

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

SONARITH CHEK	:	
Appellant	:	
	:	
v.	:	Teacher Tenure Appeal
	:	No. 02-19
	:	
SCHOOL DISTRICT OF PHILADELPHIA	:	
	:	
Appellee	:	

**OPINION AND ORDER**

Sonarith Chek (Mr. Chek) has appealed to the Secretary of Education (Secretary) the decision of the School District of Philadelphia (District) to terminate his employment as a professional employee.

**FINDINGS OF FACT**

1. Mr. Chek began employment with the District on or about September 1, 1994, as a professional employee. (N.T.<sup>1</sup> 15, 143)
2. On January 5, 2016, Mr. Chek received an unsatisfactory observation. (N.T. 151-158; J.H.<sup>2</sup> 1)
3. During his last year of employment, Mr. Chek was assigned to the Penn Treaty School (School) as a social studies teacher. (N.T. 20, 21, 51)
4. Mr. Chek attended professional development on the child protective services law offered to him by the District. (N.T. 59)
5. During his last year of employment, the principal often spoke to Mr. Chek

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<sup>1</sup> "N.T." refers to the Notes of Testimony recorded at the hearing held at the local level.

<sup>2</sup> "J.H." refers to the Joint Hearing Exhibits.

regarding classroom management and other concerns. (N.T. 49)

**The October 2, 2017 incident**

6. In Mr. Chek's classroom, the gymnasium roof was adjacent to the windowsill of his classroom window. (N.T. 29-30)

7. On October 2, 2017, a student in Mr. Chek's classroom climbed out of a window and on to the top of the gymnasium roof while Mr. Chek was teaching. (N.T. 23, 24; S.D.<sup>3</sup> 1, 2)

8. At the time, Mr. Chek was in the classroom taking roll and could not see the window. (N.T. 122-127)

9. The other students reported to Mr. Chek that the student in question was trying to climb out of the window. (N.T. 122-123)

10. Mr. Chek told the student to come back in the room and sit down. (N.T. 123)

11. The student came back in the room and sat down. (N.T. 123)

12. As part of the investigation, the principal obtained statements from two students that indicated that the student had climbed out of the window. (J.H. 1; S.D. 1, 2)

13. One of the statements was written by the student herself in which she indicated that she climbed out of the window to get her pencil that had fallen out of the window. (J.H. 1; S.D. 2)

14. The student acted on her own when she climbed out of the window. (S.D. 1, 2)

15. The principal checked the screws and the grate on the window and discovered that the screws had been loosened. (N.T. 24)

16. Mr. Chek was aware that the grate had been loosened and had verbally reported that the window needed repaired to the custodian. (N.T. 27-28, 127-128; S.D. 1)

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<sup>3</sup> "S.D." refers to the School District Exhibits.

17. The custodian told Mr. Chek to report that the grate had been loosened to the building engineer. (N.T. 128)

18. Mr. Chek did not report to the building engineer that the grate had been loosened. (N.T. 128)

19. On November 15, 2017, the District concluded that Mr. Chek failed to supervise the students in his class, which allowed a student to climb out of a classroom window and onto the gymnasium roof. (S.D. 1)

20. After the student climbed out of the window, the window was repaired so that students could no longer climb out. (N.T. 23-24, 29)

**The October 13, 2017 incident**

21. On October 13, 2018, a student was tossing a paper plane around a classroom in which Mr. Chek was teaching. (N.T. 93)

22. The student refused to sit down with his classmates. (N.T. 93)

23. Mr. Chek took the paper plane away, crunched it, and threw it in the trash. (N.T. 93)

24. The student punched Mr. Chek in the stomach. (N.T. 93)

25. The student sat at Mr. Chek's computer. (N.T. 33, 94)

26. Mr. Chek told the student to get away from the computer. (N.T. 33)

27. Mr. Chek pulled the student up by the book bag. (N.T. 9, 94; J.H. 1; S.D. 1, 3)

28. The student punched Mr. Chek and knocked down a fan. (N.T. 31, 33, 94)

29. Mr. Chek tried to grab the student's book bag as he held the door open. (N.T. 94-95; J.H. 1; S.D. 1, 3)

30. Apparently, not expecting the door to be open, the student ran out the door and

fell on the floor. (N.T. 31, 96; S.D. 4, 9)

31. The student reported that Mr. Chek pushed him out of the classroom and onto the floor. (J.H. 1; S.D. 1, 3)

32. Mr. Chek did not admit to pushing the student out of the door. (N.T. generally, S.D. 1, 3)

33. Mr. Chek admitted closing the door after the student ran out the door. (N.T. 95, 109)

34. Mr. Chek did not go out of the classroom to see if the student was injured and did not call security. (N.T. 8, 33-34, 109)

