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| IN THE MATTER OF | : | NEW JERSEY DEPARTMENT OF EDUCATION |
| THE APPLICATION FOR | : | STATE BOARD OF EXAMINERS |
| CERTIFICATION AFTER | : | |
| REVOCATION | : | DOCKET NO. 0809-219 |
| OF | : | |
| M.B. ¹ | : | |
| _____ | : | |

At its meeting of June 22, 2009, the State Board of Examiners reviewed an application submitted by M.B. requesting certification as a Teacher of Elementary School Grades K-5 and Teacher of Students with Disabilities. M.B. had previously held certification as a Teacher of Elementary School and Teacher of the Handicapped², but her certificates were revoked in June 2000. The Board's action revoking M.B.'s certificates was based upon a finding that M.B. had engaged in sexual acts with one student and had sexually stimulating conversations with another student. M.B. had also lied at her tenure hearing about her actions with the students. In addition to having her certificates revoked, M.B.'s name was placed on the Division of Youth and Family Services' (DYFS) central registry of offenders. Both the Examiners' decision on revocation and DYFS' decision regarding the registry were affirmed on appeal, by the State Board of Education and the Appellate Division, respectively.

M.B. previously applied for certification after revocation in January 2004, but the Board of Examiners denied that application. *In the Matter of the Certification of M.B.*, Dkt. No. 0304-161 (Bd. of Examiners, January 26, 2004.) In a decision dated January 26, 2004, the Board of Examiners would not consider M.B.'s application because four years had not elapsed since the

¹ The applicant, M.B. shall be identified by her initials here since all prior decisions involving her certification were issued under a sealed record to protect the minor victim.

² The Department of Education no longer issues Teacher of the Handicapped certificates, thus M.B. must apply for a Teacher of Students with Disabilities certificate instead.

effective date of her revocation, as required by *N.J.A.C. 6A:9-17.10*. *Ibid.* The Board also found no evidence of rehabilitation in M.B.'s documentation. *Ibid.*

M.B. is once again seeking certification after revocation. *N.J.A.C. 6A:9-17.10*, which governs applications for certification after revocation, provides:

(a) A certificate that has been revoked for any of the grounds set forth in this chapter shall not be reinstated. An individual who has had a certificate revoked may file an application for a new certificate with the Board of Examiners.

(b) The Board of Examiners shall not issue a new certificate to a candidate whose certificate(s) has been revoked unless the following conditions are met:

1. The candidate shall satisfy all criteria for the issuance of the certificate that are in effect at the time of the application for the new certificate;
2. At least four years shall have passed since the effective date of the revocation of the previous certificate;
3. The candidate shall have provided evidence demonstrating rehabilitation for the unbecoming conduct, incompetence, or other cause for the revocation;
4. If the basis for the revocation was the conviction of a crime that is not disqualifying under N.J.S.A. 18A:6-7.1 et seq., the candidate shall have submitted evidence to the Board of Examiners that he or she has been fully rehabilitated in accord with the factors set forth in N.J.S.A. 2A:168A-2 and that issuing a certificate to the candidate would not be detrimental to the public welfare;
5. The candidate shall have complied with all conditions imposed by the order of revocation; and
6. If the revocation arose from a criminal matter involving the candidate, the candidate shall have provided evidence that he or she has satisfied any conditions imposed by the court, probation, plea bargain agreement or any other entity.

(c) Notwithstanding the provisions of (b) above, the Board of Examiners shall not issue a new certificate to any candidate who is:

1. Ordered to forfeit certification as part of a settlement in a tenure or criminal proceeding;
2. Barred from teaching again in the State of New Jersey by order of a court of competent jurisdiction;
3. Ordered to forfeit certification as part of a plea bargain;
4. Ordered to forfeit certification as a condition for entrance into a pre-trial intervention program as set forth in Rule 3.28 of the New Jersey Court Rules;
5. Ordered to forfeit certification pursuant to a sentence imposed in a criminal proceeding;
6. Barred from teaching for any reason; or
7. Relinquishing his or her certificate pursuant to N.J.A.C. 6A:9-17.11.

Nothing in the record before us convinces the Board that M.B. has met her burden of proving rehabilitation. Pursuant to *N.J.A.C. 6A:9-17.10*, M.B. must provide information to this tribunal as to the circumstances leading to the revocation of her prior certificates and demonstrate rehabilitation that warrants the issuance of new ones. Although M.B. was never convicted of a crime for her conduct, in determining whether M.B. has been rehabilitated, the Board finds instructive the factors listed in the Rehabilitated Convicted Offenders Act, *N.J.S.A. 2A:168A-1 et seq.*

Pursuant to that Act, an applicant for a license or certificate of authority or qualification to engage in the practice of a profession or business cannot be disqualified or discriminated against based upon a prior conviction unless the “conviction for a crime relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought.” *N.J.S.A. 2A:168A-2*. In order to make that determination, the licensing authority looks at several factors:

- a. The nature and duties of the occupation, trade, vocation, profession or business, a license or certificate for which the person is applying;
- b. Nature and seriousness of the crime;
- c. Circumstances under which the crime occurred;
- d. Date of the crime;
- e. Age of the person when the crime was committed;
- f. Whether the crime was an isolated or repeated incident;
- g. Social conditions which may have contributed to the crime;
- h. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision. *Ibid.*

Looking at both the statutory criteria and the requirements of *N.J.A.C. 6A:9-17.10*, it is clear that M.B. is not a viable candidate for certification.

After a thorough review of M.B.'s submissions, the Board of Examiners determines that she has not adequately demonstrated rehabilitation. M.B. has provided letters of reference as to both her character and employment ethic. In addition, she has submitted two commendations for her community service. M.B. has also tendered a letter of evaluation from a psychiatrist indicating that she is "psychologically ready to resume her [teaching] career." (Letter from Dr. Samuel Schneider, February 21, 2009.) The Board of Examiners found that the evidence of rehabilitation submitted cannot adequately mitigate her inappropriate actions with students so many years ago. The egregiousness of her conduct cannot be overlooked or easily excused.

Clearly, M.B. cannot lay claim to being a role model for students. While some of the children she tutors may attest to what a wonderful job she did, those same students (and their parents) would likely feel discomfited if they knew she had engaged in sexually inappropriate behavior with students and then lied about it at her tenure hearing. Nothing has changed since her first application for certification after revocation other than the passage of time and her claim to appreciate now the boundaries which exist between teachers and students. M.B. was not fit to teach in New Jersey when her certificate was revoked in 2000 and she is not fit to teach here now. Absent a demonstration of compliance with *N.J.A.C. 6A:9-17.10(b)*'s requirements, this Board finds no basis upon which to overturn that determination.

Accordingly, for the foregoing reasons, on June 22, 2009, the Board of Examiners voted to deny M.B.'s application for certification as a Teacher of Elementary School Grades K-5 and Teacher of Students with Disabilities after revocation. 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 application of M.B. for certification after revocation is denied effective immediately.

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:6-9*.

RRH:MZ:m.b.