

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
BRIAN L. MIELE : ORDER OF REVOCATION
_____ : DOCKET NO: 1415-112

At its meeting of September 19, 2014, the State Board of Examiners (Board) reviewed information the Rockland County, NY District Attorney's Office had provided regarding Brian L. Miele. In May 2014, Miele pled guilty in New York to three counts of Offering a False Instrument for Filing and was ordered to reimburse the Ramapo Central School District in the amount of \$50,000. Miele was also ordered to surrender his New York administrative certificate. In New Jersey, Miele holds a Principal Certificate of Eligibility, issued in April 2005 and a School Administrator Certificate of Eligibility, issued in February 2006. Upon review of the above information, at its October 23, 2014 meeting, the Board voted to issue Miele an Order to Show Cause.

The Board sent Miele the Order to Show Cause by regular and certified mail on October 27, 2014. The Order provided that Miele had 30 days to respond. The certified mail copy was returned as "Unclaimed" and the regular mail copy was not returned. Miele did not respond. Thereafter, on December 4, 2014, the Board sent Miele 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 copy was not returned. Miele did not respond.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on December 30, 2014, the Board sent Miele a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Miele 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 Miele's offenses warranted

action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Miele 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 with a note stating that Miele did not live there and the regular mail copy was not returned. The Board then re-sent the Order to Show Cause to Miele by regular and certified mail on February 5, 2015. Neither the certified nor regular mail copy was returned. Miele did not respond. Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on March 10, 2015, the Board sent Miele another hearing notice by regular and certified mail. The certified mail copy was returned as "Unclaimed" and the regular mail copy was not returned. Once again, Miele did not respond.

The threshold issue before the Board in this matter is whether Miele's conduct and crime and the court-ordered surrender of his New York certificate constitute conduct unbecoming a certificate holder. Since Miele failed to respond to the Order to Show Cause or the hearing notice, at its meeting of May 21, 2015, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Miele's offense were in dispute since he never denied that he had been convicted or that he had been ordered to surrender his New York certificate. 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 Miele's conduct and conviction and the surrender of his New York certificate, as set forth in the Order to Show Cause, provide just cause to act against his New Jersey certificates pursuant to *N.J.A.C. 6A:9B-4.5*. The Board finds that they do.

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:9B-4.5*. "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, 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, Miele has a conviction for Offering a False Instrument for Filing. That conviction and his conduct leaves no doubt that he is unfit to be a teacher. The Board agrees with the New York court that Miele's conduct demonstrates behavior that falls so far short of a role model that the only appropriate sanction in this case is the revocation of Miele's certificates.

Accordingly, on May 21, 2015, the Board voted to revoke Miele's Principal and School Administrator Certificates of Eligibility. On this 26th day of June 2015 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Brian L. Miele's certificates be effective immediately. It is further ORDERED that Miele 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

RRH:MZ:th

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.