IN THE MATTER OF	:	NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF	:	STATE BOARD OF EXAMINERS
CRAIG S. HARRIS	:	ORDER OF REVOCATION
_____	:	DOCKET NO: 418-11/96-167

At its meeting of November 7, 1996, the State Board of Examiners reviewed information received from the Commonwealth of Pennsylvania indicating that in 1992 Craig S. Harris was charged with criminal attempt of indecent assault, endangering the welfare of children, disorderly conduct and harassment. Harris had entered into an agreement, Accelerated Rehabilitative Disposition (ARD), under which he gave up teaching in Pennsylvania and surrendered his Pennsylvania teaching licenses. Harris' ARD agreement also provided for four years' probation, fines, costs and restitution totaling $1,692.50, 150 hours of community service and psychological/psychiatric evaluation. Harris is currently the holder of a New Jersey School Psychologist certificate. He had applied for a duplicate of that certificate in May 1995. Upon review of the above information, at its November 1996 meeting, the State Board of Examiners voted to issue an Order to Show Cause to Respondent.

The Order to Show Cause was mailed to Respondent by regular and certified mail on December 3, 1996. The Order provided that if Respondent desired to file an Answer to the Order such Answer must be filed within 20 days. The Board granted Harris several extensions and on October 17, 1997, his attorney filed an Answer on Harris' behalf. In his Answer, Harris admitted that he had agreed to stop teaching in Pennsylvania and surrender his teaching license there. Harris also claimed that he was accused of conduct that did not occur. He stated that he had received help in determining "how his behavior could have been misinterpreted and/or distorted by students in his care." (Answer, ¶ 7(b)). According to Harris, he had often touched

"colleagues, friends and students alike with a touch on the shoulder or a touch on the knee if sitting side by side." (Answer, ¶ 7(b)). He now recognized that that form of contact was to be reserved for non-professional relationships. Harris also said that after completing his ARD program the Pennsylvania State Board of Psychology granted him a license; thus, he was a psychologist in good standing in that state. (Answer, ¶ 7(c)).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on December 11, 1997, the Board of Examiners sent a hearing notice to Harris by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, respondent 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. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Although both Harris and his attorney received copies of the hearing notice, neither responded. On March 30, 1998, respondent was advised by certified and regular mail that he was being provided an additional ten days to file a response to the initial hearing notice. On April 22, 1998, Harris filed an Amended Answer to the Order to Show Cause. In that Amended Answer, Harris told the Board of Examiners that his probation had ended on September 13, 1997 and that he had been discharged form the ARD program on December 13, 1997. In addition, all criminal charges against him had been dismissed. (Amended Answer, ¶ 3). Finally, Harris contended that he had never been found guilty of conduct unbecoming a teacher and therefore the Board had no grounds on which to deny him a duplicate of his New Jersey School Psychologist certificate. (Amended Answer, ¶ 7(e)).

On May 1, 1998, the Board of Examiners informed Harris that before it could hear his case, it required official documentation indicating the disposition of his participation in the ARD program and the criminal charges pending against him. On July 2, 1998, Harris submitted a Pennsylvania Child Abuse History clearance, an order of expungement and a criminal record check.

Thereafter, on August 14, 1998, Ida B. Graham, Director of the Office of Licensing and Credentials, sought information from the Pennsylvania Department of Education regarding Harris' Pennsylvania teaching certificate. She also informed Harris (in her capacity as Secretary to the Board of Examiners), that the Board would hear his case as soon as it received that information from Pennsylvania. On September 16, 1998, the Pennsylvania Department of Education informed Graham that Harris held no valid Commonwealth of Pennsylvania professional certificate and that he had surrendered his Pennsylvania certificate as part of the ARD agreement.

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Harris' surrender of his Pennsylvania teaching certificate as a predicate for his entry into the ARD program provides just cause for suspension or revocation of his New Jersey certificate. At its meeting of November 5, 1998, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After review of Harris' Answers, the Board of Examiners determined that no material facts regarding the issues in the Order to Show Cause were in dispute since Harris admitted that he had surrendered his teaching certificate and agreed to give up teaching in Pennsylvania. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners must now determine whether Harris' surrender of his Pennsylvania certificate, as set forth in the Order to Show Cause, provides just cause to act against his New Jersey certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

The State Board of Examiners 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. 6:11-3.4. "Teachers… are professional employees to whom the people have entrusted the care and custody of … school children." Tenure of Sammons, 1972 S.L.D. 302, 321. In the judgment of the prosecuting attorney, who demanded that Harris surrender his Pennsylvania teaching certificate as a condition for entering ARD, Harris, has, by his conduct, violated that most sacred trust. The prosecutor had knowledge of the facts underlying the indictment; he deemed it imperative that Harris no longer be given access to children as a teacher. The New Jersey State Board of Examiners can do no less.

Furthermore, notwithstanding that Harris successfully completed the ARD program, the fact remains that he is alleged to have committed an indictable offense. In New Jersey, the Commissioner of Education has held that "the dismissal of a criminal indictment as a result of entering PTI [New Jersey's analogue to ARD] is not a determination that the individual was not guilty of the conduct complained of; only that the matter was 'adjusted.' *R.* 3:28(c)(1)." Gus Siciliano v. Board of Education of the Camden County Vocational-Technical School, 93 N.J.A.R. 2d (EDU) 94, 95. The United States District Court has a similar view. In Lindes v. Sutter, 621 F. Supp. 1197, 1201 (D.C.N.J. 1985), the Court stated: "In Thomas v. N.J. Institute of Technology, 178 N.J. Super. at 62 , 427 A. 3d 1142, the Superior Court held that 'acceptance in PTI, even where the program is successfully completed, cannot be regarded as the equivalent of a judgment of acquittal or an otherwise favorable termination of the criminal proceeding'."

Thus, Harris' completion of ARD only means that he has complied with the requirements of the Commonwealth of Pennsylvania in order to avoid a criminal conviction. It does not mean that he is fit to teach in that state or any other.

Additionally, although Harris' criminal record has been expunged, his agreement to surrender his teaching certificate remains. Harris therefore cannot escape the fact that the State of Pennsylvania has made a reasoned decision to bar him from the classroom. The children of New Jersey deserve the same protection as their peers in Pennsylvania. Consequently, the only proper remedy for Harris' breach is revocation.

Accordingly, it is therefore ORDERED that Craig Harris' School Psychologist certificate be revoked on this 5th day of November, 1998.

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Secretary
State Board of Examiners

Date of Mailing: December 22, 1998
Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

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