

**IN THE OFFICE OF THE SECRETARY OF EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

DR. KRISTIE L. SHULSKY,
Appellant,

v.

**SLIPPERY ROCK AREA
SCHOOL DISTRICT,**
Appellee.

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**Teacher Tenure Appeal
No. 01-25**

OPINION AND ORDER

Dr. Kristie L. Shulsky (“Dr. Shulsky” or “Appellant”) appeals to the Acting Secretary of Education (“Acting Secretary”) from the action of the Board of Directors (“Board”) of the Slippery Rock Area School District (“District” or “Appellee”), terminating her employment.

FINDINGS OF FACT

1. Dr. Shulsky has a Bachelor’s degree in Secondary Education with a Teaching Certificate in English 7-12 and Communications 7-12 from Slippery Rock University, a Master’s degree in Educational Leadership with a Principal PK-12 Certificate from Carlow University, and a Doctorate in Administrative Leadership with a Superintendent’s Letter of Eligibility from Indiana University of Pennsylvania. (Hearing Tr. 10/30/24, at p. 19).

2. Dr. Shulsky began working for the District in 2007 and was employed by the District as an administrator for a total of 17 years. (*Id.*, at p. 20).

3. Initially, Dr. Shulsky was hired as the High School Assistant Principal and was subsequently promoted to the position of High School Principal in 2009. *Id.*

4. On July 1, 2015, the District reassigned Dr. Shulsky to serve as Principal of Moraine Elementary. The reassignment was not considered a demotion or a form of disciplinary action by the District. (Hearing Tr. 10/30/24, at p. 21-24).

5. On September 11, 2017, Dr. Alfonso Angelucci (“Dr. Angelucci”), the District’s Superintendent, issued a Letter of Reprimand to Dr. Shulsky based upon an interaction she had with two parents. (District Exh. 4).¹

6. On November 1, 2017, Dr. Angelucci gave Dr. Shulsky a commendation as a follow-up to the September 11, 2017, Letter of Reprimand indicating that he was very happy with the improvement she made. (Appellant’s Brief at Appendix 1, ¶ 17; Shulsky Exh. 28).

7. On October 23, 2020, Dr. Angelucci issued a Letter of Reprimand to Dr. Shulsky and placed her on a Performance Improvement Plan (“PIP”). (District Exh. 5-6). The Letter of Reprimand was issued based upon errors in communication with the parent of a special needs student. (Appellant’s Brief at Appendix 1, ¶ 18; District Exh. 5-6).

8. Dr. Shulsky addressed all of Dr. Angelucci’s concerns raised in the PIP. As such, he placed a commendation in her evaluation at the end of the year. (Appellant’s Brief at Appendix 1, ¶ 20; Shulsky Exh. 9).

9. Dr. Angelucci informed Dr. Shulsky that she satisfactorily completed the PIP and indicated that he was going to remove the Letter of Reprimand and the PIP from her personnel file. (Appellant’s Brief at Appendix 1, ¶ 21). (Hearing Tr. 10/30/24, at p. 125).

10. On November 18, 2021, Dr. Angelucci used FaceTime for a video call with Dr. Shulsky to show her that he was shredding the Letter of Reprimand and the PIP. (Appellant’s Brief at Appendix 1, ¶ 22; Shulsky Exh. 40).

¹ Exh. refers to Exhibits entered into evidence at the hearings held by the Department of Education Hearing Officer on August 20, 2024, and August 27, 2024.

11. Prior to the termination of her employment, Dr. Shulsky was a tenured professional employee with a contract for employment with the District. (District Exh. 1).

12. The terms of Dr. Shulsky's employment are governed by the District's Act 93 Administrator Compensation Plan² ("Act 93 Agreement") that is effective by its terms from July 1, 2024, to June 30, 2029. (Appellant's Brief at Appendix 1, ¶ 23; Shulsky Exh. 1).

13. The Act 93 Agreement provides that Dr. Shulsky may only be terminated by the District for "good and just causes. . . ." (Shulsky Exh. 1).