35. As part of the investigation, the involved Principal obtained twelve (12) witness statements. (J.H. 1; S.D. 3)

36. Ten (10) statements were from students. (J.H. 1; S.D. 3)

37. The students were separated when they were asked to give their statements. (N.T. 51-52)

38. One statement was from the speech language pathologist for the School, who indicated that the student hit the lockers on the other side of the hallway and slammed into the floor. ((N.T. 57 64-69; J.H. 1; S.D. 3)

39. One statement was from Mr. Chek. (N.T. 102, J.H. 1; S.D. 3)

40. The District concluded that Mr. Chek pushed a student out of the classroom and on to the floor. (N.T. 33; S.D. 1)

41. The speech language pathologist left to bring the nurse over to verify that the student was not injured. When he returned, the student had left the area. (N.T. 57, 58, 67-68)

42. Mr. Chek saw the student walking by his classroom approximately 15 minutes

later and assumed he was not injured. (N.T. 113-115)

43. The incident was reported to the Pennsylvania Department of Human Services. (N.T. 34; J.H. 1; S.C. <sup>4</sup>11)

44. On October 16, 2017, pending an investigation, Mr. Chek was reassigned to the Education Center. (N.T. 133-134; J.H. 1; S.C. 13)

45. Mr. Chek was not given any work to perform in the Education Center. (N.T. 135-136)

46. Mr. Chek was assigned to the Education Center for approximately eight months. (N.T. 135)

47. Mr. Chek was not afforded the opportunity to have a hearing prior to being assigned to the Education Center. (N.T., generally)

48. On October 18, 2017, the principal of Mr. Chek's school held an investigatory conference to discuss both incidents. (J.H. 1).

49. Before the investigatory conference, Mr. Chek was not given a document setting forth the allegations against him. (N.T., generally)

50. On November 15, 2017, the principal wrote an unsatisfactory incident report in which the principal recommended that Mr. Chek be terminated and that the unsatisfactory incident report and all related attachments be included in his personnel file. (N.T. 22, 35; J.H. 1; S.D. 1)

51. On November 20, 2017, the Department of Human Services concluded that the incident was unfounded. (N.T. 10, 57; S.C. 12)

52. On December 5, 2017, Mr. Chek met with the principal at a second disciplinary

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<sup>4</sup> "S.C." refers to the Sonarith Chek Exhibits.

conference. (J.H. 1)

53. Following this second conference, the principal did not amend his recommendation for disciplinary action. (J.H. 1) Instead, the principal forwarded his findings for a second level review. (J.H. 1)

54. On March 28, 2018, Mr. Chek attended a second level conference with the District. (J.H. 1)

55. At that time, Mr. Chek agreed that it was improper to physically touch a student in any way. (J.H. 1)

56. On June 21, 2018, the School Reform Commission (SRC) at a public meeting held that there existed evidence to support the recommendation of the Superintendent "to terminate the employment" of Mr. Chek. (J.H. 3)

57. The SRC did conduct a roll call vote. (J.H. 3)

58. Mr. Chek did not receive a statement of charges and a notice of right to a hearing at the time of this termination. (N.T. 9; J.H. 3)

59. The record does not reflect that the SRC held an executive session regarding Mr. Chek's employment prior to terminating Mr. Chek. (J.H. 3)

60. At some point in the proceedings, the SRC was dissolved pursuant to law and the governance returned to the School Board of Philadelphia (Board). (N.T., generally)

61. By notice dated August 3, 2018, the Board upheld the recommendation of the Principal to terminate Mr. Chek and to place the unsatisfactory incident report in his file. (J.H. 1)

62. By notice dated August 3, 2018, the Board provided Mr. Chek with a statement of charges and a notice of a right to a hearing. (J.H. 1) The notice also scheduled a hearing before the SRC on August 13, 2018. (J.H. 1)

63. The statement of charges did not indicate that the Board previously reviewed the charges in executive session. (J.H. 1)

64. The secretary of the Board did not attest that the Board had approved the statement of charges and the notice of hearing and that it was signed by the president of the Board in the secretary's presence. (J.H. 1)

65. The secretary of the Board did not attest that as secretary he/she was authorized to make the attestation. (J.H. 1)

66. The statement of charges did not indicate that a roll call vote had been taken regarding terminating Mr. Chek's employment. (J.H. 1)

67. The August 3, 2018, statement of charges and notice of a right to a hearing indicated that Mr. Chek was suspended without pay. (J.H. 1)

