

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
BRIAN AMMON : ORDER OF REVOCATION
_____ : DOCKET NO: 1011-195

At its meeting of September 15, 2011, the State Board of Examiners (Board) reviewed information provided by the staff of the Office of Licensure and Credentials indicating that the teaching certificates of Brian Ammon were suspended in Pennsylvania in October 2010 for the period from December 1, 2007 through December 1, 2010, retroactively. Ammon's certificates were suspended for accessing inappropriate and sexually explicit websites using his school district's equipment and network in his classroom while students were present. The Pennsylvania Professional Standards and Practices Commission (PPSPC) initially had revoked Ammons's certificates in December 2009, but, as the result of a settlement agreement following his appeal of the decision, a retroactive three-year suspension was imposed. The Board voted to issue Ammon an Order to Show Cause at its meeting of November 1, 2011. In New Jersey, Ammon currently holds a Teacher of Health and Physical Education certificate, issued in February 2008. The PPSPC subsequently provided the Board with further information about Ammon's conduct. Upon review of the updated information, at its June 21, 2012 meeting, the Board voted to issue Ammon an Amended Order to Show Cause.

The Board sent Ammon the Amended Order to Show Cause by regular and certified mail on June 25, 2012. The Order provided that Ammon must file an Answer within 30 days. Ammon responded on July 16, 2012. In that Answer, Ammon admitted to the suspension of his Pennsylvania certificates after having been charged with engaging in conduct that constituted immorality, negligence and intemperance. (Answer, ¶ 4). He denied that there was just cause to revoke his New Jersey certificate and added that in his agreement with Pennsylvania, both sides had agreed that his conduct did not warrant the revocation of his Pennsylvania certificate. (Answer, ¶ 5). Ammon also filed some affirmative defenses claiming, among other things, that the Order to Show Cause involved allegations or conduct that did not warrant

revocation; that it did not set forth a cognizable charge; that it was inaccurate, incomplete and disregarded critical evidence; that suspension or revocation of his teaching certificates was unwarranted due to mitigating circumstances and other factors regarding his employment history and teaching performance and because he had already been disciplined by virtue of the suspension of his Pennsylvania teaching certificate, his suspension from employment and his resignation from his Pennsylvania teaching position. (Answer, Separate Defenses ¶¶ 1-4, 7).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on July 24, 2012, the Board sent Ammon a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Ammon 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 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 Ammon's offenses warranted action against his certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Ammon was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. After submitting a request that the matter be transmitted to the Office of Administrative Law (OAL), which was denied, and receiving an extension of time in which to respond, Ammon submitted a Hearing Response on September 5, 2012.

In his response, Ammon reasserted his argument that the matter should be transmitted to the OAL, alleging that there were facts in dispute and claiming that the Board did not have the full record that was before the tribunal in Pennsylvania. (Hearing Response, pp. 3-6). He also argued that there was no just cause to suspend or revoke his New Jersey certificate because his alleged unbecoming conduct "transpired in Pennsylvania while Respondent was an employee of a Pennsylvania school district and attached only to his PA teaching certificate." (Hearing Response, p. 7). Ammon also claimed that if the Board voted to revoke his certificate, that would exceed the sanction imposed upon him in Pennsylvania. (Hearing Response, pp. 7-8). He added that the Board could "not point to any evidence presented that

established that Respondent's job performance in PA or NJ was or has been diminished in any way." (Hearing Response, p. 10). Finally, Ammon argued that even if the Board found just cause to take action against his certificate, no sanction should be imposed. (Hearing Response, pp. 12-13). Ammon noted that his conduct occurred well before he obtained a New Jersey teaching certificate in 2008. (Hearing Response, p. 12). He claimed that he had "become a more considerate, mature adult, certificate holder, and teacher." (Hearing Response, p. 13). Ammon also acknowledged that he had been penalized severely both professionally and financially for his actions and requested that he be allowed to retain his New Jersey teaching certificate. (Hearing Response, p. 13). In addition to his Hearing Response, Ammon requested to appear before the Board.

In testimony before the Board, Ammon's attorney noted that the three year suspension Ammon had received in Pennsylvania was appropriate and that if a sanction were imposed in New Jersey it should be of a lesser duration. He also noted that Ammon had not viewed pornography on his district computer and that there had been no repetition of any conduct like that for which his certificates had been suspended. In his testimony, Ammon stated that he had been a teacher for 14 years and enjoys teaching immensely. He added that he realized that what he had done was horrible and that he has tried to correct his behavior for the past 5 ½ years. Ammon noted that his work history would show that. He stated that he had a passion for teaching and could not imagine doing anything else.

The threshold issue before the Board in this matter is whether Ammon's conduct in viewing inappropriate material on his classroom computer constitutes conduct unbecoming a certificate holder. At its meeting of April 12, 2013, the Board considered the allegations in the Order to Show Cause, Ammon's Answer, Hearing Response and testimony. The Board determined that no material facts related to Ammon's offense were in dispute since he admitted that he had engaged in the conduct and had had his Pennsylvania certificates suspended as a result. 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 Ammon's conduct, as set forth in the Order to Show Cause, provides just cause to act against his certificate 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*. "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. Ammon's acts of viewing inappropriate images of scantily-clad or nude females while students were present in the classroom are inexcusable behavior for a teacher. The fact that students may not have seen these images is a fortuitous happenstance but in no way excuses Ammon's behavior. The Commissioner has long held that teachers serve as role models for their students. Clearly, a teacher who has engaged in conduct such as Ammon's cannot lay claim to that status.

Moreover, Ammon's claims that he never viewed pornography and therefore should not have his certificate revoked or suspended is disingenuous at best. In his hearing before the PPSPC, Ammon admitted to viewing pictures and videos of nude women and admitting to saving those images on his school-issued computer. (Transcript, p.120). Furthermore, he also agreed that he was not disputing any of the evidence that had been presented against him. (Transcript, p. 124). Notwithstanding Ammon's claims to the contrary, the fact that this behavior occurred in Pennsylvania rather than in New Jersey is irrelevant. His conduct, regardless of where it occurred, is conduct unbecoming a teacher by New Jersey standards and therefore warrants the revocation of his New Jersey certificate.

Accordingly, on April 12, 2013, the Board voted to revoke Ammon's Teacher of Health and Physical Education certificate. On this 16th day of May 2013 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Brian Ammon's

certificate be effective immediately. It is further ORDERED that Ammon 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.

RRH:MZ:th