

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
DOMINIC DIGIOACCHINO : ORDER OF REVOCATION
_____ : DOCKET NO: 0506-225

At its meeting of March 30, 2006, the State Board of Examiners reviewed information received from the Union County Prosecutor indicating that on August 28, 2003, Dominic DiGiacchino had pled guilty to endangering the welfare of a child and endangering the welfare of a child by photographing sexual activity. On February 26, 2004, DiGiacchino was sentenced to 120 days in the Union County Jail and three years' probation. DiGiacchino was also ordered to comply with the address registration and verification requirements of Megan's Law, to forfeit his computer hard drive and banned him from using the internet. The court also banned him from any and all public employment, teaching, coaching or volunteering in schools or involving children in any way. DiGiacchino currently holds a Teacher of Health and Physical Education Certificate of Eligibility, issued in November 1999 and a Teacher of Health and Physical Education certificate, issued in June 2001. Upon review of the above information, at its March 30, 2006 meeting, the State Board of Examiners voted to issue DiGiacchino an Order to Show Cause. On May 4, 2006, it formally adopted the written Order to Show Cause.

The Board sent DiGiacchino the Order to Show Cause by regular and certified mail on May 10, 2006. The Order provided that DiGiacchino's Answer was due within 30 days. The certified mail receipt was signed and returned. The regular mail copy was not returned. DiGiacchino did not file a response. Thereafter, on June 23, 2006, the Board sent DiGiacchino a second notice by regular and certified mail providing him an

additional 15 days in which to file an Answer. Again, the regular mail copy was not returned. The certified mail copy was not returned, but the Office of Licensure and Credentials does not have a signed receipt for it. The notice explained that if he did not file a response, the allegations in the Order to Show Cause would be deemed admitted and the Board of Examiners would decide the matter based on the evidence before it. Once again, DiGiacchino did not file an Answer.

At its meeting of September 21, 2006, 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 DiGiacchino's offense were in dispute since he had never denied that he had pled guilty to the offense and had been sentenced accordingly. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The issue before the State Board of Examiners in this matter, therefore, is whether DiGiacchino's offense, as 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.

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. DiGiacchino's acts of endangering the welfare of a child, are inexcusable for any individual, teacher or not.

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, DiGiacchino's conduct is egregious as it was harmful to children.

Accordingly, on September 21, 2006, the Board voted to revoke DiGiacchino's Teacher of Health and Physical Education Certificate of Eligibility and Teacher of Health and Physical Education certificate. On this 2nd day of November, 2006 the Board voted to adopt its formal written decision and it is therefore ORDERED that Dominic DiGiacchino's Teacher of Health and Physical Education Certificate of Eligibility and Teacher of Health and Physical Education certificate be revoked effective this day. It is further ORDERED that DiGiacchino 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 8, 2006

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