14. The Act 93 Agreement further provides that, when facing disciplinary action or termination, Dr. Shulsky is entitled to a "fair hearing before the Board." (Appellant's Brief at Appendix 1, ¶ 24; Shulsky Exh.1).

15. On April 23, 2024, Dr. Shulsky celebrated her wedding anniversary at home with her husband by having dinner and two glasses of wine that evening. (Hearing Tr. 10/30/24, at p. 32, 36).

² Pursuant to Act 93 of 1984 ,

. . . (d) School employers shall be required to adopt written administrator compensation plans which shall apply to all eligible school administrators, as provided in this section, and which shall continue in effect until a time specified in the compensation plan, but in no event for less than one school year.

(e) An administrator compensation plan adopted pursuant to this section shall include, but not be limited to, the following items:

(1) A description of the program determining administrative salaries.

(2) Salary amounts or a salary schedule.

(3) A listing of fringe benefits. 24 P.S. §11-1164.

16. Dr. Shulsky struggled to get her son to sleep on April 23, 2024, went to bed later than normal that night, and took her prescription medication around 1:00 a.m. on April 24, 2024. (Hearing Tr. 10/30/24, at p. 35).

17. On the morning of April 24, 2024, Dr. Shulsky took her morning medication at 7:00a.m., the time she normally takes the medication. *Id.*

18. Dr. Shulsky drove herself to work the morning of April 24, 2024, and did not report having any trouble or feeling any differently than other days. (*Id.* at p.31, 36; District Exh. 29).

19. Dr. Shulsky arrived at Moraine Elementary at 7:52am on April 24, 2024. After parking she walked into the building without any issue. (Hearing Tr. 10/30/24, at 30, 31; District Exh. 29).

20. After morning duty, Dr. Shulsky interacted with all six of the proctors for the Third Grade Pennsylvania System of School Assessment (“PSSA”), including Kyle Hopkins (physical education teacher). (Hearing Tr. 10/30/24, at p. 45-46).

21. At some point during the morning of April 24, 2024, Tammy Neupauer, a paraprofessional at the District, called her husband, Nick Neupauer (President of Butler County Community College) (“Mr. Neupauer”), to relay rumors that Dr. Shulsky was intoxicated at work. Subsequently, Mr. Neupauer contacted the District Solicitor, Michael Hnath to report the rumor. (Hearing Tr. 9/12/24, at page 134-135).

22. Following the call, Mr. Hnath informed Dr. Angelucci that he received a report alleging that Dr. Shulsky might be intoxicated at work. (Hearing Tr. 10/10/24, at p. 10-11).

23. Dr. Angelucci and his administrative assistant, Denise Houpt, arrived at Moraine Elementary at 11:09 a.m. to investigate the report. (*Id.*, at p. 11-13; Shulsky Exh. 41).

24. Upon arrival, Dr. Angelucci spoke with Ms. Klingensmith and Ms. Offie, who both

reported that they did not notice anything out of the ordinary regarding Dr. Shulsky's behavior that morning. (Hearing Tr. 10/30/24, at p. 35; District Exh. 11; Shulsky Exh. 32).

25. On April 24, 2024, Dr. Angelucci spoke to Ms. Douglas and asked her if everyone in the office was feeling okay that morning. Ms. Douglas said "yes." Subsequently, Dr. Angelucci asked whether Dr. Shulsky acted any differently. Ms. Douglas said, "she was very happy this morning." Finally, Dr. Angelucci asked whether Ms. Douglas smelled alcohol on Dr. Shulsky. Ms. Douglas indicated that she did not. (Appellant's Brief at Appendix 1, ¶ 57; District Exh. 10).

26. Dr. Angelucci explained to Dr. Shulsky that he received a report that she might be intoxicated at work that morning. Dr. Shulsky denied the allegation and used profanity in her response. Dr. Angelucci responded that he understood she was upset, but he was going to have to send her home for the day while he investigated. (Hearing Tr. 10/10/24, at p. 15).

27. Dr. Shulsky then offered to take a field sobriety test and go to the emergency room immediately for a drug and alcohol test to prove she was not intoxicated but Dr. Angelucci told her that would not be necessary. (*Id.*, at p. 17).

