

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JENNY M. DIVONE : ORDER OF REVOCATION
_____ : DOCKET NO: 1617-186

At its meeting of April 13, 2018, the State Board of Examiners (Board) reviewed information received from the Monmouth County Prosecutor's Office and the Criminal History Review Unit (CHRU) regarding Jenny M. Divone. On September 5, 2017, Divone pled guilty to Theft by Unlawful taking-Moveable Property valued at \$75,000 or more. On March 2, 2018, she was sentenced to a five-year term of drug court. If Divone fails to complete successfully the drug court probation, she would receive five years in New Jersey State Prison. The CHRU notified the Board that, as a result of her conviction, Divone was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Divone currently holds a Teacher of Elementary School in Grades K-8 Certificate of Eligibility, a Teacher of Elementary School in Grades K-8 Certificate of Eligibility with Advanced Standing and a Teacher of Elementary School in Grades K-8 certificate.

Divone did not challenge the accuracy of her criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of May 24, 2018 to issue Divone an Order to Show Cause as to why her certificates should not be revoked.

After securing a correct address for Divone, the Board sent her the Order to Show Cause by regular and certified mail on June 7, 2018. The Order provided that Divone had 30 days to respond. Divone responded on July 9, 2018.

In that Answer, Divone stated that she was proud of the certificates she had achieved through hard work and dedication and contended that teaching was her passion. (Answer, ¶ 1). Divone admitted that she pled guilty to the charges and took responsibility and expressed

remorse for her past actions. (Answer, ¶¶ 2, 3). She detailed the steps she had taken pursuant to the requirements of drug court and added that she could get her record expunged upon successful completion of the program. (Answer, ¶¶ 2, 3). Divone added that she had the continued support of family and friends and was achieving success and knowledge through her rehabilitation programs. (Answer, ¶¶ 2, 3). She stated that she understood that her actions and conviction warranted discipline, but asked the Board to consider that: she was not working as a public employee when the charges were filed and the conviction was rendered; she was a successful teacher for many years; she would not apply for any teaching positions until she successfully completes her program and her record is expunged; and that she would do whatever was necessary for rehabilitation. (Answer, ¶¶ 4, 5). Finally, Divone noted that being away from teaching was the low point of her life and that, with sobriety, she was able to put her life back into perspective and realize that teaching again was her ultimate goal. (Answer, ¶¶ 4, 5).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on July 30, 2018, the Board sent Divone a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute. Thus, Divone 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 her certificates. It also explained that, upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if her offense warranted action against her certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Divone 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. Divone did not file a response.

The threshold issue before the Board in this matter is whether Divone's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. At its meeting of December 17, 2018, the Board considered the allegations in the Order to Show Cause as well as Divone's Answer. The Board determined that no material facts related to Divone's offense were in dispute since she did not deny that she had engaged in the conduct alleged in the Order to Show Cause. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*.

The Board must now determine whether Divone's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against her 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 inappropriate role models for them. Individuals such as Divone, convicted of a crime involving theft, 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 exemplars 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, Divone'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 Divone's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of her certificates.

Accordingly, on December 17, 2018, the Board voted to revoke Jenny M. Divone's Teacher of Elementary School in Grades K-8 Certificate of Eligibility, Teacher of Elementary School in Grades K-8 Certificate of Eligibility with Advanced Standing and Teacher of Elementary School in Grades K-8 certificate. On this 24th day of January 2019, the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Divone's certificates be effective immediately. It is further ORDERED that Divone return her 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:
Via Certified and Regular mail

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.