policies governing their conduct to treat staff, including Respondent, appropriately in the future. I find there is no significant likelihood of harm or injury that Respondent's conduct may have on maintenance of

discipline and the proper administration of the school system. Finally, I am persuaded that, considering the very significant disciplined of Respondent ordered herein, it is unlikely that Respondent will repeat her problematic behavior.

Although the District asserted that her lack of contrition upon being served with the April 8, 2019 Evaluative Memorandum is evidence of Respondent's lack of remorse, I find such is not the case. During her eighteen years of employment with the District, Respondent had never been disciplined and she had no prior warning that she was going to be suddenly subject to an Evaluative Memorandum, a notice of withholding of increment, a PIP and a notice of suspension. It is beyond reasonable expectations to assume that anyone in such circumstances would take everything in, analyze the claims made - some of them relating to events many years old - and simply accept her punishment and offer remorse. She was subjected to an unanticipated and significant event in her life and career and it is reasonable under the circumstance that she would follow the advice of her representative at the meeting and say nothing. Respondent has since expressed her remorse.

Applying the *Fulcomer* considerations, I find that termination is unwarranted in this matter.

2. **Just Cause**

The TEACHNJ Act incorporates the just cause standard wherein it provides that a school district shall not dismiss or reduce the compensation of a tenured teachers except for "inefficiency, incapacity, or conduct unbecoming ...or other just cause," (emphasis added). An analysis of whether or not Respondent's discharge was for just cause under generally recognized standards requires consideration of all of the circumstances in

determining whether the issuance of discipline was “fair.” Some of the several factors often considered when applying the just cause standard include whether or not: (1) the rule or policy being enforced is reasonable; (2) there was prior notice to the employee of the rule and the consequences for its violation; (3) the disciplinary investigation was adequately and fairly conducted and the employee was afforded an appropriate level of due process under the circumstances; (4) the employer was justified in concluding that the employee engaged in the conduct as charged; (5) the rule has been consistently and fairly enforced and (6) whether or not the discipline issued was appropriate given the relative gravity of the offense, the employee’s disciplinary record and considerations of progressive discipline and due process.

In the instant matter, I find the District failed to show that the Policies it relies upon were consistently and fairly enforced and that the discipline of discharge was appropriate given the relative gravity of the offense, Respondent’s disciplinary record and considerations of progressive discipline and due process.

a. Consistent Application of the Rule

I am persuaded by the argument of Respondent that the District has applied a different standard of discipline to Respondent than it did to Delcalzo. Although it is true that some of Respondent’s emails were derogatory, vile and unprofessional, some of Delcalzo’s emails were – albeit in some instances to a lesser degree – derogatory, outrageous and unprofessional. But, importantly, Delcalzo’s April 2019 discipline was not only for his unprofessional email comments and personal use of the District’s network. Delcalzo was additionally disciplined for failing to attend professional development meetings, failing to attend extended staff meetings and inappropriate

conduct toward a fellow staff member in front of a student. Yet, notwithstanding that he had a record of two prior disciplines and was found to have violated many and various District policies, Delcalzo was subject to discipline limited to an increment withholding and PIP. Delcalzo was not subject to tenure charges seeking termination.

The primary reason offered by the superintendent at the hearing for her different discipline-related treatment of Respondent and Delcalzo was the allegedly violent character of Respondent's emails; a violent character I have found was not communicated by Respondent's emails. Additionally, the superintendent further testified that had she discover only a single violation of FERPA by Respondent, she would have recommended tenure charges; a position at odds with the District's lesser discipline of Delcalzo who was also disciplined for violating FERPA. Relying upon the above considerations, I find that the District applied a different standard to Respondent than it did to Delcalzo.

b. The Corrective Nature of Progressive Discipline

It is widely recognized that in all but the most egregious cases, discipline in the employment context is primarily intended to be corrective in nature; discipline is an effort by an employer to correct questionable conduct or poor performance by employees. Under the just cause standard, discipline is not a means to punish an employee or gain retribution for an employee's conduct. Only when efforts to correct have failed through reasonable efforts under the circumstances, is discipline justly used to terminate the employment relationship. Consistent with the principle of progressive discipline, the District's own Policy 3321 relating to appropriate use of computers provides a list of progressively more severe discipline for violations of the Policy; a list that includes seven steps of discipline before discharge for violation of the Policy.