28. Based on Dr. Angelucci's own observations of Dr. Shulsky, he did not believe she was intoxicated on the morning of April 24, 2024. (*Id.*, at p. 81).

29. Dr. Angelucci allowed Dr. Shulsky to drive herself home, which he stated he would never do if he had reason to believe she was intoxicated. (*Id.*, at p. 80).

30. Dr. Angelucci allowed Dr. Shulsky to return to work the next day on April 25, 2024, which he stated he would never do if he had any reason to believe she was intoxicated at work. *Id.*

31. Dr. Shulsky continued to work as scheduled until April 30, 2024. (*Id.*, at p. 58.)

32. On April 30, 2024, Dr. Angelucci met with Ms. Neupauer, who had resigned the day prior. (District Exh. 20).

33. During the meeting, Dr. Angelucci received additional information about the alleged events of April 24, 2024, prompting him to place Dr. Shulsky on paid administrative leave, which he confirmed by email on May 1, 2024. *Id.*

34. Via email dated May 1, 2024, Dr. Angelucci told Dr. Shulsky that she was “to have no contact (email, phone calls, text messages or in-person communication) with any staff members at Moraine Elementary while [she was] on administrative leave.” Dr. Angelucci further informed Dr. Shulsky that any emails sent to her school district email address would be forwarded to him and Assistant Superintendent, Dr. Susan Miller (“Dr. Miller”). *Id.*

35. Via email dated May 2, 2024, Dr. Shulsky asked Dr. Angelucci for clarification of her expectations while on administrative leave. Dr. Angelucci responded that “[w]hile on administrative leave [she was] not expected to perform any duties...” *Id.*

36. On May 9, 2024, Dr. Shulsky and her husband met with Dr. Angelucci, Dr. Miller, and Mr. Hnath. During the meeting, Dr. Shulsky disclosed that she took her prescription medications closer together in time on April 24, 2024, and the only reason anyone may have perceived her as acting differently that day might be due to potential side effects. (Hearing Tr. 10/30/24, at p. 63-64, 164-167).

37. Dr. Shulsky has been diagnosed with two different medical conditions which affect the major life activity of sleeping and takes two medications for those medical conditions. (Hearing Tr. 10/30/24, at p. 34, 36).

38. Dr. Shulsky also provided information about certain side effects and interactions, such as confusion and impairment in thinking and/or judgment, that can occur if her medications are taken too closely together in time. While the medical information for the medication stated Dr.

Shulsky should “avoid or limit” alcohol, it did not state that she should completely abstain from alcohol. (*Id.* at p. 65-66, Joint Stipulation of Facts, at ¶¶1-2).

39. During the meeting on May 9, 2024, the District discussed a small silver counter bell located in the Moraine Elementary Office. It was brought to Dr. Shulsky’s attention that Ms. Klingensmith reported to the District that Dr. Shulsky directed her to ring the bell whenever Dr. Angelucci or Dr. Miller entered the building. Dr. Shulsky denied that the bell was used for that purpose. (District Exh. 2a).

40. On June 12, 2024, Dr. Angelucci emailed Dr. Shulsky and asked her to submit her self-evaluation that was due on June 7, 2024. (District Exh. 21).

41. On June 13, 2024, a teacher applicant, Matthew Mossotto (“Mr. Mossotto”), emailed Dr. Shulsky about an open elementary teaching position. Dr. Shulsky responded to Mr. Mossotto on June 15, 2024. (District Exh. 23).

42. On June 15, 2024, Dr. Shulsky responded to Dr. Angelucci’s request for her self-evaluation stating, “ . . . I will be happy to take care of this: however, you told me not to do anything while I was on leave. I will send it to you on Monday.” (District Exh. 21).

43. On June 21, 2024, Dr. Shulsky, her husband, and her attorney, Steven Winslow, met for a Loudermill Hearing. During the meeting, the District brought up the counter bell again. Dr. Shulsky again denied the District’s alleged purpose of the bell and said it was used for anyone who entered the office. (District Exh. 2a).

44. A Slippery Rock Purchase Order from November 13, 2017 shows that Dr. Shulsky approved the purchase of the counter bell. (District Exh. 14).

