

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
THOMAS CAFFREY : ORDER OF REVOCATION
_____ : DOCKET NO: 0708-160

At its meeting of February 21, 2008, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Thomas Caffrey was convicted in 1995 on charges of Bank Fraud. Caffrey was sentenced to six months in federal prison, five months probation, ordered to pay restitution and fined. As a result of his conviction, Caffrey was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Caffrey currently holds a Teacher of Social Studies certificate, issued in April 1981. Caffrey 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 Caffrey an Order to Show Cause at its meeting of March 27, 2008.

The Board sent Caffrey the Order to Show Cause by regular and certified mail on April 7, 2008. Neither copy was returned. The Order provided that Caffrey must file an Answer within 30 days. Caffrey did not file a response. Thereafter, on November 10, 2008, the Board sent Caffrey another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The regular mail copy was not returned and the certified mail receipt was signed and returned. Caffrey did not respond to the second notice either.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on February 3, 2009, the Board sent Caffrey a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute and Caffrey 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 whether the conduct underlying his offense and resulting disqualification warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Caffrey was also provided the opportunity to appear before the Board to testify on the sanction issue. Once again, Caffrey did not file a response.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether the conduct underlying Caffrey's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Caffrey failed to respond to the Order to Show Cause or the hearing notice, at its meeting of June 22, 2009, the State Board of Examiners considered only the allegations in the Order to Show Cause. The Board of Examiners determined that no material facts related to Caffrey's offense were in dispute since he never denied that he had pled guilty to the offense 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)*. 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 the conduct underlying Caffrey's conviction and 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 dishonest and poor role models. Individuals convicted of a crime such as bank fraud fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing belief that teachers must serve as role models for their students.

“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. Clearly Caffrey’s actions here are not those of a role model.

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). In this case, Caffrey has a conviction for a crime involving dishonesty. A teacher’s behavior outside the classroom may be relevant in determining that person’s qualifications and continued fitness to retain his/her certificate. *In re Grossman*, 127 *N.J. Super.* 13, 30 (Sup. Ct. 1943), *aff’d*, 131 *N.J.L.* 326 (E & A 1944). 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).

The 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 Caffrey’s offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of Caffrey’s teaching certificate.

Accordingly, on June 22, 2009, the Board of Examiners voted to revoke Thomas Caffrey's Teacher of Social Studies certificate. On this 28th day of July 2009 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Caffrey's certificate be effective immediately. It is further ORDERED that Caffrey return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing:

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

RRH:MZ: