

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JOHN CAUCINO : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-115

At its meeting of October 28, 2004, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent John Caucino was convicted in 1999 of bank fraud. As a result of such conviction, Caucino was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Caucino currently holds a Teacher of General Business Studies certificate, issued in August 1993.

Upon review of the above information, the State Board of Examiners voted to issue Caucino an Order to Show Cause at its meeting of October 28, 2004. The Board sent Caucino the Order to Show Cause by regular and certified mail on January 6, 2005. The Order provided that Caucino must file an Answer within 30 days. Caucino filed an Answer on January 28, 2005.

In his Answer, Caucino asserted that he was challenging his disqualification before the Commissioner of Education. (Answer, ¶ 4). He also admitted that he had been convicted of bank fraud and disqualified because of that conviction. (Answer, ¶¶ 1-3). Caucino's challenge of his disqualification before the Commissioner of Education was denied.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, the Board sent Caucino a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, Caucino 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. Caucino filed a response to the hearing notice on October 18, 2005. In that response, he claimed that at the time he was initially employed, his conviction was not considered a disqualifying offense. He added that he was fingerprinted again

only because his employing district misplaced fingerprint cards for 70 employees. It was only then that he received notice of his disqualification because the statute had changed in the interim. He also added that his employer was fully aware of his conviction at the time he was hired.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Caucino's disqualifying offense constitutes conduct unbecoming a certificate holder. At its meeting of December 8, 2005, the State Board of Examiners reviewed the charges and papers Caucino 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 Caucino's offense were in dispute since Caucino never denied that he had committed the offense nor did he deny that it was now a disqualifying offense. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*.

The State Board of Examiners must now determine whether Caucino's disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, represents just cause to act against his certificate pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that it does.

In enacting the Criminal History Review statute, *N.J.S.A. 18A: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 of theft fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing condemnation of criminal acts by teaching-staff members. "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. Thus, the circumstances under which Caucino was disqualified are irrelevant to the Examiners' consideration of his conduct.

In this case, Caucino has a conviction for a crime that involved dishonesty. 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 (Sup. Ct. 1943), *aff'd*, 131 N.J.L. 326 (E&A 1944). Unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 N.J.L. 369, 371 (Sup. Ct. 1943), *aff'd*, 131 N.J.L. 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Caucino's disqualification from service in the public schools of this State because of his conviction for bank fraud 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:6-7.1(b) 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 Caucino's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of his Teacher of General Business Studies certificate.

Accordingly, it is therefore ORDERED that John Caucino's Teacher of General Business Studies certificate be revoked on this 8th day of December 2005. It is further ORDERED that Caucino return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: DECEMBER 20, 2005

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