45. On June 26, 2024, Mr. Mossotto emailed Dr. Shulsky again about the open teaching position and Dr. Shulsky responded to Mr. Mossotto the same day. (District Exh. 23).

46. On June 27, 2024, another teaching applicant, Nicole Martin (“Ms. Martin”), emailed Dr. Shulsky about the open elementary teaching position and Dr. Shulsky responded to Ms. Martin the same day. (District Exh. 22).

47. The District’s investigation into what transpired on April 24, 2024, continued until a second Loudermill Hearing on July 16, 2024. (Appellee’s Brief, at p. 2).

48. During the investigation, current staff members, as well as previous staff members, raised several allegations apart from the events of April 24, 2024. These allegations included Dr. Shulsky throwing a plastic container of sugar in the presence of Ms. Klingensmith, using profanity in the workplace, napping in a conference room, poor treatment of staff, reprimanding teachers in a humiliating fashion, and prohibiting the use of an electronic stapler. The allegations also included Dr. Shulsky intentionally withholding clothing, footwear, and other items donated to help less fortunate students and families. (District Exh. 2a).

49. Following the second Loudermill Hearing on July 16, 2024, Dr. Angelucci converted Dr. Shulsky’s paid administrative leave to an unpaid suspension effective at the close of business on July 19, 2024. (Hearing Tr. 10/10/24, at p. 115).

50. On July 29, 2024, the Slippery Rock Area School District School Board (“Board”) “approved the Superintendent’s recommendation to terminate the employment” of Dr. Shulsky by a unanimous vote of 8-0. (District Exh. 2b; Hearing Tr. 10/10/24, at p. 114-115).

51. On July 30, 2024, the District sent Dr. Shulsky a Notice of Hearing and Statement of Charges. (District Exh. 2a).

52. Based on the investigation between April 24, 2024, and July 16, 2024, the District charged Dr. Shulsky with: (1) Immorality for the allegations involving intoxication/impairment as well as lying about the counter bell; (2) Intemperance for the allegations involving throwing a

plastic container of sugar, using profanity in the workplace, napping in a conference room, poor treatment of staff, reprimanding teachers in a humiliating fashion, and prohibiting the use of an electronic stapler; (3) Cruelty for intentionally withholding clothing, footwear, and other items donated to help less fortunate students and families; and (4) Insubordination for responding to the two applicants who emailed Dr. Shulsky about the open teaching position. (District Exh. 2a).

53. On September 12, September 24, October 10, October 22, October 30, and November 18, 2024, the Board held hearings regarding the disciplinary charges issued against Dr. Shulsky. (District Exh. 3).

54. Following the testimony and evidence presented during the six days of hearings, the Board held a public meeting on January 13, 2025. By a unanimous vote of 9-0, the Board once again approved the termination and discharge of Dr. Shulsky from employment with the District. (Board Decision, at ¶22).

55. On January 23, 2025, Dr. Shulsky appealed her dismissal to the Pennsylvania Secretary of Education (Petition of Appeal).

56. On January 31, 2025, the Acting Secretary scheduled an administrative hearing regarding the termination of Dr. Shulsky's employment with the District and appointed Sean Fields, Esquire, as Hearing Officer. (Notice of Hearing Letter).

