

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JOHN GARDNER : ORDER OF REVOCATION
_____ : DOCKET NO: 0304-272

At its meeting of June 10, 2004, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent John Gardner was convicted of a crime that was disqualifying in nature. As a result of such conviction, Gardner was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Gardner currently holds a Teacher of Biological Science Certificate of Eligibility, issued in April 2002.

Gardner did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, at its June 10, 2004, meeting, the State Board of Examiners voted to issue Gardner an Order to Show Cause.

The Board sent Gardner the Order to Show Cause by regular and certified mail on July 20, 2004. The regular mail copy was not returned and the certified copy was returned to the Board as not deliverable as addressed. The Order provided that Gardner must file an Answer within 30 days. Gardner did not respond to the Order. On September 28, 2004, the Board sent Gardner a second notice by regular and certified mail. The regular mail was not returned and the certified copy was returned to the Board as unclaimed. Once again, Gardner did not file a response to the Order to Show Cause.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Gardner's disqualifying offense constitutes conduct unbecoming a certificate holder. Since Gardner failed to respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process.

At its meeting of February 24, 2005, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since there was no response, the Board of Examiners determined that no material facts related to Gardner's offense were in dispute since he had never denied that he had committed the offense nor did he deny the resulting disqualification. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether Gardner'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. "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, Gardner was convicted of a disqualifying offense. 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). Accordingly, the State Board of Examiners finds that Gardner's disqualification from service in the public schools of this State 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 Gardner's offense so significant as to warrant disqualification, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of Gardner's teaching certificate.

Accordingly, it is therefore ORDERED that John Gardner's Teacher of Biological Science Certificate of Eligibility be revoked on this 24th day of February 2005. It is further ORDERED that Gardner 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.

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.