68. Mr. Chek had already been "terminated" on June 21, 2018, prior to receiving the statement of charges and the notice of right to a hearing. (J.H. 3)

69. On August 8, 2018, Mr. Chek elected a hearing before the School Board. (S.C. 2)

70. On August 19, 2018, Mr. Chek reported to work. (S.C. 5)

71. An administrator told Mr. Chek to go home because he was not going to be paid. (S.C. 5)

72. By notice dated August 21, 2018, Mr. Chek was suspended without pay effective August 20, 2018. (N.T. 15; J.H. 2)

73. On August 21, 2018, Mr. Chek was suspended on the grounds of persistent and willful violation of or failure to comply with the school laws of the Commonwealth, including official directives and established policy of the Board of Directors. (J.H. 2)

74. On September 7, 2018, the Department of Labor and Industry held that Mr. Chek

was eligible for unemployment compensation benefits in that his work related conduct did not rise to the level of willful misconduct. (N.T. 89-91, S.C. 8)

75. Mr. Chek's hearing was held before the Board's appointed hearing officer on October 30, 2018. (N.T., generally)

76. At the hearing, a District administrator and the speech language pathologist that was in the hallway when the student was ejected from Mr. Chek's classroom on October 13, 2017, appeared and testified for the District. (N.T., generally)

77. Mr. Chek appeared and testified on his own behalf. (N.T., generally)

78. On January 10, 2019, the Board's appointed hearing officer recommended that Mr. Chek be dismissed effective immediately upon adoption of a resolution to that effect for the reasons set forth in the Hearing Officer's Findings of Fact and Conclusions of Law submitted with the recommendation. (Hearing Officer's Recommendation)

79. On January 10, 2019, the hearing officer also issued a proposed adjudication of the Board of Education for adoption as a resolution of the Board of Education that Mr. Chek be dismissed. (Proposed Adjudication of the Board of Education)

80. On January 17, 2019, by resolution, the Board dismissed Mr. Chek from his employment. (The School District of Philadelphia Board of Education Public Meeting Agenda January 17, 2019, Action Item Number 5 Approval of Personnel Terminations)

81. The resolution indicated that there was an independent review of the record by individual members of the Board of Education. (The School District of Philadelphia Board of Education Public Meeting Agenda January 17, 2019, Action Item Number 2 Approval of Personnel Terminations)

82. The resolution does indicate that the vote was recorded by roll call and that two

thirds of the directors voted to dismiss Mr. Chek. (The School District of Philadelphia Board of Education Public Meeting Agenda January 17, 2019, Action Item Number 5 Approval of Personnel Terminations)

83. A video of the October 13, 2017, incident was properly admitted into the record. (S.D. 4)

84. A video of the June 21, 2018, School Reform Commission meeting was properly admitted into the record. (H.O.<sup>5</sup> 11)

85. A video of the January 17, 2019 School Board Meeting was properly admitted into the record. (H.O. 12)

### **LEGAL STANDARDS**

Mr. Chek was dismissed pursuant to Section 1122 of the Public School Code, which provides, in pertinent 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 employe's teaching performance that are to include classroom observations, not less than four (4) months apart, in which the employe's teaching performance is rated as unsatisfactory; intemperance; cruelty; persistent negligence in the performance of duties; willful neglect of duties; ...persistent and willful violation of or failure to comply with school laws of this Commonwealth, including official directives and established policy of the board of directors; on the part of the professional employe:

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). A tenured professional employee may only be dismissed for the reasons set forth in Section 1122 of the

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<sup>5</sup> "H.O." refers to Hearing Officer Exhibits

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.* “[T]o dismiss a professional employee protected by contract requires a serious reason, not ‘picayune and unwarranted criticisms.’” *Id.* (quoting *Lauer*, 657 A.2d at 123). 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 v. Farrell Area Sch. Dist.*, 993 A.2d 344, 353 (Pa. Cmwlth. 2010).

The Public School Code does not define “persistent and willful violation.” See 24 P.S. §§ 11-1101 and 11-1122. However, Pennsylvania courts interpret these terms based on their common and approved usage. *Kinniry v. Abington Sch. Dist.*, 673 A.2d 429 (Pa. Cmwlth. 1996). “Persistent” generally means “continuing” or “constant.” *Lucciola v. Secretary of Educ.*, 360 A.2d 310, 312 (Pa. Cmwlth. 1976). Persistency is shown where the improper conduct is repeated in a series of separate incidents over a substantial period of time. *Horton v. Jefferson County-Dubois Area Vocational Tech. Sch.*, 630 A.2d 481 (Pa. Cmwlth. 1993). The Court has concluded that there must be continuity and repetition of negligent acts to support a charge of persistent negligence. *Lauer v. Millville Area Sch. Dist.*, 657 A.2d 119, 121 (Pa. Cmwlth. 1995)