57. On February 7, 2025, the District filed its Answer to the Petition of Appeal. (Answer to Petition of Appeal).

58. Appellant's Brief with Appendix was received on February 10, 2025. (Appellant's Brief with Appendix 1).

59. Appellee's Brief was received on February 18, 2025. (Appellee's Brief).

60. On February 20, 2025, an administrative hearing was held regarding the termination of

Dr. Shulsky's employment with the District. (Notes of Testimony).³

61. Appellee's Post-Hearing Brief was received on March 31, 2025. (Appellee's Post-Hearing Brief).

62. Appellant's Post-Hearing Brief was received on April 4, 2025. (Appellant's Post-Hearing Brief).

DISCUSSION

Pursuant to 22 Pa. Code §351.5, this appeal comes before the Acting Secretary subsequent to the District's termination of Dr. Shulsky's employment. Dr. Shulsky was dismissed pursuant to Section 1122 of the Public School Code. 24 P.S. §11-1122. A tenured professional employee has a property interest in continued employment. *School District of Phila. v. Jones*, 139 A.3d 358, 366 (Pa. Cmwlth. 2016). Additionally, a professional employee may only be dismissed for the reasons set forth in Section 1122 of the Public School Code. *Foderaro v. Sch. Dist. of Phila.*, 531 A.2d 570, 571 (Pa. Cmwlth. 1987). "It Is thus apparent that the legislature intended to protect tenure except for the serious charges listed." *Lauer v. Millvale Area Sch. Dist.*, 657 A.2d 119, 121 (Pa. Cmwlth. 1995). The purpose of Section 1122 is to provide "the greatest protection possible against dismissal." *McFerren v. Farrell Area Sch. Dist.*, 993 A.2d 344, 353 (Pa. Cmwlth. 2010) (quoting *Lauer v. Millville Area Sch. Dist.*, 657 A.2d 119, 121 (Pa. Cmwlth. 1995)). "Section 1122 was not intended to provide a school district with an arsenal of weapons to use when it wishes to relieve itself of its contractual obligations to a professional employee." *Id.* In short, the grounds for dismissal listed in Section 1122 must be strictly construed in favor of the professional employee and against the school district. *McFerren*, 993 A.2d at 353 (Pa. Cmwlth. 2010).

³ Hereinafter, references to testimony from the February 20, 2025, hearing before the Department of Education Hearing Officer will be denoted as "N.T. ___."

Before any tenured professional employee is dismissed by the school board, the school board must resolve to dismiss the employee and to furnish the employee with a detailed written statement of the charges upon which his or her proposed dismissal is based and must conduct a hearing before the school board. 24 P.S. § 11-1127; *Vladimirsky v. Sch. Dist. of Phila.*, 144 A.3d 986, 994 (Pa. Cmwlth. 2016); *School Dist. of Phila. v. Jones*, 139 A.3d 358 (Pa. Cmwlth. 2016). “[W]here a school board undertakes to terminate a contract, dismiss or demote a professional employe, the procedure set forth in the School Code must be strictly followed, and failure on the part of the Board to comply therewith renders an attempted demotion abortive. When a district dismisses a professional employee without full compliance with the Public School Code, the employee is entitled to reinstatement.” *West Shore Sch. Dist. v. Bowman*, 409 A.2d 474, 480 (Pa. Cmwlth. 1979).

Section 1129 of the School Code further provides,

After fully hearing the charges or complaints and hearing all witnesses produced by the board and the person against whom the charges are pending, and after full, impartial and unbiased consideration thereof, the board of school directors shall by a two-thirds vote of all the members thereof, to be recorded by roll call, determine whether such charges or complaints have been sustained and whether the evidence substantiates such charges and complaints, and if so determined shall discharge such professional employee. If less than two-thirds of all of the members of the board vote in favor of discharge, the professional employee shall be retained and the complaint shall be dismissed.

24 P.S. § 11-1129.

Section 1131 of the School Code vests the Secretary with the authority to hear appeals brought by professional employees from actions of school boards. 24 P.S. § 11-1131. The Secretary has the authority to review the school board’s termination decision *de novo*. *Belasco v. Board of Public Educ. Of the Sch. Dist. of Pittsburgh*, 510 A.2d 337, 343 (Pa. 1986). The credibility of witnesses and the weight to be accorded their testimony is within the exclusive province of the Secretary. *Rhodes v. Laurel Highlands Sch. Dist.*, 544 A.2d 562 (Pa. Cmwlth.

1988). Additionally, the Secretary is not required to make specific findings as to the credibility of every witness where the decision itself reflects which witnesses were believed and upon whose testimony the Secretary relied. *Forest Area Sch. Dist. v. Shoup*, 621 A.2d 1121, 1124 (Pa. Cmwlth. 1993). Furthermore, the Secretary is the ultimate fact finder when, as here, the Secretary decides to make findings of fact. *Belasco v. Board of Public Educ. Of the Sch. Dist. of Pittsburgh*, 510 A.2d 337 (Pa. 1986). The Secretary makes findings of fact based on the preponderance of the evidence. *Fisler v. State System of Higher Educ.*, 78 A.3d 30, 47 (Pa. Cmwlth. 2013).

