

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
SAMUEL GITKIN : ORDER OF REVOCATION
_____ : DOCKET NO: 0304-257

At its meeting of May 6, 2004, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Samuel Gitkin was convicted in 2001 for a theft offense. As a result of that conviction, Gitkin was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Gitkin did not challenge the accuracy of his criminal history record before the Commissioner of Education. Gitkin currently holds a Secondary School Teacher of Social Studies certificate, issued in May 1970 and a Teacher of Elementary School certificate, issued in November 1973. Upon review of the above information, the State Board of Examiners voted to issue Gitkin an Order to Show Cause at its meeting of May 6, 2004.

The Board sent Gitkin the Order to Show Cause by regular and certified mail on July 1, 2004. The Order provided that Gitkin must file an Answer within 30 days. Gitkin filed a response on August 17, 2004.

In his Answer, Gitkin asserted that his offense was a business related matter “regarding medical supplies that were not covered under federal Medicare reimbursement guidelines.” He added that it was a non-violent offense. (Answer, ¶ 4.) Gitkin added that he was a great teacher and that if he were allowed to continue, students would benefit from his knowledge. (Answer, ¶ 5.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on October 20, 2004, the Board sent Gitkin a hearing notice by regular and certified mail. The regular mail was not returned and Gitkin signed and returned the certified mail receipt. The notice explained that since it appeared no material facts were in dispute, Gitkin 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 certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Gitkin did not file a response to the hearing notice.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Gitkin's disqualifying offense constitutes conduct unbecoming a certificate holder. Since Gitkin failed to 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 February 24, 2005, the State Board of Examiners reviewed the charges and papers Gitkin 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 his offense were in dispute since he never denied that he had committed the offense nor did he deny the resulting disqualification. 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 Gitkin'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 certificates 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. Although Gitkin would argue otherwise, individuals convicted of certain economic crimes fall squarely within this category. *N.J.S.A. 18A:6-7.1c(2)*. This strong legislative policy statement is in accord with the Commissioner's long-held belief that teachers serve as role models for their students. Moreover, 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 Gitkin's disqualification from service in the public schools of this State because of his conviction for a theft offense provides just cause to take action against his certificates.

That 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 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 Gitkin's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of his teaching certificates.

Accordingly, it is therefore ORDERED that Samuel Gitkin's Secondary School Teacher of Social Studies and Teacher of Elementary School certificates be revoked on this 24th day of February 2005. It is further ORDERED that Gitkin return his certificates 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.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: MARCH 22, 2005

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