

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
BRYAN SCALZO : ORDER OF REVOCATION
_____ : DOCKET NO: 0607-104

At its meeting of September 21, 2006, the State Board of Examiners reviewed information the Office of Criminal History Review had forwarded indicating that Bryan Scalzo was convicted in November 2005 on charges of assault by auto. As a result of the conviction, Scalzo was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Scalzo did not appeal the disqualification before the Commissioner of Education. Scalzo currently holds a Teacher of Health & Physical Education Certificate of Eligibility With Advanced Standing, issued in July 2004. Upon review of the above information, at its November 2, 2006 meeting, the State Board of Examiners voted to issue Scalzo an Order to Show Cause.

The Board sent Scalzo the Order to Show Cause by regular and certified mail on November 14, 2006. The certified mail copy was signed and returned. The regular mail copy was not returned. The Order provided that Scalzo must file an Answer within 30 days. Scalzo did not respond to the Order. Thereafter, the Board sent Scalzo a second notice by regular and certified mail providing him an additional 15 days in which to file an Answer. Again, the certified mail receipt was signed and returned and the regular mail copy was not returned. Once again, Scalzo did not file an Answer.

The threshold issue before the State Board of Examiners in this matter, is whether Scalzo's disqualifying offense constitutes conduct unbecoming a certificate holder. Since Scalzo failed to respond to the Order to Show Cause, the State Board of Examiners had only the allegations in the Order to consider during the hearing process.

At its meeting of February 22, 2007, the State Board of Examiners reviewed the charges in the Order to Show Cause. After review of the Order, the Board of Examiners determined that no material facts related to Scalzo's offense were in dispute since he never denied that he had

committed the offense or had been disqualified because of it. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether Scalzo'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 certificate 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 such as assault by auto fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing condemnation of inappropriate behavior 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, Scalzo has a conviction for a crime that injured another individual. 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 Scalzo's disqualification from service in the public schools of this State because of his conviction for assault by auto 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. Because the Legislature considers Scalzo's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction for his disqualification is the revocation of his certificate to teach. *See In the Matter of the Revocation of the Teaching Certificate of Patricia Rector*, Agency Dkt. No. 19-02 (St. Bd. of Education, August 7, 2002) (affirming the decision of the State Board of Examiners to revoke Rector's teaching certificate on the basis of the disqualification pursuant to *N.J.S.A. 18A:6-7.1.*)

Accordingly, pursuant to the Board of Examiners' vote it is therefore ORDERED that Bryan Scalzo's Teacher of Health & Physical Education Certificate of Eligibility With Advanced Standing be revoked effective this 29th day of March 2007. It is further ORDERED that Scalzo 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 30 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: April 2, 2007

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