Dr. Shulsky was dismissed from her position based on the following: (1) Immorality for the allegations involving intoxication/impairment as well as lying about the counter bell; (2) Intemperance for the allegations involving throwing a plastic container of sugar, using profanity in the workplace, napping in a conference room, poor treatment of staff, reprimanding teachers in a humiliating fashion, and prohibiting the use of an electronic stapler; (3) Cruelty for intentionally withholding clothing, footwear, and other items donated to help less fortunate students and families; and (4) Insubordination for responding to the two job applicants who emailed Dr. Shulsky about a vacancy in a teaching position while she was on administrative leave. (District Exh. 2a).

I. The School Board’s Vote to Approve the Recommended Termination of Dr. Shulsky Before the Issuance of Written Charges Violated Section 1127 of the School Code.

On July 29, 2024, the School Board voted on a personnel action described in the Board’s meeting minutes as, “On a motion by Mr. Pilosi, second by Mrs. Pearce, the Board approved the Superintendent’s recommendation to terminate the employment of a professional employee identified in the executive session and to authorize the Board President and Board Secretary to sign the Notice of Hearing and Statement of Charges prepared by the Superintendent and Solicitor.” (District Ex. 2(b); Hearing /Tr. 10/10/24, at p. 114-15). Thereafter, hearings regarding

Appellant's termination occurred on multiple dates between September and November of 2024⁴.
(District Exh. 2a).

Appellant asserts that the School Board's July 29, 2024, vote to approve Dr. Shulsky's recommendation for termination violates the protections inherent in Section 1127 of the School Code.

Section 1127 of the School Code provides in relevant part,

Before any professional employe having attained a status of permanent tenure is dismissed by the board of school directors, such board of school directors shall furnish such professional employe with a detailed written statement of the charges upon which his or her proposed dismissal is based and shall conduct a hearing. A written notice signed by the president and attested by the secretary of the board of school directors shall be forwarded by registered mail to the professional employe setting forth the time and place when and where such professional employe will be given an opportunity to be heard either in person or by counsel, or both, before the board of school directors and setting forth a detailed statement of the charges . . .

24 P.S. §11-1127.

Due process requires that a professional employee be given a notice of charges, a detailed written statement of the charges upon which the dismissal is based, and an opportunity to be heard. 2 Pa. C.S. §501 *et seq.*; *McCoy v. Lincoln Intermediate Unit No. 12*, 391 A.2d 1119 (Pa. Cmwlth. 1978). The effective date of the dismissal cannot be earlier than the date of the school board's resolution. *Neshaminy Sch. Dist. v. Neshaminy Federation of Teachers*, 84 A.2d 391 (Pa. Cmwlth. 2014). Moreover, a retroactive order does not cure any defect in the school board's procedure. *Vladimirsky v. The School District of Philadelphia*, 144 A.3d 986, 1003 (Pa. Cmwlth. 2016). When a school district states that an Employee is to be terminated and ceases to pay that employee, the

⁴ The specific dates of hearings regarding Dr. Shulsky's termination occurred on September 12, September 24, October 10, October 22, October 30, and November 18, 2024.

employee is not suspended but dismissed. *School Dist. of Phila. v. Jones*, 139 A.3d 358, 359 (Pa. Cmwlth. 2016).

In the matter *sub judice*, the School Board's July 29, 2024, vote to approve the recommended termination of Dr. Shulsky preceded the issuance of a detailed written statement of charges or a hearing contrary to the requirements of Section 1127 of the School Code, 24 P.S. §11-1127. That section expressly precludes a vote to terminate employment before a professional employee receives a written statement of charges and has been afforded the opportunity to mount a defense against those charges. Based on the School Board's vote prior to the issuance of a statement of charges, I conclude that the District's action violated Section 1127 of the School Code. As a result, Appellant's dismissal from employment must be reversed. Additionally, assuming *arguendo* that Appellee's charges could survive this procedural error, I conclude there is insufficient evidence to support the dismissal of Dr. Shulsky under Section 1122 of the School Code as explained more fully below.

