

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CREDENTIAL OF : STATE BOARD OF EXAMINERS
TRAY K. BARNARD : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-184

At its meeting of February 27, 2014, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) regarding Tray K. Barnard. The CHRU notified the Board that on June 28, 2013, Barnard pled guilty to Endangering the Welfare of a Child, involving the distribution of child pornography. The CHRU notified the Board that, as a result of his conviction, Barnard was also disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Barnard currently holds a Substitute Credential, which expires in January 2015.

Barnard 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 April 4, 2014 to issue Barnard an Order to Show Cause why his credential should not be revoked.

The Board sent Barnard the Order to Show Cause by regular and certified mail on April 8, 2014. The Order provided that Barnard must file an Answer within 30 days. Barnard filed a response on May 2, 2014 but since it did not provide a specific answer to each paragraph of the Order to Show Cause, he was provided with the opportunity to file a revised Answer with specific information regarding the basis for his denials to each allegation of the Order to Show Cause. On June 4, 2014 Barnard filed a revised Answer.

In that Answer, Barnard stated that he was due back in court to try to reopen his plea. (Answer, p. 1). Barnard claimed that his guilty plea was due to “Ineffective Assistance of Counsel.” (Answer, p. 1).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on June 13, 2014, the Board sent Barnard a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Barnard 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 credential. 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 credential. Thereupon, the Board would also determine the appropriate sanction, if any. Barnard 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. Barnard did not respond.

The threshold issue before the Board in this matter is whether Barnard's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. At its meeting of September 19, 2014, the Board considered the allegations in the Order to Show Cause and Barnard's Answer. The Board determined that no material facts related to Barnard's offense were in dispute since he never denied that he had been convicted of the offense charged and been subsequently disqualified. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.7(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 Barnard's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his credential pursuant to *N.J.A.C. 6A:9B-4.5*. 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 Endangering the Welfare of a Child fall squarely within this category. The strong legislative policy statement is also 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. 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 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this instance, Barnard's conviction for Endangering the Welfare of a Child demonstrates behavior that falls far short 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 and the Commissioner consider Barnard's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his Substitute Credential.

Accordingly, on September 19, 2014, the Board voted to revoke Tray K. Barnard's Substitute Credential. On this 23rd day of October 2014 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Tray Barnard's credential

be effective immediately. It is further ORDERED that Barnard return his credential 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.