On the other hand, “[w]illfulness requires the presence of intention and at least some power of choice.” *Horton*, 630 A.2d at 483. While willfulness or intent can often be inferred from the nature of a particular violation, such intent is not to be presumed where facts do not so indicate. *Cowdery v. Bd. of Educ. of Sch. Dist. of Philadelphia*, 531 A.2d 1186 (Pa. Cmwlth. 1987). Thus, a persistent and willful violation of or failure to comply with school laws requires three elements: persistency, willfulness, and a violation of school law. *See Horton*, 630 A. 2d at 430-431.

Regarding the procedure to be followed for dismissing a professional employee, the Public School Code provides as follows:

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

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 employe. If less than two-thirds of all of the members of the board vote in favor of discharge, the professional employe shall be retained and the complaint shall be dismissed.

24 P.S. § 11-1129

Before any tenured professional employe is dismissed by the school board, the school board must resolve to dismiss the employe and to furnish him 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. We can find no provision in the School Code conferring upon the administrative staff of a school district whether it be the Superintendent or Principal, the authority to demote a professional employee.” *Board of School Directors v. Pittenger*, 305 A.2d 382, 386 (Pa. Cmwlth. 1973). 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). A professional employee is entitled to a hearing prior to any demotion in status or pay. 24 P.S. § 11-1151; *Burnett v. Sch. Dist. of Phila.*, 166 A.3d 521, 525, (Pa. Cmwlth. 2017). A demotion is a reassignment to a position which has less importance, dignity, authority, prestige or salary.” *Walsh v. Sto-Rox Sch. Dist.*, 532 A.2d 547, 548 (Pa. Cmwlth. 1987).

Section 1131 of the School Code, 24 P.S. § 11-1131, vests the Secretary with authority to hear appeals brought by professional employees from actions of school boards. 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, he 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).

## DISCUSSION

### **I. Mr. Chek did not receive due process of law.**

I find Mr. Chek credible in all respects regarding his description of the incidents that lead to his dismissal and the procedure used to terminate his employment. To the extent that Mr. Chek's testimony is contradicted by students' statements in documents that were not verified at the hearing by live testimony, I find the students' statements not credible. Because the students' statements are not credible, I conclude that the students' statements cannot support findings of fact as a matter of law. Additionally, I conclude that the speech language pathologist's testimony that Mr. Chek pushed the student out of the door and that the student hit the lockers on the other side of the hallway to be not credible. Rather, I find only that Mr. Chek opened the door unexpectedly and, as a result, the student slammed into the floor.

For the reasons I discuss below, I conclude that Mr. Chek was dismissed in violation of the strict procedure outlined in the Public School Code. Because he was not dismissed in accordance with strict compliance with the Public School Code, I conclude that Mr. Chek was denied due process of law and shall be reinstated.

Mr. Chek has argued that he was denied due process of law pursuant to the Sunshine Act. 65 Pa. C.S. § 708. He has also argued that he was subject to retaliation after he requested

a hearing before the Board. Because Mr. Chek was denied due process of law under the terms of the Public School Code and must be reinstated, it is not necessary to resolve the Sunshine Act and the retaliation issues or any other issues that Mr. Chek may have raised.

In the Commonwealth Court's recent Opinion of *Vladimirsky v. The School District of Philadelphia*, 144 A.3d 986, 1003-1004 (Pa, Cmwlth. 2016), the Court held that the following procedure was inappropriate for dismissal of a professional employee of the School District of Philadelphia and reinstated Mr. Vladimirsky to his employment. This defective procedure consisted of an alleged incident, reassignment, investigatory conference, unsatisfactory incident report recommending dismissal, conference summary recommending dismissal, second level conference recommending dismissal, and a letter from the District recommending dismissal, and a cessation of Mr. Vladimirsky's pay. *Id.* at 986, 990-991. The Court concluded that this procedure violated Mr. Vladimirsky's due process right and reinstated him to his employment. *Id.* at 1003-1004.

In the present matter, on June 21, 2018, the SRC resolved as follows:

RESOLVED, that there exists sufficient evidence to support the recommendation of the Superintendent and/or his designee to terminate the employment from the School District of Philadelphia, of the following professional employees:

1. S.C.
2. S.N.

And be it

FURTHER RESOLVED, that the Secretary and the School Reform Commission Chair are directed to advise these professional employees of this resolution and their right to a hearing.

