

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ANTHONY NARDINI : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-110

At its meeting of October 28, 2004, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Anthony Nardini was convicted in September 1991 of public lewdness. As a result of such conviction, Nardini was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Nardini currently holds a Teacher of General Business Studies Certificate of Eligibility and a Teacher of Marketing Education certificate, both issued in October 1993.

Nardini challenged the accuracy of his criminal history record before the Commissioner of Education, but the appeal was denied. Upon review of the above information, the State Board of Examiners voted to issue Nardini an Order to Show Cause at its October 28, 2004 meeting.

The Board sent Nardini the Order to Show Cause by regular and certified mail on January 6, 2005. The Order provided that Nardini must file an Answer within 30 days. Nardini filed an Answer on January 28, 2005.

In his Answer, Nardini asserted that he was found guilty of lewdness but that it was based on mistaken identity. (Answer, ¶¶ 2,4.) He admitted that the conviction was neither appealed nor expunged. (Answer, ¶ 2.) He also claimed that he had challenged the accuracy of his criminal history record but was unsuccessful. (Answer, ¶ 3.) Nardini asked the Board of Examiners to dismiss the Order to Show Cause and allow his certificates to “remain in full force and effect.” (Answer, ¶ 5.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on February 28, 2005, the Board sent Nardini a hearing notice by regular and certified mail. The notice explained that since it

appeared no material facts were in dispute, Nardini 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 his disqualifying offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any.

Nardini filed a response to the hearing notice on March 3, 2005. In that response, he claimed that the event leading to his conviction for public lewdness was a case of mistaken identity. (Hearing Response, p. 1.) He also claimed that he never followed up to have his record sealed or expunged. (Hearing Response, p. 1.) Nardini added that his attorney had provided faulty advice, that he could not now locate his attorney and that no one else could help him. (Hearing Response, p. 1.) Nardini stated that he was a good husband and father and had coached many children over 20 years. (Hearing Response, pp. 2, 3.) He claimed that he had the respect of many families in his community. (Hearing Response, pp. 2, 3.) He added that his record and history “before and after one unfortunate event in my life should be how I am judged as a human being.” (Hearing Response, p. 2.)

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Nardini’s disqualifying offense constitutes conduct unbecoming a certificate holder. At its meeting of March 31, 2005, the State Board of Examiners reviewed the charges and papers Nardini filed in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to Nardini’s offense were in dispute since he never denied that he had been convicted of the offense nor did he deny that he had been

disqualified because of it. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C.* 6A:9-17.7(h).

The State Board of Examiners must now determine whether Nardini's disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, represents just cause to act against his certificates pursuant to *N.J.A.C.* 6A:9-17.5. The Board finds that it does.

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 lewdness fall squarely within this category. *N.J.S.A.* 18A:6-7.1(a). This strong legislative policy statement is in accord with the Commissioner's long-held belief that teachers serve as role models for their students. 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 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). Furthermore, 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). Accordingly, the State Board of Examiners finds that Nardini's disqualification from service in the public schools of this State because of his conviction for public lewdness provides 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 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 Nardini's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of Nardini's certificates.

Moreover, notwithstanding Nardini's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See *In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners*, 96 N.J.A.R. 2D (EDE) 1, 16 *aff'd*, App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing *In the Matter of the Revocation of the Teaching Certificate of James Noll*, State Bd. of Examiners decision (February 7, 1990).

Accordingly, it is therefore ORDERED that Anthony Nardini's Teacher of General Business Studies Certificate of Eligibility and Teacher of Marketing Education certificate be revoked on this 31st day of March 2005. It is further ORDERED that Nardini return his certificates 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.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: APRIL 12, 2005

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