

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
DAVID EIDEL : ORDER OF SUSPENSION
_____ : DOCKET NO: 1112-199

At its meeting of April 5, 2012, the State Board of Examiners (Board) reviewed information received from the Union County Prosecutor's Office (Union) regarding David Eidel. Union notified the Board that Eidel was indicted on one count of Sexual Assault and two counts of Endangering the Welfare of a Child. Eidel currently holds a Teacher of Elementary School Certificate of Eligibility With Advanced Standing, issued in August 1995, a Teacher of Elementary School certificate, issued in July 1997, a Supervisor certificate, issued in June 2007 and a Principal Certificate of Eligibility, issued in June 2007. Upon review of the above information, at its meeting of May 17, 2012, the Board voted to issue Eidel an Order to Show Cause as to why his certificates should not be suspended pending the resolution of the criminal proceedings against him.

The Board sent Eidel the Order to Show Cause by regular and certified mail on May 24, 2012. The Order provided that Eidel must file an Answer within 30 days. Eidel responded on June 21, 2012.

In that Answer, Eidel admitted that he had been indicted on charges of Sexual Assault and Endangering the Welfare of a Child. (Answer, ¶ 3). In the remainder of his Answer, Eidel argued that the Board could not proceed with the Order to Show Cause because it lacked the requisite just cause to proceed, the allegations were "compound vague and ambiguous," and the information provided to the Board "was obtained through incorrect, misleading, or incomplete allegations." (Answer, Affirmative Defenses).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on June 25, 2012, the Board sent Eidel a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Eidel 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 certificates. 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 offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. The certified mail receipt was signed and returned and the regular mail copy was not returned. Eidel did not respond.

The threshold issue before the Board in this matter, therefore, is whether Eidel's indictment constitutes just cause unbecoming a certificate holder. At its meeting of November 30, 2012, the Board considered the allegations in the Order to Show Cause as well as Eidel's Answer. The Board determined that no material facts related to Eidel's offense were in dispute since he never denied that he had been indicted for the offenses 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 Eidel's indictment, 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.

The Board 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*. 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 crimes such as Sexual Assault and Endangering the Welfare of a Child 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, Eidel has been indicted for crimes that directly involved danger to children. 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 (Sup. Ct. 1943), *aff'd*, 131 N.J.L. 326 (E & A 1944). 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 (Sup. Ct. 1943), *aff'd*, 131 N.J.L. 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Eidel's potential disqualification from service in the public schools of this State because of his indictment on charges of Sexual Assault and Endangering the Welfare of a Child provides just cause to take action against his certificates.

Accordingly, on November 30, 2012, the Board voted to suspend Eidel's certificates pending resolution of the criminal charges against him. On this 25th day of January 2013 the Board formally adopted its written decision to suspend and it is therefore ORDERED that David Eidel's Teacher of Elementary School Certificate of Eligibility With Advanced Standing, Principal Certificate of Eligibility and Teacher of Elementary School and Supervisor certificates be suspended effective this day. If the charges are resolved in his favor, he shall notify the Board for appropriate action regarding the suspension order. It is further ORDERED that Eidel return his certificates to the Secretary of the State Board of Examiners, Office of Licensure and Certificates, PO 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.