

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
GUSTAVO BORDENABE : ORDER OF REVOCATION
_____ : DOCKET NO: 1011-231

At its meeting of July 28, 2011, the State Board of Examiners (Board) reviewed information received from the Office of Criminal History Review (OCHR) and the Division of Criminal Justice regarding Gustavo Bordenabe. The OCHR and Criminal Justice notified the Board that Bordenabe pled guilty in June 2011 to one count of Sexual Assault. As a result of the conviction, Bordenabe was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Bordenabe currently holds a Teacher of Elementary School Certificate of Eligibility, issued in July 1997 and a Teacher of Elementary School certificate, issued in July 1999.

Bordenabe did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of September 22, 2011 to issue Bordenabe an Order to Show Cause why his certificates should not be revoked.

The Board sent Bordenabe the Order to Show Cause by regular and certified mail on September 30, 2011. The Order provided that Bordenabe must file an Answer within 30 days. The certified mail copy was returned as unclaimed and the regular mail copy was not returned. Bordenabe did not file a response. Thereafter, on November 16, 2011, the Board sent Bordenabe 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 mail copy was not returned. Bordenabe did not respond to the second notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on December 6, 2011, the Board sent Bordenabe a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Bordenabe 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 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 his disqualifying offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Bordenabe was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as unclaimed and the regular mail copy was not returned. Once again, Bordenabe did not respond.

The threshold issue before the Board in this matter is whether Bordenabe's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Bordenabe failed to respond to the Order to Show Cause or the hearing notice, at its meeting of March 1, 2012, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Bordenabe's offense were in dispute since he never denied that he had been convicted of the offense charged. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(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 Bordenabe's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

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 such as Sexual Assault fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing belief that teachers must serve as role models for their 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. Clearly, Bordenabe's actions here are not those of a role model.

The 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 Board 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 Bordenabe's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of Bordenabe's certificates.

Accordingly, on March 1, 2012, the Board voted to revoke Gustavo Bordenabe's Teacher of Elementary School Certificate of Eligibility and Teacher of Elementary School certificate. On this 2nd day of April 2012 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Gustavo Bordenabe's certificates be effective immediately. It is further ORDERED that Bordenabe 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

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.