

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
CHERELLYN VARGAS : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-112

At its meeting of February 27, 2014, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) and the Essex County Prosecutor's Office (ECPO) regarding Cherellyn Vargas. On December 9, 2013, Vargas was convicted of Child Abuse. The CHRU notified the Board that, as a result of her conviction, Vargas was also disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Vargas currently holds a Teacher of Preschool Through Grade 3 Certificate of Eligibility With Advanced Standing, issued in March 2003 and a Teacher of Preschool Through Grade 3 certificate, issued in August 2006.

Vargas 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 April 4, 2014 to issue Vargas an Order to Show Cause why her certificates should not be revoked.

The Board sent Vargas the Order to Show Cause by regular and certified mail on April 8, 2014. The Order provided that Vargas must file an Answer within 30 days. Both the certified and regular mail copies came back as "No Such Address." After securing a new address for Vargas, on May 7, 2014, the Board re-sent the Order to Show Cause by regular and certified mail to her. The certified mail copy was returned as "Unclaimed" and the regular mail copy was not returned. Vargas did not file a response. Thereafter, on June 13, 2014, the Board sent Vargas another notice by certified and regular mail providing her an additional 15 days to respond to the

Order to Show Cause. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Vargas did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on July 2, 2014, the Board sent Vargas a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Vargas 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 certificates. 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 certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Vargas was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. After the certified mail copy was returned as “Unable to Forward,” the Board secured a new address for Vargas and re-sent the hearing notice by certified and regular mail on August 29, 2014. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Once again, Vargas did not respond.

The threshold issue before the Board in this matter is whether Vargas’ conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Vargas failed to respond to the Order to Show Cause or the hearing notice, at its meeting of December 12, 2014, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Vargas’ offense were in dispute since she never denied that she 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 Vargas' conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against her certificates 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 Child Abuse 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, Vargas' conviction for Child Abuse 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 Vargas' offense

so significant, the Board believes that the only appropriate sanction in this case is the revocation of her certificates.

Accordingly, on December 12, 2014, the Board voted to revoke Cherellyn Vargas' Teacher of Preschool Through Grade 3 Certificate of Eligibility With Advanced Standing and her Teacher of Preschool Through Grade 3 certificate. On this 23rd day of January 2015 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Cherellyn Vargas' certificates be effective immediately. It is further ORDERED that Vargas return her 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