

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
KATHERINE A. KELLY : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-186

At its meeting of April 4, 2014, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) and the Monmouth County Prosecutor's Office (MCPO) regarding Katherine A. Kelly. The CHRU and the MCPO notified the Board that, on April 5, 2013, Kelly pled guilty to Endangering the Welfare of Children. The CHRU notified the Board that, as a result of her conviction, Kelly was also disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Kelly currently holds a Teacher of the Handicapped certificate, issued in February 2002.

Kelly 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 22, 2014 to issue Kelly an Order to Show Cause why her certificate should not be revoked.

The Board sent Kelly the Order to Show Cause by regular and certified mail on May 28, 2014. The Order provided that Kelly must file an Answer within 30 days. The certified mail receipt was signed and returned and the regular mail copy was not returned. Kelly did not file a response. Thereafter, on July 30, 2014, the Board sent Kelly 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. Kelly did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on August 20, 2014, the Board sent Kelly a hearing notice by regular and certified mail. The notice explained that it appeared that no

material facts were in dispute. Thus, Kelly 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 his disqualifying offense warranted action against her certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Kelly was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as “Unable to Forward” and the regular mail copy was not returned. At her request, Kelly was granted a 30-day extension in which to submit a hearing brief. However, Kelly did not submit a brief by the extended deadline.

The threshold issue before the Board in this matter is whether Kelly’s conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Kelly 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 Kelly’s 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 Kelly’s 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: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 crimes such as Endangering the Welfare of Children 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, Kelly's conviction for Endangering the Welfare of Children 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 considers Kelly's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of her certificate.

Accordingly, on December 12, 2014, the Board voted to revoke Katherine A. Kelly's Teacher of the Handicapped 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 Katherine Kelly's certificate be effective immediately. It is further ORDERED that Kelly 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.