

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CREDENTIAL OF : STATE BOARD OF EXAMINERS
SEAN McGUIRK : ORDER OF REVOCATION
_____ : DOCKET NO: 0910-142

At its meeting of December 2, 2009, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Sean McGuirk was convicted in June 2009 of Death by Auto and two counts of Assault by Auto. As a result of the conviction, McGuirk was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* McGuirk currently holds a Substitute Credential which expires in January 2011.

McGuirk did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the State Board of Examiners voted to issue McGuirk an Order to Show Cause at its meeting of January 7, 2010.

The Board sent McGuirk the Order to Show Cause by regular and certified mail on January 13, 2010. The Order provided that McGuirk must file an Answer within 30 days. The certified mail receipt was signed and returned. The regular mail copy was not returned. McGuirk did not file a response. Thereafter, on February 24, 2010, the Board sent McGuirk another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail receipt was signed and returned and the regular mail copy was not returned. McGuirk did not respond to the second notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on April 6, 2010, the Board sent McGuirk a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, McGuirk 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, as well as arguments with regard to the appropriate

sanction in the event that the Board found just cause to take action against his substitute credential. 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 credential. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. McGuirk was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Once again, the certified mail receipt was signed and returned and the regular mail copy was not returned. McGuirk did not file a response.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether McGuirk's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since McGuirk failed to respond to the Order to Show Cause or the hearing notice, at its meeting of June 10, 2010, the State Board of Examiners considered only the allegations in the Order to Show Cause. The Board of Examiners determined that no material facts related to McGuirk's offense were in dispute since he never denied that he had been convicted of the offenses charged. 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 McGuirk's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his credential pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

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 poor role models. Individuals convicted of a crime such as Death by Auto and Assault by

Auto fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing belief that teachers must serve as role models for their 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. Clearly McGuirk's actions here are not those of a role model.

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). In this case, McGuirk has a conviction for a crime involving death and bodily injury. 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 (App. Div.), cert. denied, 65 *N.J.* 292 (1974). 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 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944).

The 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 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 McGuirk's offense so

significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of McGuirk's credential.

Accordingly, on June 10, 2010 the Board of Examiners voted to revoke Sean McGuirk's Substitute Credential. On this 22nd day of July 2010 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Sean McGuirk's credential be effective immediately. It is further ORDERED that McGuirk return his credential 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.

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:6-38.4.

RRH:MZ:th