

IN THE MATTER OF	:	NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF	:	STATE BOARD OF EXAMINERS
LUKE V. BAKULA	:	ORDER OF SUSPENSION
_____	:	DOCKET NO: 1516-133

At its meeting of September 16, 2016, the State Board of Examiners (Board) reviewed information received from the Passaic County Prosecutor's Office and the Criminal History Review Unit regarding Luke V. Bakula. On or about December 3, 2015, Bakula was indicted on two counts of 1st degree Aggravated Criminal Sexual Assault, two counts of 2nd degree Sexual Assault and two counts of 3rd degree Endangering the Welfare of a Child. The indictment alleged that Bakula had engaged in sexual penetration and sexual contact with the victim, a child less than 13 years of age. If convicted, Bakula would be disqualified from public employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Bakula currently holds a Teacher of Elementary School in Grades K-6 Certificate of Eligibility With Advanced Standing, issued in February 2011. Upon review of the above information, at its meeting of November 1, 2016, the Board voted to issue Bakula an Order to Show Cause as to why his certificate should not be suspended pending the resolution of the criminal proceedings against him.

The Board sent Bakula the Order to Show Cause by regular and certified mail on November 3, 2016. The Order provided that Bakula must file an Answer within 30 days. Bakula filed an Answer on November 30, 2016. In that Answer, Bakula admitted that the Order to Show Cause stated the charges in the Indictment but denied the legal conclusion that he would be disqualified from public employment if convicted, without first being provided with a hearing. (Answer, ¶ 3). He also denied the alleged conduct and charges and stated that any potential disqualification would be premature, particularly since he had not been employed under his certificate. (Answer, ¶ 4). Bakula also objected to any consideration of a suspension since

that would be “wholly premature and a rush to judgment pending the outcome of the criminal proceedings against him....” (Answer, ¶ 5).

Thereafter, pursuant to *N.J.A.C.* 6A:9B-4.7(e), on January 6, 2017, the Board sent Bakula a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Bakula 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 certificate. 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 offense warranted action against his certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Bakula was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. On February 17, 2017, Bakula filed a Hearing Response. He also asked to appear before the Board.

In his Hearing Response, Bakula stated that he denied each and every allegation in the indictment. (Hearing Response, pp. 1-2). He argued that, until the criminal proceedings were completed, there was “no real substantive basis for the Board of Examiners to reach a determination” that he engaged in “any reprehensible conduct.” (Hearing Response, p. 2). Bakula continued to argue that the Grand Jury charges were unsubstantiated and that there were flaws in how evidence was presented to the Grand Jury. (Hearing Response, pp. 3-13). He maintained that the Board should only take action against his certificate upon the conclusion of the criminal proceedings because to do otherwise would be a “rush to judgment.” (Hearing Response, p. 14).

In testimony before the Board, Bakula's counsel, Peter W. Till, noted that Bakula never had contact with law enforcement prior to this alleged incident. He argued that if the Board suspended Bakula's certificate pending the criminal proceedings or Bakula agreed to the suspension, a prosecutor could use that information and deem it an "admission" for criminal purposes. Till argued that a "suspend pending" could be viewed as an adjudication, causing a misimpression during the criminal case. He noted that Bakula took the Board's responsibilities seriously and that his life was on the line both personally and professionally. Till added that Bakula had always wanted to be an educator and had always received great evaluations during his professional career.

The threshold issue before the Board in this matter, therefore, is whether there is just cause to take action against Bakula's certificates. At its meeting of May 12, 2017, the Board considered the allegations in the Order to Show Cause, Bakula's Answer, Hearing Response and testimony. The Board determined that no material facts related to Bakula's offense were in dispute since he admitted that he had been indicted for the offenses charged. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*.

The Board must now determine whether Bakula's conduct and charges, as set forth in the Order to Show Cause, represent just cause to act against his certificate pursuant to *N.J.A.C. 6A:9B-4.4*. 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-4.4*. 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 dangerous. Individuals convicted of crimes such as Criminal Sexual

Assault, Sexual Assault and Endangering the Welfare of a Child fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-held belief that teachers must serve as role models for 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 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this case, Bakula has been indicted for an offense involving sexual conduct with a minor. The Board therefore finds that Bakula's potential disqualification from service in the public schools of this State because of his indictment for various sexual offenses provides just cause to take action against his certificate.

Accordingly, on May 12, 2017, the Board voted to suspend Bakula's certificate pending resolution of the criminal proceedings against him. On this 15th day of June 2017, the Board formally adopted its written decision to suspend and it is therefore ORDERED that Luke V. Bakula's Teacher of Elementary School in Grades K-6 Certificate of Eligibility With Advanced Standing be suspended effective this day. If the charges are resolved in his favor, he shall notify the Board for appropriate action regarding the suspension order. It is further ORDERED that Bakula return his certificate to the Secretary of the State Board of Examiners, Office of Certification and Induction, PO 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:
via certified and regular mail

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.