

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
DIANA MARTINEZ : ORDER OF REVOCATION
_____ : DOCKET NO: 1112-203

At its meeting of April 5, 2012, the State Board of Examiners (Board) reviewed information received from the Office of Criminal History Review (OCHR) regarding Diana Martinez. The OCHR notified the Board that Martinez was convicted in November 2010 of Burglary. As a result of the conviction, Martinez was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Martinez currently holds a Teacher of Elementary School in Grades K-5 Certificate of Eligibility, issued in May 2006.

Martinez did not challenge the accuracy of her criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of May 17, 2012 to issue Martinez an Order to Show Cause why her certificates should not be revoked.

The Board sent Martinez the Order to Show Cause by regular and certified mail on May 24, 2012. The Order provided that Martinez must file an Answer within 30 days. The certified mail receipt was signed and returned. The regular mail copy was not returned. Martinez did not file a response. Thereafter, on June 27, 2012, the Board sent Martinez another notice by certified and regular mail providing her 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. Martinez did not respond to the second notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on July 24, 2012, the Board sent Martinez a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Martinez 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 her certificate. It also explained that, upon review of the charges against her

and the legal arguments tendered in her defense, the Board would determine if her disqualifying offense warranted action against her certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Martinez 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, Martinez did not respond.

The threshold issue before the Board in this matter is whether Martinez' conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Martinez failed to respond to the Order to Show Cause or the hearing notice, at its meeting of November 30, 2012, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Martinez' offense were in dispute since she never denied that she 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 Martinez' conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against her 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. Individuals convicted of a crime such as Burglary 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, Martinez' 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 herself out as a teacher. Thus, because the Legislature considers Martinez' offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of Martinez' certificate.

Accordingly, on November 30, 2012, the Board voted to revoke Diana Martinez' Teacher of Elementary School in Grades K-5 Certificate of Eligibility. On this 25th day of January 2013 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Diana Martinez' certificate be effective immediately. It is further ORDERED that Martinez return her 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.