

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
FRANCIS DESTEFANO : ORDER OF REVOCATION
_____ : DOCKET NO: 1213-179

At its meeting of May 16, 2013, the State Board of Examiners (Board) reviewed information received from the Passaic County Superior Court indicating that on January 8, 2007, Francis DeStefano pled guilty to Endangering the Welfare of a Child. On March 30, 2007, DeStefano was sentenced to 60 days in Passaic County jail and Parole Supervision for life. He was also subject to the provisions of Megan's Law. DeStefano currently holds a Teacher of Mathematics certificate, issued in June 1969, a Supervisor certificate, issued in November 1973, Principal and School Administrator certificates, both issued in October 1987 and an Assistant Executive Superintendent With Specialization in Supervision and Curriculum certificate, issued in December 1987. Upon review of the information, at its July 25, 2013 meeting, the Board voted to issue DeStefano an Order to Show Cause.

The Board sent DeStefano the Order to Show Cause by regular and certified mail on July 29, 2013. The Order provided that DeStefano must file an Answer within 30 days. DeStefano responded on August 13, 2013. In that Answer, DeStefano admitted to all of the allegations in the Order to Show Cause, but denied that there were grounds for the revocation of his certificates. (Answer, ¶¶ 1-5). In addition to his Answer, DeStefano submitted an accompanying letter which articulated several reasons why the Board should not revoke his certificates. (Answer letter, August 13, 2013, pp. 1-2). He noted that it had been seven years since he pled guilty and the Department of Education had taken no action against him in all that time. (Answer letter, August 13, 2013, pp. 1-2). He also claimed that he had made no attempt to use his certifications and was not seeking to teach or work with children. (Answer letter, August 13, 2013, p. 2). DeStefano also noted that he was classified as a Tier One offender under Megan's Law, which was the lowest level and that he had been classified as low risk and unlikely to reoffend. (Answer letter, August 13, 2013, p. 2). He argued that the attempt to revoke his certificates

would “further punish a man who has already been sentenced by the justice system.” (Answer letter, August 13, 2013, p. 2).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on August 26, 2013, the Board sent DeStefano a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, DeStefano 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 Board would determine if DeStefano’s offenses warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. DeStefano was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. DeStefano submitted a Hearing Response on September 24, 2013.

In his response, DeStefano stated that his actions did not relate to his performance as a teacher or an administrator. (Hearing Response, p. 1). He reiterated that he was not employed as an educator at the time of the criminal complaint and his actions did not relate to a student or other person employed at a school. (Hearing Response, p. 2). He also maintained that he had a clean record since the incident and had led a productive life. (Hearing Response, p. 2). He had completed treatment and his chance of reoffending was “slim to none.” (Hearing Response, p. 2). He argued that the Board offered no justification for its position that a retired teacher should be stripped of his certificates for “conduct unbecoming a teacher” for an offense which occurred after the conclusion of his employment as a teacher and school administrator. (Hearing Response, p. 2). DeStefano also argued that the Board offered “no law as to a criminal conviction being grounds for the revocation of a teaching certification.” (Hearing Response, pp. 2-3). Finally, he added that the character letters he was submitting demonstrated his strong character and that he maintained the trust and respect of his community and former co-workers. (Hearing Response, p. 3). DeStefano therefore argued that the Board had not established that he was unfit to retain

his certificates. (Hearing Response, p. 3). In addition to his Hearing Response, DeStefano requested to appear before the Board.

In testimony before the Board, DeStefano reiterated that he was retired at the time of his arrest and conviction; he added that his conduct did not involve his role as a teacher or administrator, did not take place on school property or involve a student. DeStefano stated that he had no plans to go back to teaching, but said that he could work in prisons, teach online or work on textbooks, all roles enhanced by having his certificates. He noted that his reference letters were exemplary and added that there was no public safety issue here because he was already prevented from teaching and he had been fingerprinted.

The threshold issue before the Board in this matter is whether DeStefano's conviction constitutes conduct unbecoming a certificate holder. At its meeting of January 17, 2014, the Board considered the allegations in the Order to Show Cause, DeStefano's Answer, Hearing Response and testimony. The Board determined that no material facts related to DeStefano's offense were in dispute since he admitted that he had been convicted of the charges and was sentenced accordingly. 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 DeStefano's conviction, as set forth in the Order to Show Cause, provides 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*. "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, it is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. *See Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November

18, 1983); *State Board of Examiners v. Krupp*, 3 N.J.A.R. 285 (1981). DeStefano has a conviction for an offense involving a child. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certificates. *In re Grossman*, 127 N.J. Super. 13, 30 (App. Div. 1943), 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). In this matter, DeStefano's conviction for Endangering the Welfare of a Child resulted in lifetime Parole supervision and registration under Megan's Law. Although DeStefano has a wealth of experience and an unblemished career record, the fact remains that he has a serious conviction. Moreover, his conviction would permanently disqualify him from public employment pursuant to N.J.S.A. 18A:6-7.1 *et seq.* An individual whose offense is so great that he or she would be 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 barred from teaching in a public school be permitted to continue to hold himself out as a teacher. The Commissioner has long held that teachers serve as role models for their students. Clearly, DeStefano's conviction indicates that his actions here are not those of a role model. Thus, the Board believes that the only appropriate sanction in this case is the revocation of DeStefano's certificates.

Furthermore, notwithstanding DeStefano's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." *See In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners*, 96 N.J.A.R. 2D (EDE) 1, 16 *aff'd*, App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing *In the Matter of the Revocation of the Teaching Certificate of James Noll*, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that DeStefano has completed his sentence and has been in sex-offender counseling, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on January 17, 2104, the Board voted to revoke DeStefano's Teacher of Mathematics, Supervisor, Principal, School Administrator, and Assistant Executive Superintendent With Specialization in Supervision and Curriculum certificates. On this 27th day of February 2014 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Francis DeStefano's certificates be effective immediately. It is further ORDERED that DeStefano 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:th