(J.H. 3)

Mr. Chek did not receive a detailed written statement of the charges upon which his proposed dismissal was based until August 3, 2018. Mr. Chek's pay was ended on August 20,

2018, prior to his hearing. (N.T. J.H. 2)

The procedure used by the District in *Vladimirsky* is very similar to the District's procedure in this case. *Vladimirsky* at 1003-1004. The only difference is that the SRC, without any discussion, voted to terminate Mr. Chek prior to sending him an incomplete statement of charges and a notice of a right to a hearing. (J.H. 3)

Mr. Chek was dismissed when the SRC held that his employment was terminated. (N.T. J.H. 3) At that time, Mr. Chek did not receive a detailed written statement of the charges upon which his dismissal was based. When he received the statement of the charges on August 3, 2018, the statement of charges contained only hearsay allegations that a student climbed out of a classroom window and onto a roof, and that Mr. Chek pushed a student out of a classroom and onto a floor. (J.H. 1)

Due process requires that Mr. Chek be given a detailed written statement of the charges upon which his proposed dismissal is based as well as notice of the charges against him 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 dismissal cannot be earlier than the date of the school board's resolution. *Neshaminy Sch. Dist. v. Neshaminy Federation of Teachers*, 84 A.3d 391 (Pa. Cmwlth, 2014). Additionally, *Vladimirsky* specifically held that a retroactive order does not cure any defect in the school board's procedure. *Vladimirsky* at 986, 1003. Further, in *School Dist. of Phila. v. Jones*, 139 A.3d 358, 369 (Pa. Cmwlth. 2016), the Commonwealth Court held that when a District states that a professional employee is to be terminated and ceases to pay that employee, the employee is not suspended but dismissed.

**II. Mr. Chek did not persistently and willfully violate the school laws of the Commonwealth by violating the District's policy against physically aggressive behavior by teachers towards students.**

On appeal, the District argues that Mr. Chek was dismissed for persistent and willful violation of the school laws of the Commonwealth by violating the District's policy against physically aggressive behavior by teachers towards students. The District's argument is not supported by credible evidence. I conclude that Mr. Chek did not persistently and deliberately act in a physically aggressive manner towards students and did not violate the District's policy. I find that Mr. Chek did not persistently and willfully physically grab any students, did not deliberately and willfully push a student, and did not deliberately and willfully cause a student to fall on the floor. In short, I find that Mr. Chek never intended to be physically aggressive towards any student. Additionally, I conclude that Mr. Chek's alleged misconduct was not persistent. The first incident of alleged negligence occurred when a student climbed out of a classroom window that was not properly secured. Mr. Chek had inquired of the custodian to see if the window could be repaired.

I have accepted Mr. Chek's testimony to be credible. To the extent that Mr. Chek's testimony is contradicted by the testimony of the speech language pathologist, I have found the speech language pathologist's testimony not credible. To the extent that Mr. Chek's statements are contradicted by witness statements in documents where the witnesses did not appear and confirm those statements at the hearing, I have found those statements to be not credible.

I find insufficient support in the record for the allegation that Mr. Chek persistently and willfully violated and/or failed to comply with the school laws of the Commonwealth, including the official directives and established policy of the board of directors. I also conclude that Mr. Chek was not intemperate and was not cruel. By the preponderance of the evidence, I conclude

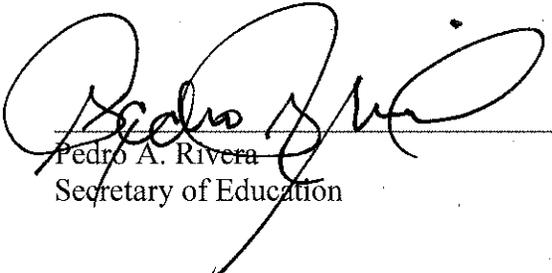
that the District has not met its burden of proof. I reverse the School District's decision to terminate Mr. Chek's employment as a tenured professional employee pursuant to Section 1122 of the Public School Code. I conclude that Mr. Chek is entitled to reinstatement. Accordingly, the following order is entered:

IN THE OFFICE OF THE SECRETARY OF EDUCATION  
COMMONWEALTH OF PENNSYLVANIA

SONARITH CHEK :  
Appellant :  
v. : Teacher Tenure Appeal  
: No. 02-19  
SCHOOL DISTRICT OF PHILADELPHIA :  
Appellee :

**ORDER**

AND NOW this 15<sup>th</sup> day of August, 2019, the Secretary reverses the School District of Philadelphia's decision to dismiss Sonarith Chek, a tenured professional employee. I reinstate Sonarith Chek to his employment, in accordance with the foregoing opinion.

  
Pedro A. Rivera  
Secretary of Education

Date Mailed: August 15, 2019