

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
ROBERT CHOLOWINSKI : ORDER OF REVOCATION
_____ : DOCKET NO: 1011-219

At its meeting of July 28, 2011, the State Board of Examiners (Board) reviewed information received from the Office of Criminal History Review (OCHR) regarding Robert Cholowinski. The OCHR notified the Board that Cholowinski pled guilty in federal court to Possession of Child Pornography. As a result of the conviction, Cholowinski was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Cholowinski currently holds a Teacher of Elementary School certificate, issued in January 1994.

Cholowinski did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of September 22, 2011 to issue Cholowinski an Order to Show Cause why his certificate should not be revoked.

The Board sent Cholowinski the Order to Show Cause by regular and certified mail on September 30, 2011. The Order provided that Cholowinski must file an Answer within 30 days. The certified mail receipt was signed and returned. The regular mail copy was not returned. Cholowinski did not file a response. Thereafter, on November 16, 2011, the Board sent Cholowinski 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. The regular mail copy was not returned. Cholowinski did not respond to the second notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on December 6, 2011, the Board sent Cholowinski a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Cholowinski 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 certificate. It also explained that, upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if his disqualifying offense warranted action against his certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Cholowinski was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned and the regular mail copy was not returned. Once again, Cholowinski did not respond.

The threshold issue before the Board in this matter is whether Cholowinski's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Cholowinski failed to respond to the Order to Show Cause or the hearing notice, at its meeting of March 1, 2012, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Cholowinski's offense were in dispute since he never denied that he had been convicted of the offense charged. Thus, the Board 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 Board must now determine whether Cholowinski's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificate 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 a crime such as Possession of Child Pornography 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, Cholowinski's actions here are not those of a role model.

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 Board 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 Cholowinski's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of Cholowinski's certificate.

Accordingly, on March 1, 2012, the Board voted to revoke Robert Cholowinski's Teacher of Elementary School certificate. On this 2nd day of April 2012 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Robert Cholowinski's certificate be effective immediately. It is further ORDERED that Cholowinski return his certificate 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.