II. Immorality

A tenured professional employee may only be dismissed for the reasons set forth in Section 1122 of the Public School Code. *Foderaro v. Sch. Distr. Of Philadelphia*, 531 A.2d 570, 571 (Pa. Cmwlth. 1987).

Section 1122 provides in relevant part,

The only valid causes for termination of a contract heretofore or hereafter entered into with a professional employee shall be immorality; incompetency; unsatisfactory teaching performance based on two (2) consecutive ratings of the employee's teaching performance that are to include classroom observations, not less than four (4) months apart, in which the employee's teaching performance is rated as unsatisfactory; intemperance; cruelty; persistent negligence in the performance of duties; wilful neglect of duties

24 P.S. §11-1122.

Immorality is defined as, “a course of conduct that offends the morals of a community and is a bad example to the youth whose ideals a professional educator is supposed to foster and elevate.” *Horasko v. Sch. Dist. of Mount Pleasant Township*, 6 A.2d 866, 868 (Pa. 1939). The District bears the burden of proving that: (1) the conduct actually occurred; (2) such conduct offends the morals of the community; and (3) the conduct is a bad example to the youth whose ideals the educator is supposed to foster and elevate. *Palmer v. Wilson Area Sch. District*. TTA No. 5-94.

In this case, the School Board based its decision regarding the immorality charge, in part, on the testimony of the District Superintendent, to meet the District’s burden of proving that Appellant’s conduct offended the morals of the community and that the conduct is a bad example for community youth. (Hearing /Tr. 10/10/24, at p. 57-58). However, because the Superintendent is not a resident of the District and does not have schoolchildren who attend District schools, the Superintendent’s status as a community member for purposes of establishing a community standard is at best, suspect. Otherwise, any employee of the District could testify regarding a community standard based solely on their employment status. Additionally, the Superintendent who initiated the charges against Appellant and recommended termination of employment was the only witness that provided testimony regarding the community standard. Therefore, the District has presented a case where the evidentiary support for establishing that Dr. Shulsky’s conduct violated a community standard is the official that recommended the charges for dismissal. Based on the fact the Superintendent is not a resident of the community and has a direct interest in supporting the termination of Dr. Shulsky, I find that there is insufficient evidence to support the charge of immorality.

In addition to failing to establish the elements to sustain the charge of immorality, there is insufficient evidence in the record to establish that Dr. Shulsky's use of a prescription medication in a manner that may have deviated from the drug manufacturer's recommendation resulted in a level of impairment that would warrant dismissal from her position. The record shows that Dr. Shulsky volunteered to take a field sobriety test and drug and alcohol test at a local emergency room but was told by the Superintendent that such a test was not necessary. (Appellant's Brief at Appendix 1, ¶ 61; Appellee's Brief at page 1.) While Appellee has also included an allegation that Dr. Shulsky inappropriately discussed the intimate details of an encounter with her husband and then lied about the incident, Appellee's failure to establish that Appellant's conduct offended the morals of the community and sets a bad example for the youth is fatal to the immorality charge.

Finally, the District has focused part of its case on an allegation that Appellant lied about why a counter bell was purchased for placement outside Dr. Shulsky's office and employee access to a stapler was denied. Despite the bundle of allegations advanced by the District, the relevant legal issue is whether Appellee met the burden of proving that Appellant engaged in immorality subject to dismissal under the School Code. I conclude that the District failed to establish that Dr. Shulsky's conduct violated the community standards of Slippery Rock Area School District.

