

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
RICHARD F. O'BRIEN : ORDER OF REVOCATION
_____ : DOCKET NO: 2122-123

At its meeting of December 16, 2021, the State Board of Examiners (Board) reviewed information the National Association of State Directors of Teacher Education and Certification (NASDTEC) and the Commonwealth of Virginia, Department of Education (Virginia) forwarded regarding Richard F. O'Brien. O'Brien's Virginia certificate(s) were revoked on September 22, 2021 following his conviction of Use of Computer to Solicit a Minor 15+.

In New Jersey, O'Brien currently holds a Teacher of Elementary Grades K-8 Certificate. Upon review of the above information, at its January 21, 2022 meeting, the Board voted to issue O'Brien an Order to Show Cause as to why his certificate should not be revoked.

After obtaining a correct address, on March 14, 2022, the Board sent O'Brien the Order to Show Cause by regular and certified mail. The Order provided that O'Brien had 30 days to respond. The certified mail copy was signed for and the regular mail copy was not returned. O'Brien did not respond. On May 19, 2022, the Board sent O'Brien 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 "delivered, left with individual" and the regular mail copy was not returned. O'Brien did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on August 3, 2022, the Board sent O'Brien 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, O'Brien 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 certificate. It also explained that, upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if O'Brien's offense warranted action against his certificate. Thereupon, the

Board would also determine the appropriate sanction, if any. O'Brien was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as "delivered, left with individual" and the regular mail copy was not returned. Once again, O'Brien did not file a response.

The threshold issue before the Board in this matter is whether O'Brien's conduct constitutes conduct unbecoming a certificate holder or other just cause. Since O'Brien 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 October 28, 2022, the Board considered only the allegations in the Order to Show Cause and the information received from NASDTEC and Virginia. The Board concluded that no material facts related to O'Brien's offense were in dispute since he never denied that he engaged in the conduct alleged. Thus, the Board 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 O'Brien had engaged in unbecoming conduct.

The Board must now determine whether O'Brien's conduct, as set forth in the Order to Show Cause, provides just cause to act against his certificate pursuant to *N.J.A.C. 6A:9B-4.4*. The Board finds that it does.

The Board may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9B-4.4*. "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). O'Brien's conviction for Use of Computer to Solicit a Minor 15+, and revocation of his Virginia educator license clearly demonstrate conduct that is unacceptable for a role model. The Board therefore concludes that the appropriate response to his breach is the revocation of his New Jersey certificate.

Accordingly, on October 28, 2022, the Board voted to revoke Richard F. O'Brien's Teacher of Elementary Grades K-8 Certificate. On this 9th day of December 2022, the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of O'Brien's certificate be effective immediately. It is further ORDERED that O'Brien return his certificate 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

RS/KAG/cf

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.