

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOHN LAPETINA : ORDER OF REVOCATION
_____ : DOCKET NO: 0506-214

At its meeting of January 19, 2006, the State Board of Examiners reviewed information received from the Wenonah Superintendent of Schools and the Gateway Regional High School District Superintendent of Schools indicating that on February 14, 2005, John Lapetina had pled guilty to federal charges of possession of child pornography. On June 15, 2005, Lapetina was sentenced to 12 months and one day in prison. Lapetina currently holds a Teacher of Music Certificate of Eligibility With Advanced Standing, issued in April 1996, and a Teacher of Music certificate, issued in February 1997. Upon review of the above information, at its March 30, 2006 meeting, the State Board of Examiners voted to issue Lapetina an Order to Show Cause.

The Board sent Lapetina the Order to Show Cause by regular and certified mail on April 20, 2006. The Order provided that Lapetina's Answer was due within 30 days. Lapetina filed his response on May 19, 2006. In that Answer, Lapetina stated that he pled guilty to possession of child pornography because of his "failure to notify law enforcement of approximately 30 illegal images that [he] viewed online in 2003." (Answer, p. 1). He added that he had no desire to view the images and that he did not save them. (Answer, p. 1). He noted that he was not aware that he was supposed to report their existence to law enforcement. (Answer, p. 1). Lapetina stated that he received the shortest possible sentence for his offense. (Answer, p. 1). Finally, Lapetina claimed that he understood he could never work in a school again but wanted to retain his certificates as "a testament to my abilities as an educator and conductor." (Answer, p. 2).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on June 1, 2006, the Board of Examiners sent Lapetina a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, Lapetina 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 Lapetina's offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. On June 20, 2006, Lapetina submitted his reply.

In that response, Lapetina submitted many character reference letters. In addition, he added a letter he had filed with the federal court before his sentencing. In that submission, Lapetina recalled his love of musical theater and his teaching career. (Hearing Response, pp. 1-2). He also stated that he and his wife were naturists and in researching various websites on nude resorts, he came across websites that had illegal content and images. (Hearing Response, pp. 2-3). Lapetina claimed that he deleted any of the unwanted images, but admitted that he did not notify law enforcement of their existence as he was required to do. (Hearing Response, pp. 3-4). In the remainder of his letter to the Judge, Lapetina recounted his new career and community activities since his arrest, including working with a marching band and arranging music for other high school bands. (Hearing Response, pp. 4-5).

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Lapetina's guilty plea to possession of child pornography constitutes conduct unbecoming a certificate holder. At its meeting of July 20, 2006, the State Board of Examiners reviewed the charges and papers Lapetina filed in response to the Order to Show Cause. After

review of Lapetina's submissions, the Board of Examiners determined that no material facts related to his offense were in dispute since Lapetina 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. 6A:9-17.7(h)*.

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

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. 6A:9-17.5*. "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. Lapetina's acts of possession of child pornography, regardless of their circumstances cannot be countenanced by this Board. Moreover, his admitted failure to notify law enforcement of their existence evidences a serious lack of judgment. While Lapetina may have been an exceptional teacher in the classroom, he has not demonstrated like behavior outside that arena.

Although Lapetina recognizes that he can never teach again in a public school setting, he argues that he should retain his certificates as a measure of what he has accomplished. However, a certificate does not just represent an individual's achievement in the teaching profession, it also acts as an authorization to teach students. An individual whose offense is so great that he or she will be barred from service in public schools should not be permitted to retain the certificate that

authorizes such service. Nor should a person who has effectively been disqualified from teaching in a public school be permitted to continue to hold himself out as a teacher.

Moreover, it is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. *See Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); *State Board of Examiners v. Krupp*, 3 N.J.A.R. 285 (1981). 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.]

Lapetina therefore cannot exclude his "out-of-school" behavior from this tribunal's examination. Furthermore, 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). In this instance, Lapetina's possession of child pornography is inexcusable for a teacher and warrants the revocation of his certificates.

Accordingly, pursuant to the Board of Examiners' vote, it is therefore ORDERED that John Lapetina's Teacher of Music Certificate of Eligibility With Advanced Standing and Teacher of Music certificates be revoked effective this 21st day of September, 2006. It is further ORDERED that Lapetina return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, 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:

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