III. Intemperance

Appellee's support underlying the charge of intemperance includes an allegation that Appellant yelled at employees under her supervision and threw an object in the direction of an employee in a breakroom in anger. Although there is no statutory definition of the term, "intemperance", in Section 1122 of the School Code, the Commonwealth Court has opined that, "... intemperance is a loss of self-control that is extreme, violent, or severe." *McFerren*, 993 A.2d

at 361 (Pa. Cmwlth. 2010). Additionally, Pennsylvania case law does not support the dismissal of an employee for yelling. In fact, in *McFerren* the court noted, “Adults express emotion at meetings with other adults, and principals “yell” at students, especially those who are unruly or fail to report to a job assignment on time.” *Id.* at 361. While expressing anger in an unprofessional manner or taking an overly assertive stance as a supervisor may be ineffective and require the implementation of progressive discipline by the employer, I conclude the evidence of record does not support Appellee’s charge of intemperance as a basis for Appellant’s dismissal.

IV. Insubordination

Despite the School Board’s conclusion that Dr. Shulsky committed insubordination/failure to follow school rules and directives, the term, “insubordination” is absent from the plain language of Section 1122 of the School Code. It is not within the purview of this Acting Secretary to convert the “insubordination/failure to follow school rules and directives” charge into a Section 1122 offense where the express language of the statute does not support such a charge. Moreover, the evidence of record does not support the conclusion that Dr. Shulsky disregarded a clear directive. Dr. Angelucci told Dr. Shulsky that she was “to have no contact (email, phone calls, text messages or in-person communication) with any staff members at Moraine Elementary while [she was] on administrative leave.” (District Exh. 20). In response to an email from Dr. Shulsky, Dr. Angelucci also responded that “[w]hile on administrative leave [she was] not expected to perform any duties...” (District Exh. 20).

Dr. Angelucci’s instructions to Dr. Shulsky during her period of administrative leave were ambiguous and did not expressly prohibit Dr. Shulsky from communicating with job applicants or other non-employees. Rather, Dr Angelucci’s instructions directed Appellant to have no contact with staff members and stated she was not expected to perform any duties. Additionally, Dr.

Angelucci requested that Appellant complete her self-evaluation during Dr. Shulsky's administrative leave. (District Exh. 21). However, the directive did not specifically prohibit Dr. Shulsky from having interactions with others including job applicants or using her district email account for other purposes. Due to the ambiguity and lack of clear direction in the directive issued by Dr. Angelucci, I conclude that charges related to insubordination regarding Dr. Shulsky's communication with job applicants during the period of her administrative leave are not supported by the evidence.

V. Cruelty

The charge of cruelty in this case centers on allegations that Dr. Shulsky denied requests by faculty members for access to clothing donations intended for students in need. For purposes of Section 1122 of the School Code, "cruelty" – an approved cause for discharge of a professional employee – has been defined as "the intentional and malicious infliction of physical suffering upon living creatures, particularly human beings . . . the wanton, malicious, and unnecessary infliction of pain upon the body, or the feelings and emotions; abusive treatment;

. . ." *Caffas v. The Board of School Directors of the Upper Dauphin Area School District*, 353 A.2d 898, 900 (1976). Even if Appellee's allegations regarding Appellant's decisions about donated clothing are true, such conduct is far removed from the intentional and malicious infliction of physical suffering or other abusive treatment required to sustain a charge of cruelty under Section 1122. Moreover, if the allegations related to the clothing are true, while decisions regarding clothing donations may have been insensitive or ill advised, such conduct does not rise to the level of cruelty under Section 1122. As a result, Appellee fails to present sufficient evidence to support Appellant's dismissal for cruelty.

CONCLUSION

For the foregoing reasons, I conclude that the District failed to satisfy the legal standards to support the termination of Appellant under Section 1122.

Accordingly, the following Order is entered.


**IN THE OFFICE OF THE SECRETARY OF EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

DR. KRISTIE L. SHULSKY,	:	
Appellant,	:	
	:	
v.	:	Teacher Tenure Appeal
	:	No. 01-25
SLIPPERY ROCK AREA	:	
SCHOOL DISTRICT,	:	
Appellee.	:	

AND NOW, this 17th day of July, 2025, the Acting Secretary reverses the Slippery Rock Area School District's decision to dismiss Dr. Kristie L. Shulsky, a tenured professional employee, and reinstate Dr. Shulsky, in accordance with the foregoing opinion.

Date mailed: July 18, 2025

BY ORDER:



Carrie Rowe, Ed.D.
Acting Secretary of Education