

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
SCOTT PETERS : ORDER OF SUSPENSION
_____ : DOCKET NO: 0405-218

At its meeting of March 31, 2005, the State Board of Examiners reviewed information the Office of Criminal History Review had forwarded indicating that on December 1, 2004, Scott Peters had been arrested and charged with endangering the welfare of a child. As a result of this arrest, Peters faced potential disqualification from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Peters did not challenge the accuracy of his criminal history record. Upon review of the above information, at its March 31, 2005 meeting, the State Board of Examiners voted to issue Peters an Order to Show Cause as to why his certificates should not be suspended pending resolution of the criminal charges against him. Peters currently holds a Teacher of Elementary School Certificate of Eligibility and a Teacher of Social Studies Certificate of Eligibility, both issued in April 1993.

The Board sent Peters the Order to Show Cause by regular and certified mail on April 12, 2005. The Order provided that Peters' Answer was due within 30 days. Peters responded to the Order on April 21, 2005. In that Answer, Peters admitted that the Howell Township police had seized his computer in November 2004 and alleged that the computer contained pornographic material harmful or relating to children. (Answer, ¶¶ 3-4). Peters alleged that his wife also had access to the computer and that she was a computer graphics artist and related material designer. (Answer, ¶ 5). He stated that he and his wife were in the midst of a bitter divorce. (Answer, ¶ 8). He believed that his wife would do anything to deprive him of contact with their son and that she had, in fact, planted the pornography on the computer. (Answer, ¶¶ 9-10). He noted that he was released without bail after his arrest and that the charge against him was of a fourth degree

crime, the lowest degree possible. (Answer, ¶ 11). Peters also requested that the suspension proceeding be held in abeyance pending a determination by the prosecutor's office regarding the charge against him, which could take months. (Answer, ¶¶ 12-13).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on July 25, 2005, the Board of Examiners sent Peters a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, Peters 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 Peters' offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. On August 1, 2005, Peters submitted his reply.

In that response, Peters agreed that there were no significant facts in dispute. He argued that the Board would be violating his rights by depriving him of his teaching credentials based upon "an unsupported allegation of supposed child pornography." (Hearing Response, p. 1). He argued that he had not been indicted or convicted of any offense and that it was still possible that the case would be dismissed. (Hearing Response, pp. 1-2). He reiterated that the computer on which the supposed pornography was found was equally accessible to his wife who was a computer operator and designer. (Hearing Response, p. 2). Peters reiterated his request to hold the matter in abeyance pending resolution of the criminal case. (Hearing Response, p. 2).

At its meeting of November 3, 2005, the State Board of Examiners reviewed Peters' submission requesting that the matter be held in abeyance until the criminal charges were

resolved. The Board voted to table the matter so that Peters could submit a proper motion for a stay pursuant to *N.J.A.C. 6A:9-17.21*. Peters did not file a motion for a stay.

At its meeting of March 30, 2006, the Board of Examiners reviewed the charges in the Order to Show Cause and Peters' responses. The threshold issue before the State Board of Examiners in this matter, therefore, is whether Peters' arrest and possible resultant disqualification constitute conduct unbecoming a certificate holder. At its meeting of March 2, 2006, the State Board of Examiners reviewed the charges and papers Peters filed in response to the Order to Show Cause. After review of Peters' submissions, the Board of Examiners determined that no material facts related to his 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. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*.

The issue before the State Board of Examiners in this matter, therefore, is whether Peters' arrest and possible resultant disqualification for endangering the welfare of a minor, 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 endangering the welfare of a child fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing condemnation of criminal 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, Peters has an arrest for endangering the welfare of a child, a crime that directly implicates his suitability to continue as a teacher even though it occurred off school grounds. 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 Peters’ arrest and his potential disqualification from service in the public schools of this State for the offense of endangering the welfare of a child 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 Peters’ 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, pursuant to the Board of Examiners’ vote, it is therefore ORDERED that Scott Peters’ Teacher of Elementary School Certificate of Eligibility and Teacher of Social Studies Certificate of Eligibility be suspended effective this 4th day of May 2006. 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 Peters 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.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: MAY 10, 2006

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