

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
BEVERLY FOLEY : ORDER OF REVOCATION
_____ : DOCKET NO: 566-05/00-248

At its meeting of May 11, 2000, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that, in 1999, respondent Beverly Foley was convicted pursuant to N.J.S.A. 2C:12-3 for making terroristic threats. As a result of such conviction, Foley was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 et seq.

Foley did not challenge the accuracy of the disqualification before the Commissioner of Education. Upon review of the above-mentioned information, at that May meeting, the State Board of Examiners voted to issue Foley an Order to Show Cause. Foley currently holds a County Substitute certificate issued by the Monmouth County Office of Education.

The Order to Show Cause was mailed to Foley by regular and certified mail on June 23, 2000. The regular mail was not returned and the certified mail return receipt card was signed and returned. The Order provided that an Answer had to be filed within 20 days. Foley did not respond to the Order to Show Cause. On November 2, 2000, the Board of Examiners provided Foley an additional 10 days to respond to the Order. She was advised that if no response was received, the allegations in the Order to Show Cause would be deemed admitted and the State Board of Examiners would proceed to a decision as to revocation or suspension based on the evidence before it. Although the regular mail was not returned and the certified mail was claimed, once again, Foley did not respond to the Order to Show Cause.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Foley's disqualification from serving in the public schools of New Jersey gives the

Board just cause to act against her certificate pursuant to N.J.A.C. 6:11-3.6(a)1. Since Foley did not respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. N.J.A.C. 6:11-3.6(a)1. Since Foley's disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, is admitted, the Board of Examiners must now decide whether that constitutes a sufficient basis to act against her certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

In enacting the Criminal History Review statute, N.J.S.A. 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 to them. Included in that category are individuals convicted of committing terroristic threats. (N.J.S.A. 2C:12-3.) This strong legislative policy statement is in accord with the Commissioner's long-standing policy of holding teachers to a higher standard: "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.

In this case, Foley has a conviction for committing terroristic threats. Moreover, she has not yet completed the two years of court-ordered probation for her crime. Unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), *aff'd*. 131 N.J.L. 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Foley's disqualification from service in the public schools of this State because of her conviction for threatening to commit a crime provides just cause to take action against her certificate.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners 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 considers Foley's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of her County Substitute certificate.

Accordingly, it is therefore ORDERED that Beverly Foley's County Substitute certificate be revoked on this 22nd day of February 2001. It is further ORDERED that Foley return her certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: 3/27/01

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

IBG:MZ:kb:Beverly Foley