

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JAMES HABEL : ORDER OF REVOCATION
_____ : DOCKET NO: 1516-167

At its meeting of March 3, 2016, the State Board of Examiners (Board) reviewed information received from the Superior Court of New Jersey, Monmouth County and the Criminal History Review Unit (CHRU) regarding James Habel. On January 3, 2015, Habel was convicted of Official Misconduct and four counts of Falsifying or Tampering with Records-Knowing that it contains a false statement or information with purpose to deceive or injure anyone or to conceal any wrongdoing. On December 4, 2016, he was sentenced to five years in prison. The CHRU notified the Board that, as a result of his conviction, Habel was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Habel currently holds a Teacher of Health and Physical Education certificate, issued in April 1981, a Principal certificate, issued in July 1989, a Student Personnel Services certificate, issued in August 1990, a School Business Administrator certificate, issued in August 1990, a School Administrator Certificate of Eligibility, issued in November 2000 and a School Administrator certificate, issued in October 2004.

Habel 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 April 14, 2016 to issue Habel an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Habel the Order to Show Cause by regular and certified mail on April 20, 2016. The Order provided that Habel must file an Answer within 30 days. Both the certified mail copy and the regular mail copy were returned as "Undeliverable." After securing a new

address for Habel, the Board re-sent the Order to him by regular and certified mail on June 10, 2016. The certified mail receipt was signed and returned and the regular mail copy was not returned. Habel did not file a response. Thereafter, on July 22, 2016, the Board sent Habel another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail receipt was signed and returned and the regular mail copy was not returned. Habel did not respond.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on August 18, 2016, the Board sent Habel a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted as a result of his failure to file an Answer. Thus, Habel 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 offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Habel was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned and the regular mail copy was not returned. Once again, Habel did not respond.

The threshold issue before the Board in this matter is whether Habel's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Habel failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, at its meeting of November 1, 2016,

the Board considered only the allegations in the Order to Show Cause and the information received from the CHRU. The Board concluded that no material facts related to Habel's offense were in dispute since he never denied that he engaged in the conduct alleged and therefore determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*. After reviewing the allegations, the Board found that Habel had engaged in unbecoming conduct.

The Board must now determine whether Habel'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:9B-4.4*. 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. Individuals convicted of crimes such as Official Misconduct and four counts of Falsifying or Tampering with Records fall squarely within this category. The strong legislative policy statement is also 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. 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 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this instance, Habel's conviction demonstrates behavior that falls far short 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 herself out as a teacher. Thus, because the Legislature and the Commissioner consider Habel's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on November 1, 2016, the Board voted to revoke James Habel's School Administrator Certificate of Eligibility and his Teacher of Health and Physical Education, Principal, Student Personnel Services, School Business Administrator and School Administrator certificates. On this 9th day of December 2016 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Habel's certificates be effective immediately. It is further ORDERED that Habel return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, 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

RRH/MZ/th

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.