

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
KEVIN HUMPHREY : ORDER OF SUSPENSION
_____ : DOCKET NO: 0405-146

At its meeting of October 28, 2004, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that on March 2, 2004, respondent Kevin Humphrey had been charged with enticing a child into a motor vehicle, aggravated assault, sexual assault and endangering the welfare of children. If Humphrey is convicted he will be permanently disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Humphrey currently holds a Teacher of English Certificate of Eligibility With Advanced Standing, issued in September 2003.

Humphrey did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the State Board of Examiners voted to issue Humphrey an Order to Show Cause at its meeting of October 28, 2004.

The Board sent Humphrey the Order to Show Cause by regular and certified mail on January 31, 2005. The certified mail receipt was signed and returned. The regular mail copy was not returned. The Order provided that Humphrey must file an Answer within 30 days. Humphrey did not respond to the Order to Show Cause. Thereafter, on March 30, 2005, the Board of Examiners sent him a second notice by regular and certified mail providing him an additional 15 days in which to file an Answer. The regular mail copy was not returned. The certified mail copy was returned as unclaimed. Once again, Humphrey did not file an Answer. Both notices advised Humphrey that if he did not respond to the charges, the Board would decide the matter based solely on the information it already possessed.

At its meeting of June 9, 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 Humphrey's offenses were in dispute since he had never denied that he had been charged with the offenses 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 Humphrey's arrest and possible resultant disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificate 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 acts of violence 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, Humphrey has an arrest for several violent crimes that directly endangered children. 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 Humphrey's arrest and his potential disqualification from service in the public schools of this State (for the offenses of enticing a child into a motor vehicle, aggravated assault, sexual assault and endangering the welfare of a child) provide 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:6-7.1(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 Humphrey's offenses 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 certificate to teach.

Accordingly, it is therefore ORDERED that Kevin Humphrey's Teacher of English Certificate of Eligibility With Advanced Standing be suspended on this 9th day of June 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 Humphrey return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: JULY 29, 2005

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