

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
KENNETH PITTER, SR. : ORDER OF REVOCATION
_____ : DOCKET NO: 623-04/01-298

At its meeting of April 5, 2001, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Kenneth Pitter was convicted in 1987 on charges of taking indecent liberties with a child. As a result of that conviction, Pitter was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 et seq. On February 21, 2001, Pitter wrote to the Office of Criminal History Review regarding his disqualification. On February 27, 2001, the Director of the Office of Criminal History Review notified Pitter that he remained disqualified. Upon review of the above information, at that April meeting the State Board of Examiners voted to issue Pitter an Order to Show Cause. Pitter currently holds a School Business Administrator Certificate of Eligibility with Advanced Standing.

The Board sent Pitter the Order to Show Cause by regular and certified mail on July 16, 2001. The Order provided that Pitter must file an Answer to the Order within 20 days. On July 30, 2001, Pitter responded to the Order. In that response he stated that he received a three year suspended sentence and probation. (Answer, p. 2.) Pitter also included copies of his judgment of conviction and the court order awarding him custody of his children. Pitter also disputed a claim in the Order to Show Cause that alleged that he had never challenged the accuracy of his criminal history record.

On July 10, 2002, the Board of Examiners sent Pitter an Amended Order to Show Cause by regular and certified mail. Once again, Pitter had 20 days to file an Answer. On July 15,

2002, Pitter submitted his Answer to the Amended Order. In that Answer, Pitter claimed that he pled no contest to the charges and that his plea did not mean that he had committed the act. (Answer, p. 1.) He stated that he pled because he did not want to be tried and convicted for something he did not do. He also clarified that he did not receive three years of probation as the Order to Show Cause said, but rather, no supervised probation and a suspended sentence for three years. (Answer, p. 1.) Pitter added that the Board should not revoke or suspend his certificate because his “personality and character is above this crime” and he had received custody of his two children right after his no contest plea. (Answer, p. 1.) Pitter claimed that he was a model citizen. (Answer, p. 1.) Finally, Pitter claimed that his crime could not have been that serious if the court had ordered unsupervised probation. (Answer, p.2.)

Thereafter, on August 20, 2002, the Board sent Pitter a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute regarding Pitter’s offense and conviction, he 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. In a phone conversation with a Board of Examiners staff member, Pitter indicated that he had previously submitted everything regarding his case and would have no further response to the hearing notice. Since Pitter did not respond to the hearing notice, the State Board of Examiners considered his Answer as the only responsive pleading in the hearing process.

At its meeting of December 12, 2002, the State Board of Examiners reviewed the charges and papers Pitter 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 Pitter's offense were in dispute since he did not deny his guilty plea or conviction for the offense. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1.¹

The issue before the State Board of Examiners in this matter, therefore, is whether Pitter'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. Individuals convicted of a crime against children fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing belief that teachers serve as role models for children. "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." Tenure of Sammons, 1972 S.L.D. 302, 321.

In this case, Pitter has a conviction for a crime that involved taking indecent liberties with a child. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certificate. In re Grossman, 127 N.J. Super. 13, 30 (S. Ct. 1943), *aff'd*. 131 N.J.L. 326 (E&A 1944). Moreover, unfitness to hold a position in a

¹ On January 20, 2004, the State Board of Education adopted a new administrative code governing professional licensure and standards. N.J.A.C. 6A:9-1 et seq. Although this decision was mailed after the effective date of the new code, the Board of Examiners' decision in this case predates the effective date of the new code and was therefore decided under the old code. All citations in this decision therefore are to the prior administrative code.

school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), aff'd., 131 N.J.L. 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Pitter's disqualification from service in the public schools of this State because of his conviction for taking indecent liberties with a child provides just cause to take action against his certificate.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners as to the appropriate sanction in this matter. An individual whose offense is so great that he or she is barred from service in public schools should not be permitted to retain the certificate 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. Thus, because the Legislature considers Pitter's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of his School Business Administrator certificate of Eligibility with Advanced Standing. See In the Matter of the Revocation of the Teaching Certificate of Patricia Rector, Agency Dkt. No. 19-02 (St. Bd. of Education, August 7, 2002) (affirming the decision of the State Board of Examiners to revoke Rector's teaching certificate on the basis of the disqualification pursuant to N.J.S.A. 18A:6-7.1.)

Moreover, notwithstanding Pitter's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 aff'd App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing

In the Matter of the Revocation of the Teaching Certificate of James Noll, State Bd. of Examiners decision (February 7, 1990).

Accordingly, it is therefore ORDERED that Kenneth Pitter, Sr.'s School Business Administrator Certificate of Eligibility with Advanced Standing be revoked on this 12th day of December 2002. It is further ORDERED that Pitter return his certificate to the Secretary of the State Board of Examiners, Office of Licensure and Credentials, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: January 31, 2005

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