Necessary to any effort to correct conduct is the understanding that once the employee has received corrective discipline, the employee actually be given the opportunity to correct his or her conduct. It is fundamentally contrary to any concept of justice in the workplace for an employee to receive further discipline for conduct before the employee has had a fair opportunity to reform his or her conduct.

I find that Respondent's conduct was not of such an egregious character as to warrant immediate termination of the long tenured teacher. In her eighteen years of employment with the District, Respondent was never previously disciplined, her conduct the subject of her tenure charges was sporadic and her communications were intended to be private.

Nor has Respondent been given the opportunity to correct her conduct relating to her emails. Instead, I find that the District's decision to terminate Respondent was primarily punitive in character. In this regard, the evidence establishes that on the same day, within a matter of 20 minutes, the District's Superintendent; (1) issued Respondent first an Evaluative Memorandum that concluded by informing Respondent that the District would be considering withholding her 2019-2020 increment, (2) then served Respondent with a contemporaneous PIP and (3) then served Respondent with a contemporaneous suspension. In regard to these multiple levels of discipline, the superintendent testified that; (1) she never intended that Respondent have the opportunity to complete her PIP, and that (2) in addition to notifying the teacher that she was suspended and that the superintendent intended to seek the withholding of the teacher's increment, she was also keeping-her-options-open for further discipline by notifying Respondent that the matter was being forwarded to the Board for possible further action.

I find the superintendent's witness stand explanation for her multi-discipline approach – that she did so because she wanted to “follow progressive discipline,” - confusing. There was nothing “progressive” about such a contemporaneous four-pronged discipline. I find the District's piling on of multiple levels of discipline on Respondent for the same conduct akin to “a death by a thousand cuts.”

Respondent was given no opportunity to correct her conduct and I find insufficient evidence to support the District's claim that Respondent will not reform her conduct in the future. Respondent's record of good performance and expressed interest in continuing her position and reforming her conduct establishes just the contrary. The District's discipline of Respondent was punitive in nature rather than corrective and I find in such regard that the District failed to satisfy the standard of just cause.

c. Due Process / Double Jeopardy

The statement contained in the April 8, 2019 letter of suspension given Respondent - that notice of the suspension would be forwarded to the School Board for potential further action - was inconsistent with the notice already given Respondent that the discipline for her conduct would be a withholding of her increment. Not only is the statement inconsistent with the principles and corrective goals of progressive discipline, by later exposing Respondent to further discipline in her annual summative evaluation for conduct for which she was already disciplined amounts to double jeopardy. Respondent here received five different disciplines for the same conduct; an Evaluative Memorandum, a PIP, a suspension, a withholding of increments and the instant effort to terminate. I find the District's multiplicitous discipline of Respondent amounted to double jeopardy and was contrary to basic concepts of due process.

d. Appropriate Discipline

Having found that termination of Respondent is disproportionate to the conduct found, I nevertheless find that Respondent's conduct was serious and warrants a comparative level of discipline, while giving her an opportunity to correct her conduct. Considering the entire record in this matter, I consequently will order that Respondent be promptly reinstated, that Respondent's increment be withheld for the 2019-2020 school year, that Respondent be given adequate time and support to successfully complete her PIP, and that Respondent serve a suspension of time served, said suspension to include any period when she was suspended without pay of no more than 120 days.

Conclusion

The Tenure Charges are sustained in part and dismissed in part.

Award - IMO Tenure Charges of Rene Chakmakian
Agency Docket Case No. 238-9/19

The subject tenure charges against Respondent are sustained in part and dismissed in part.

The District is ordered to:

1. Promptly offer Respondent reinstatement to her former position;
2. Reduce Respondents termination to a suspension from the date of her suspension to the date of this Award, said suspension to include the period of suspension already served without pay of no more than 120 days;
3. Withhold Respondent's increments for the 2019-2020 school year; and
4. Provide Respondent adequate support and time to successfully complete her Professional Improvement Plan.

Dated: February 19, 2020



Timothy J Brown, Esquire
Arbitrator

I, Timothy J Brown, affirm that I have executed this document as my Award in Agency Docket Case No. 238-9/19 relating to tenure charges against Rene Chakmakian on Friday, February 19, 2020.



Timothy J Brown