

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
DENNIS POWERS : ORDER OF SUSPENSION  
\_\_\_\_\_ : DOCKET NO: 0405-272

At its meeting of June 9, 2005, the State Board of Examiners reviewed information the Office of Criminal History Review had forwarded indicating that on February 23, 2005, Dennis Powers had been arrested and charged with aggravated sexual assault. As a result of this arrest, Powers faced potential disqualification from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Powers did not challenge the accuracy of his criminal history record. Upon review of the above information, at its June 9, 2005 meeting, the State Board of Examiners voted to issue Powers an Order to Show Cause as to why his certificates should not be suspended pending resolution of the criminal charges against him. Powers currently holds a Teacher of Spanish Certificate of Eligibility, issued in August 2003 and a Teacher of Spanish certificate, issued in August 2004.

The Board sent Powers the Order to Show Cause by regular and certified mail on July 27, 2005. The certified mail was signed for and returned and the regular mail copy was not returned. Powers did not respond to the Order. Thereafter, on September 16, 2005, the Board sent Powers a second notice by regular and certified mail. Again, Powers signed for the certified mail and the regular mail copy was not returned. Powers did not respond to the second notice.

At its meeting of December 8, 2005, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since there was no response, the Board of Examiners determined that no material facts related to Powers' offense were in dispute since he had never denied that he had been charged with the offense nor did he deny the resulting potential disqualification in the event of a conviction. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The issue before the State Board of Examiners in this matter, therefore, is whether Powers' arrest and possible resultant disqualification for aggravated sexual assault, as set forth in the Order to Show Cause, represent just cause to act against his certificates pursuant to *N.J.A.C.* 6A:9-17.5. 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 a danger to them. Individuals convicted of a crime of violence fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing condemnation of violent acts by teaching-staff members. "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, Powers has an arrest for aggravated sexual assault, a crime involving bodily injury. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certificate. *In re Grossman*, 127 *N.J. Super.* 13, 30 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E&A 1944). 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 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Powers' arrest and his potential disqualification from service in the public schools of this State for the offense of aggravated sexual assault provide just cause to take action against his certificates.

That 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 State Board of Examiners as to the appropriate sanction in this

matter. An individual whose offense is so great that he or she would be barred from service in public schools if convicted of that offense, should not be permitted to retain the license that authorizes such service while the courts determine his or her culpability. Thus, because the Legislature considers Powers' offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction pending resolution of the criminal charges against him is the suspension of his certificates to teach.

Accordingly, it is therefore ORDERED that Dennis Powers' Teacher of Spanish Certificate of Eligibility and Teacher of Spanish certificate be suspended on this 8th day of December 2005. If the charges are resolved in his favor, he shall notify the Board of Examiners for appropriate action regarding the suspension order. It is further ORDERED that Powers return his certificates to the Secretary of the State Board of Examiners, Office of Licensure and Credentials, PO Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

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Robert R. Higgins, Acting Secretary  
State Board of Examiners

Date of Mailing: DECEMBER 20, 2005

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