

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
LAYSHELL LAYTON : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 0405-111

At its meeting of October 28, 2004, the State Board of Examiners reviewed information received from the Office of Criminal History Review (OCHR) indicating that respondent Layshell Layton was convicted of Terroristic Threats in October 2003. The OCHR notified that as a result of the conviction, Layton was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Layton currently holds Teacher of General Business Studies and Teacher of Elementary School Certificates of Eligibility, both issued in June 2001, and a Teacher of Elementary School certificate, issued in September 2003. Upon review of the above information, the State Board of Examiners voted to issue Layton an Order to Show Cause at its meeting of October 28, 2004.

The Board sent Layton the Order to Show Cause by regular and certified mail on January 6, 2005. The Order provided that Layton must file an Answer within 30 days. Layton filed an Answer on February 24, 2005.

In his Answer, Layton stated that he was not convicted of Terroristic Threats and that the Order to Show Cause was in error. (Answer, ¶ 3.) He also claimed that he faced five charges arising out of a domestic dispute and that the original charge of Terroristic Threats was amended to a charge of criminal mischief and all other charges were dismissed. (Answer, ¶¶ 4, 6.) Layton attached a copy of the plea agreement with his Answer. Layton asserted that his offense and conviction did not involve his job and therefore his certificates should not be revoked. (Answer, ¶ 8.) Due to the discrepancy in the information, the Board tabled the matter and sought clarification from the OCHR.

The OCHR informed the Board that Layton was convicted of Criminal Attempt and that he remained disqualified based on that conviction. At its meeting of September 22, 2005, the Board voted to amend the Order to Show Cause to reflect the proper information. The amended Order to Show Cause was sent to Layton by regular and certified mail on November 9, 2005. The certified mail copy was returned unsigned and the regular mail copy was not returned. Layton did not respond to the Order and a Second Notice was sent to him on January 25, 2006. Again, the certified mail copy was returned unsigned but the regular mail copy was not returned. Layton did not respond to the Second Notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on March 12, 2008, the Board sent Layton a hearing notice by regular and certified mail. Neither copy was returned. The notice explained that it appeared that no material facts were in dispute and Layton 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 the conduct underlying his offense and resulting disqualification warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Layton was also provided the opportunity to appear before the Board to testify on the sanction issue. Layton did not file a response.

At its meeting of October 16, 2008, the Board voted to amend the Order to Show Cause again to reflect Layton's conviction for Criminal Mischief rather than Criminal Attempt, also a disqualifying offense. Once again Layton was sent the Amended Order to Show Cause by certified and regular mail. He did not respond although neither copy was returned. When the Board sent him a Second Notice on January 6, 2009, Layton signed and returned the certified

mail receipt but did not respond to the notice. He also signed and returned the certified mail receipt for the Hearing Notice that was sent to him on March 9, 2009, but he did not respond to that notice either.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Layton's conviction and subsequent disqualification constitutes conduct unbecoming a certificate holder. Since Layton failed to respond to the hearing notice, the State Board of Examiners considered his Answer to the original Order to Show Cause as the only responsive pleading in the hearing process.

At its meeting of July 28, 2009, the State Board of Examiners reviewed the charges and papers Layton 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 Layton's offense were in dispute since he never denied that he had committed the offense of criminal mischief nor did he deny that he had been disqualified because of it. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. 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 the conduct underlying Layton's conviction and disqualification, as 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 dangerous. Individuals convicted of a crime that involves criminal mischief fall squarely within this category. This strong legislative policy statement is in accord with the

Commissioner's long-held belief that teachers must serve as role models for students. "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, Layton has been convicted of a crime that involved criminal mischief. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certification. *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 Layton's disqualification from service in the public schools of this State because of his conviction for Criminal Mischief 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(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 to the 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 Layton'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, on July 28, 2009 the Board of Examiners voted to revoke Layshell Layton's Teacher of General Business Studies and Teacher of Elementary School Certificates of

Eligibility, and his Teacher of Elementary School certificate. On this 17th day of September 2009 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Layton's certificates be effective immediately. It is further ORDERED that Layton return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

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Robert R. Higgins, Secretary  
State Board of Examiners

Date of Mailing:

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

RRH:MZ: