

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
MICHAEL V. MASSARO : ORDER OF REVOCATION
_____ : DOCKET NO: 1819-122

At its meeting of June 28, 2019, the State Board of Examiners (Board) reviewed information regarding Michael V. Massaro. On or about January 2018, Massaro was indicted for Eluding (2nd degree), Resisting Arrest (3rd degree), Resisting Arrest (4th degree), two counts of Aggravated Assault on Law Enforcement (3rd degree) and Possession of CDS-Heroin (3rd degree). On September 17, 2018, Massaro pled guilty to Possession of CDS (3rd degree). On November 16, 2018, he was sentenced to one year of probation. The Office of Student Protection (OSP), formerly the Criminal History Review Unit, notified the Board that, as a result of his conviction, Massaro is disqualified from public employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Massaro holds a Teacher of Elementary School Grades K-6 Certificate of Eligibility with Advanced Standing.

Massaro 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 August 1, 2019 to issue Massaro an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Massaro the Order to Show Cause by regular and certified mail on August 5, 2019. The Order provided that Massaro had 30 days to respond. The certified mail card was returned unclaimed and the regular mail was not returned. Massaro did not respond.

Thereafter, on September 16, 2019, the Board sent Massaro 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. Massaro did not file a response.

Accordingly, pursuant to *N.J.A.C.* 6A:9B-4.6(e), on October 31, 2019, the Board sent Massaro 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, Massaro 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. Massaro was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail card was returned “unclaimed” and the regular mail copy was not returned. Once again, Massaro did not file a response.

The threshold issue before the Board in this matter is whether Massaro’s conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Massaro 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 January 23, 2020, the Board considered only the allegations in the Order to Show Cause and the information received and considered by the Board. The Board concluded that no material facts related to Massaro’s offense were in dispute since he never denied that he engaged in the conduct alleged and had been convicted 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 Massaro engaged in unbecoming conduct.

The Board must now determine whether Massaro'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 were not proper examples for them. Individuals convicted of crimes such as possession of CDS (heroin) 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, Massaro's conviction for possession of CDS (heroin) 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 Massaro's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificate.

Accordingly, on January 23, 2020, the Board voted to revoke Michael V. Massaro's Teacher of Elementary Grades K-6 Certificate of Eligibility with Advanced Standing. On this 28th day of February 2020, the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Massaro's certificate be effective immediately. It is further ORDERED that Massaro 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.

Rani Singh, Secretary
State Board of Examiners

Date of Mailing:
By 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.