

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CREDENTIAL OF : STATE BOARD OF EXAMINERS
DAVID K. WAGNER : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-216

At its meeting of May 22, 2014, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) and the Camden County Prosecutor's Office (CCPO) regarding David K. Wagner. Wagner was convicted of Aggravated Assault (Assault on Police) in July 2013. In October 2013, Wagner was sentenced to one year of probation and fined. Wagner also pled guilty to Improper Behavior in 2005 and Possessing a Fraudulent Motor Vehicle Insurance ID Card in 2003. The CHRU notified the Board that, as a result of his conviction for Aggravated Assault, Wagner was also disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Wagner currently holds a Substitute Credential, which expires in January 2016.

Wagner 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 July 15, 2014 to issue Wagner an Order to Show Cause why his credential should not be revoked.

The Board sent Wagner the Order to Show Cause by regular and certified mail on July 18, 2014. The Order provided that Wagner must file an Answer within 30 days. The certified mail receipt was signed and returned and the regular mail copy was not returned. Wagner did not file a response. Thereafter, on August 21, 2014, the Board sent Wagner another notice by certified and regular mail providing him 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. Wagner did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on September 18, 2014, the Board sent Wagner a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Wagner 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. Wagner was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as "Unclaimed" and the regular mail copy was not returned. Once again, Wagner did not respond.

The threshold issue before the Board in this matter is whether Wagner's convictions and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Wagner 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 Wagner's offense were in dispute since he never denied that he had been convicted of the offenses charged and been subsequently disqualified for the Aggravated Assault conviction. 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 Wagner's convictions 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 crimes such as Aggravated Assault (Assault on Police) 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, Wagner’s conviction for Aggravated Assault coupled with his prior convictions 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 Wagner’s offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his credential.

Accordingly, on December 12, 2014, the Board voted to revoke David K. Wagner’s Substitute Credential. 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 David Wagner’s credential be effective immediately. It is further ORDERED that Wagner 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.

RRH/MZ/th