

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CREDENTIAL OF : STATE BOARD OF EXAMINERS
BRIAN KRIEGER : ORDER OF REVOCATION
_____ : DOCKET NO: 0506-271

At its meeting of May 4, 2006, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Brian Krieger was convicted in 2004 of theft. As a result of such conviction, Krieger was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Krieger currently holds a County Substitute credential, issued in August 2003.

Krieger did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the State Board of Examiners voted to issue Krieger an Order to Show Cause at its meeting of May 4, 2006. On June 8, 2006 the Board formally adopted its written Order to Show Cause.

The Board sent Krieger the Order to Show Cause by regular and certified mail on June 14, 2006. The Order provided that Krieger must file an Answer within 30 days. Krieger responded on July 13, 2006. In that Answer, Krieger stated that he did not contest the revocation proceedings and the disqualification from public school employment. (Answer, p. 1).

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Krieger's disqualifying offense constitutes conduct unbecoming a certificate holder. Since Krieger did not contest the proceeding, the State Board of Examiners considered his Answer as the only responsive pleading in the hearing process.

At its meeting of September 21, 2006, the State Board of Examiners reviewed the charges and papers Krieger filed in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to Krieger's offense were in

dispute since he never denied that he had committed the offense nor did he deny that he had been disqualified because of it. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*.

The issue before the State Board of Examiners in this matter, therefore, is whether Krieger's disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, represents just cause to act against his credential pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that it does.

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 to them. Individuals convicted of a crime of dishonesty, such as theft, 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.

Furthermore, 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). Accordingly, the State Board of Examiners finds that Krieger's disqualification from service in the public schools of this State because of his conviction for theft provides just cause to take action against his credential.

That 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 State Board of Examiners 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 credential 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 Krieger's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of his credential.

Accordingly, on September 21, 2006 the Board of Examiners voted to revoke Krieger's credential. On this 2nd day of November 2006 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that Brian Krieger's County Substitute credential be revoked effective this day. It is further ORDERED that Krieger return his credential to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: NOVEMBER 8, 2006

Appeals may be made to the State Board of Education pursuant to the provisions of *N.J.S.A.* 18A:6-28.