

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS  
NICHOLAS MARTIN : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 634-05/01-309

At its meeting of May 10, 2001, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on March 1, 2001, Nicholas Martin had pled guilty to charges of lewdness in violation of N.J.S.A. 2C:14-4b(1). Martin is currently the holder of a Teacher of Music certificate. Upon review of the above information, at that May meeting, the State Board of Examiners voted to issue Martin an Order to Show Cause.

The Board sent Martin the Order to Show Cause by regular and certified mail. The Order provided that an Answer must be filed within 20 days. Martin filed an Answer and in that Answer, admitted to the facts stated in the Order to Show Cause. Martin further stated that he had pled guilty to a misdemeanor and would be able to have it expunged in five years. (Answer, ¶ 1.) Martin added that he had been through a court-ordered one year probation and psychiatric evaluation and was not a threat to society. (Answer, ¶ 2.) He also added that he did not believe his offense warranted revocation of his teaching certificate, and, at most, the Board of Examiners should suspend his certificate until he could get his offense expunged.

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on April 12, 2002, the Board of Examiners sent Martin a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, Martin 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. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if Martin's offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. The certified letter was

returned as unclaimed but the regular mail copy of the Hearing Notice was not returned. Martin did not file an Answer to the Hearing Notice.

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Martin's guilty plea to lewdness constitutes conduct unbecoming a certificate holder. At its meeting of April 3, 2003, the State Board of Examiners reviewed the charges and papers Martin filed in response to the Order to Show Cause. After review of Martin's submissions, the Board of Examiners determined that no material facts related to respondent's offense were in dispute since Martin admitted that he had pled guilty to the offenses charged and had been sentenced accordingly. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1. The Board of Examiners also determined that Martin's offense would disqualify him from teaching in any public school pursuant to N.J.S.A. 18A:6-7.1.

The State Board of Examiners must now determine whether Martin's offense and subsequent disqualification as set forth in the Order to Show Cause, provide just cause to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that they do.

The State Board of Examiners 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. 6:11-3.4. "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. Martin's act of public lewdness is inexcusable for any individual, teacher or not. Even if one assumes Martin was an exceptional teacher in the classroom, he has not demonstrated like behavior outside that arena.

Moreover, the Commissioner has long held that teachers serve as role models for their students. Therefore, a teacher's whole life is subject to scrutiny, not just his actions within the schoolhouse doors:

[R]espondent's argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. Individuals who must comport themselves as models for young minds to emulate choose the teaching profession. This heavy responsibility does not begin at 8:00 a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. See, In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County, 1965 S.L.D. 159, aff'd State Board of Education 1970 S.L.D. 448; In the Matter of the Tenure Hearing of John H. Stokes, School District of the City of Rahway, Union County, 1971 S.L.D. 623.

In the Matter of the Tenure Hearing of Robert H. Beam, 1973 S.L.D. 157, 163. Martin therefore cannot exclude his "out-of-school" behavior from this tribunal's examination.

Furthermore, 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 who commit offenses such as lewdness. This strong legislative policy statement is in accord with the Commissioner's long-standing policy of holding teachers to a higher standard.

In this case, Martin has a conviction for lewdness. 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 Martin's disqualification from service in the public schools of this State because of his conviction for lewdness provides just cause to take action against his 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 himself out as a teacher. Thus, because the Legislature considers Martin's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of his certificate.

Accordingly, it is therefore ORDERED that Nicholas Martin's Teacher of Music certificate be revoked on this 3rd day of April, 2003. It is further ORDERED that Martin return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

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Joan E. Brady, Secretary  
State Board of Examiners

Date of Mailing: January 30, 2004

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