

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CREDENTIAL OF : STATE BOARD OF EXAMINERS
MACHLI K. JOSEPH : ORDER OF REVOCATION
_____ : DOCKET NO: 1718-201

At its meeting of April 13, 2018, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) regarding Machli K. Joseph. On January 17, 2018, Joseph pled guilty to a federal charge of Conversion and Misapplication Concerning Program Receiving Federal Funds after he embezzled approximately \$700,000 during his employment as an athletic director at Baruch College. The CHRU notified the Board that, as a result of his conviction, Joseph was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Joseph currently holds a Substitute Credential, which expires in July 2022.

Joseph 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 May 24, 2018 to issue Joseph an Order to Show Cause as to why his credential should not be revoked.

The Board sent Joseph the Order to Show Cause by regular and certified mail on May 29, 2018. The Order provided that Joseph had 30 days to respond. Joseph responded on June 20, 2018.

In that Answer, Joseph contended that while he worked for Baruch College, he and other coaches were allowed to use athletic facilities to fundraise and generate additional income for their prospective teams and personal gain. (Answer, p. 1). He stated that he was told by the college's Vice President of Student Affairs to be "entrepreneurial" and that he could keep some of the profits from his efforts for himself "to compensate for the fact that he worked much more

than was required under his contract.” (Answer, p. 1). He added that this was the culture for all of the coaches that were improving their programs on limited budgets. (Answer, pp. 1-2). Joseph claimed that he cooperated with prosecutors, but since his information did not lead to the arrest of the Vice President, who was the original focus of the investigation, Joseph had to take a plea or go to trial, which he could not afford. (Answer, p. 2). Joseph asked the Board not to revoke his credential and noted that he did not “intend to bleed Baruch College of its funds.” (Answer, p. 2). He noted that his actions should be viewed in the context “of a plan set forth by the Vice President of the College, to build the athletic department which would earn money for the entire college athletic department, build the budget for the basketball team so that they can be successful in their recruiting and marketing efforts.” (Answer, p. 2). Joseph also stated that he had endured great stress due to the series of investigations over the years. (Answer, p. 2). He also noted that he had completed his first year of Doctoral studies in Educational Leadership and Innovation and continued to serve as a minister and mentor in his community and church. (Answer, p. 2).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on July 30, 2018, the Board sent Joseph a hearing notice by regular and certified mail. The notice explained that there appeared to be no material facts in dispute. Thus, Joseph 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 credential. 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 credential. Thereupon, the Board would also determine the appropriate sanction, if any. Joseph was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified

mail copy was returned and the regular mail copy was not returned. Joseph did not file a response.

The threshold issue before the Board in this matter is whether Joseph'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 Joseph's Answer. The Board determined that no material facts related to Joseph's offense were in dispute since he did not deny that he 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 Joseph's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his credential 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 Joseph, convicted of a crime involving embezzlement, 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, 71 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this instance, Joseph'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 himself out as a teacher. Thus, because the Legislature and the Commissioner consider Joseph's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his credential.

Accordingly, on December 17, 2018, the Board voted to revoke Machli K. Joseph's Substitute Credential. 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 Joseph's credential be effective immediately. It is further ORDERED that Joseph return his credential 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.