

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
WARREN BROWN : ORDER OF REVOCATION
_____ : DOCKET NO: 0910-133

At its meeting of October 22, 2009, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Warren Brown was convicted of Sexual Assault in August 2009. As a result of the conviction, Brown was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Brown currently holds a Teacher of Music certificate, issued in May 1977 and a Supervisor certificate, issued in December 1977. Brown 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 Brown an Order to Show Cause at its meeting of December 2, 2009.

The Board sent Brown the Order to Show Cause by regular and certified mail on December 4, 2009. The Order provided that Brown must file an Answer within 30 days. The certified mail receipt was signed and returned. The regular mail copy was not returned. Brown did not file a response. Thereafter, on January 14, 2010, the Board sent Brown a second notice by regular and certified mail providing him an additional 15 days to respond to the Order to Show Cause. The regular mail copy was not returned and the certified mail copy was returned as unclaimed. Once again, Brown did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on February 24, 2010, the Board sent Brown a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Brown 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 determined to take action against his certificates. 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 certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Brown was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Neither mail copy was returned. Brown did not file a response.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Brown's conviction and resulting disqualification constitute conduct unbecoming a certificate holder. Since Brown failed to respond to the Order to Show Cause or the hearing notice, at its meeting of April 29, 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 Brown's offense were in dispute since he never denied that he had pled guilty to the offense 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)*. 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 Brown's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificates 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 a danger to them. Individuals convicted of Sexual Assault fall squarely within this

category. This strong legislative policy statement is in accord with the Commissioner's long-standing condemnation of acts of violence by teaching-staff members. "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.

Moreover, 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). 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). Accordingly, the State Board of Examiners finds that Brown's disqualification from service in the public schools of this State because of his conviction for Sexual Assault 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 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 Brown's offenses so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on April 29, 2010 the Board of Examiners voted to revoke Warren Brown's Teacher of Music and Supervisor certificates. On this 10th day of June 2010 the Board of

Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Brown's certificates be effective immediately. It is further ORDERED that Brown 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.

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: