

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ROBERT MARK : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-162

At its meeting of December 9, 2004, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on October 29, 1999, Robert Mark was convicted of sexual assault and endangering the welfare of a child. On March 13, 2000, Mark was sentenced to six years' incarceration, fined and ordered to comply with the provisions of Megan's Law. Mark currently holds a Teacher of Printing certificate, issued in November 1972 and a Teacher of Commercial Art certificate, issued in July 1992. Upon review of the above information, at its December 9, 2004, meeting, the State Board of Examiners voted to issue Mark an Order to Show Cause.

The Board sent Mark the Order to Show Cause by regular and certified mail on April 28, 2005. The Order provided that Mark's Answer was due within 30 days. Mark filed his response on May 2, 2005. In that Answer, Mark admitted to his conviction and sentence. (Answer, ¶¶ 2-4). He also stated that his offense was a one time incident that did not involve students and did not occur on school grounds. (Answer, ¶ 5). Mark also stated that the above excuses did not give reason to condone his behavior. (Answer, ¶ 5). He further asked to pursue teaching in a correctional venue. (Answer, ¶ 5).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on June 1, 2005, the Board of Examiners sent Mark a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, Mark 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 Mark's offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. The regular mail copy was not returned and the certified mail copy was signed and returned. Mark did not respond to the hearing notice.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Mark's conviction of sexual assault and endangering the welfare of a child constitutes conduct unbecoming a certificate holder. At its meeting of September 22, 2005, the State Board of Examiners reviewed the charges and papers Mark filed in response to the Order to Show Cause. After review of Mark's submissions, the Board of Examiners determined that no material facts related to Mark's offense were in dispute since he admitted that he was convicted of the offenses charged and had been sentenced accordingly. 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 Mark's offenses as set forth in the Order to Show Cause, provide just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9-17.5*. "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. Mark's acts of sexual assault and endangering the welfare of a child are inexcusable for any individual, teacher or not. While Mark argued that he

was an exceptional teacher in the classroom, he has not demonstrated like behavior outside that arena.

Mark argues that he should retain his certificates since the incident occurred off school grounds. It is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. *See Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); *State Board of Examiners v. Krupp*, 3 N.J.A.R. 285 (1981).

Moreover, the Commissioner has long held that teachers serve as role models for their students. Therefore, a teacher's whole life is subject to scrutiny, not just his actions within the schoolhouse doors:

[R]espondent's argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. Individuals who must comport themselves as models for young minds to emulate choose the teaching profession. This heavy responsibility does not begin at 8:00 a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. *See In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County*, 1965 S.L.D. 159, *aff'd*, State Board of Education 1970 S.L.D. 448; *In the Matter of the Tenure Hearing of John H. Stokes, School District of the City of Rahway, Union County*, 1971 S.L.D. 623.

[*In the Matter of the Tenure Hearing of Robert H. Beam*, 1973 S.L.D. 157, 163.] Mark therefore cannot exclude his/her "out-of-school" behavior from this tribunal's examination.

Furthermore, 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). In this instance, Mark's heinous acts negate any

claim he can have to be a role model for children. Consequently, the only proper response to Mark's breach is the revocation of his certificates.

Accordingly, it is therefore ORDERED that Robert Mark's Teacher of Printing and Teacher of Commercial Art certificates be revoked on this 22nd day of September, 2005. It is further ORDERED that Mark return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, PO 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: NOVEMBER 15, 2005

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