

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CREDENTIAL OF : STATE BOARD OF EXAMINERS
ALLEN HARVIN : ORDER OF REVOCATION
_____ : DOCKET NO: 0506-206

At its meeting of January 19, 2006, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Allen Harvin was convicted in 1979 of receiving stolen property. As a result of such conviction, Harvin was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Harvin currently holds a County Substitute credential, issued in September 2005.

Harvin 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 Harvin an Order to Show Cause at its meeting of March 30, 2006.

The Board sent Harvin the Order to Show Cause by regular and certified mail on April 7, 2006. The certified mail copy was returned as unclaimed. The regular mail copy was not returned. The Order provided that Harvin must file an Answer within 30 days. Harvin did not file a response to the Order.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on May 12, 2006, the Board sent Harvin a second notice by regular and certified mail. The notice explained that if Harvin did not respond within the time allotted, the allegations in the Order to Show Cause would be deemed admitted and the Board of Examiners would decide the matter on the basis of the allegations before it. Once again, the regular mail copy was not returned although this time someone signed for the certified mail copy.

The threshold issue before the State Board of Examiners in this matter, is whether Harvin's disqualifying offense constitutes conduct unbecoming a certificate holder. Since

Harvin failed to respond to the Order to Show Cause, the State Board of Examiners considered only the allegations in the Order during the hearing process.

At its meeting of July 20, 2006, the State Board of Examiners reviewed the charges in the Order to Show Cause. After review of the Order, the Board of Examiners determined that no material facts related to Harvin's offense were in dispute since he never denied that he had committed the offense or had been disqualified because of it. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether Harvin'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 inappropriate role models for them. Individuals such as Harvin, convicted of receiving stolen property fall squarely within this category. "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.

In this case, Harvin has a conviction for a crime that involved theft and dishonesty. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certificate. *In re Grossman*, 127 *N.J. Super.* 13, 30 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). 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 Harvin's disqualification from service in the public schools of this State because of his conviction for receiving stolen property 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 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 Harvin's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of Harvin's County Substitute credential.

Accordingly, pursuant to the Board of Examiners' vote, it is therefore ORDERED that Allen Harvin's County Substitute credential be revoked effective this 21st day of September 2006. It is further ORDERED that Harvin 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:

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

