

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
WILLIAM PORPORA : ORDER OF REVOCATION
_____ : DOCKET NO: 564-05/00-238

At its meeting of May 11, 2000, the State Board of Examiners reviewed information the Office of Criminal History Review had forwarded indicating that William Porpora was convicted in 1995 on charges of indecent exposure. As a result of that conviction, Porpora was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Porpora did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, at that May meeting, the State Board of Examiners voted to issue Porpora an Order to Show Cause. Porpora currently holds a County Substitute certificate issued by the Monmouth County office of Education.

The Board of Examiners mailed Porpora the Order to Show Cause by regular and certified mail on June 23, 2000. The Order provided that an Answer to the Order must be filed within 20 days. Porpora responded to the Order to Show Cause on July 12, 2000. Although Porpora admitted in his Answer that he had been charged and pled guilty to indecent exposure, he denied that his certificate should be suspended or revoked. (Answer, ¶ 6.) He argued that N.J.S.A. 18A:6-7.1 did not include indecent exposure as a disqualifying offense until 1998, three years after his conviction. He stated that the statute referred only to conduct which occurred on or after the effective date of June 30, 1998. (Answer, ¶ 6).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on August 10, 2000, Porpora was sent a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute regarding his conviction, Porpora was offered an opportunity to

submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his disqualifying offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. On August 31, 2000, Porpora responded to the hearing notice.

In his response to the hearing notice, Porpora explained that while living in Virginia, he used to sunbathe nude at a particular park. (Hearing Response, p. 1.) He indicated that he had seen nude sunbathers at this park on several prior occasions and was told by a friend that sunbathing was a longtime practice there. (Hearing Response, p. 1.) Porpora claimed that while sunbathing in the park one day, an undercover police officer informed him that nude sunbathing was illegal there. (Porpora also claimed that he was lying on his stomach with only his buttocks exposed.) (Hearing Response, p. 2.) The officer issued Porpora a summons and Porpora paid the fine once he learned that the offense was a misdemeanor. He stated that he did not seek legal counsel at any time. (Hearing Response, p. 2.) Porpora claimed that he paid a \$100 fine to resolve the matter. He also stated that he had been working as a special education assistant in Bradley Beach when he learned he had been disqualified. (Hearing Response, pp. 2-3.) Finally, Porpora reiterated his legal argument that the disqualification statute, N.J.S.A. 18A:6-7.1, only referred to conduct which occurred on or after the effective date of June 30, 1998. (Hearing Response, p. 3.)

At its meeting of November 2, 2000, the State Board of Examiners reviewed the charges and papers Porpora filed in response to the Order to Show Cause. After review of the response,

the Board of Examiners determined that no material facts related to Porpora's offense were in dispute since he admitted that he had pled guilty to the charge of indecent exposure..

The issue before the State Board of Examiners in this matter, therefore, is whether Porpora's disqualification, which was predicated on the same offense as set forth in the Order to Show Cause, represents just cause to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

In enacting the Criminal History Review statute, N.J.S.A. 6-7.1 *et seq.* in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. Porpora's offense is included as a disqualifying offense under the statute's unambiguous terms since indecent exposure is "an offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes...." See N.J.S.A. 18A:6-7.1(a). Since the Legislature did not see fit to distinguish between degrees of crime when including indecent exposure in the statute, the Board of Examiners has no discretion to declare that Porpora's particular offense is not disqualifying. Moreover, Porpora is incorrect when he claims that only conduct after June 30 1998 is controlled by the statute's terms. Rather, the statute makes clear that any criminal history review conducted after that date, regardless of when the underlying disqualifying conduct occurred, shall determine whether an individual can teach in New Jersey's public schools. N.J.S.A. 18A:6-7.1(g). Therefore, the fact that Porpora's offense took place before the effective date of the statute is of no consequence; what is of importance is that his criminal history review took place after the statute was enacted. Accordingly, the State Board of Examiners finds that Porpora's disqualification from service in the public schools of this State because of his conviction for indecent exposure provides just cause to take action against his certificate.

The strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1 also offers guidance to the State Board of Examiners as to the appropriate sanction in this matter. An individual, whose offense compels that he or she is barred from service in public schools under the statute, should not be permitted to retain the license that authorizes such service. Nor should a person who has been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher. Because the Legislature considers Porpora's offense so significant, the State Board of Examiners in this matter concludes that the appropriate sanction for his disqualification is the revocation of his certificate to teach.

Accordingly, it is therefore ORDERED that William Porpora's County Substitute certificate be revoked on this 2nd day of November 2000. It is further ORDERED that Porpora return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: February 1, 2001

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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