

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
RICHARD NAYLOR : ORDER OF REVOCATION
_____ : DOCKET NO: 0708-247

At its meeting of January 13, 2009, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on May 8, 2008, Richard Naylor had pled guilty to charges of Computer Criminal Activity-Theft and Harassment. On September 5, 2008, Naylor was sentenced to five years probation and fined. Naylor was also ordered to resign from his tenured teaching position and to surrender his teaching certificates during the period of his probation. The court also ordered Naylor to have no contact with his victims' families. Naylor currently holds Teacher of Bookkeeping and Accounting, Teacher of Data Processing, Teacher of General Business and Teacher of Typewriting certificates, all issued in October 1991. Upon review of the above information, at its January 13, 2009, meeting, the State Board of Examiners voted to issue Naylor an Order to Show Cause.

The Board sent Naylor the Order to Show Cause by regular and certified mail on January 14, 2009. The Order provided that Naylor's Answer was due within 30 days. Naylor filed his response on February 18, 2009. In that Answer, Naylor admitted to all of the allegations in the Order to Show Cause except that his actions provided just cause for the consideration of the revocation of his certificates.¹ (Answer, ¶¶ 1-4, 5.) Naylor stated that the Board should consider his "lengthy and honorable commitment to the teaching profession" before taking action against his certificates. (Answer, ¶ 5.) Naylor also recounted his achievements during his career and noted that his evaluations were positive. (Answer, ¶ 5.) He claimed that he had a good

¹ Naylor also denied that he had ever been charged with Stalking. Although the Judgment of Conviction indicates that, in fact, he was charged with two counts of Stalking, because he did not plead guilty to those charges it was not part of the final conviction and his denial is not a material fact in this case.

reputation in the district among students, faculty and administration. (Answer, ¶ 5.) Finally, he argued that although his conduct was regrettable, he had paid a high price and that revocation of his certificates was not required. (Answer, ¶ 5.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on February 27, 2009, the Board of Examiners sent Naylor a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute and Naylor 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 his offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Naylor was also provided the opportunity to appear before the Board and testify on the sanction issue. While Naylor did not request to appear before the Board, on March 26, 2009, he submitted his reply.

In that response, Naylor admitted to the violations of law as charged in the Order to Show Cause, but argued that the Board had to consider mitigating information in determining whether revocation should be imposed. Naylor stated that in his case his “personal history, his accomplishments as a teacher, his remorse and his work toward rehabilitation together warrant a penalty other than revocation.” (Hearing Response, p. 1.) Naylor reiterated his commitment to teaching and his community and again summarized his accomplishments during his career. (Hearing Response, pp. 2-4.) He accepted responsibility for his wrongdoing and added that he had also been engaged in “regular mental health therapy.” (Hearing Response, pp. 4-5.) Finally, Naylor argued that an appropriate sanction in this matter would be a suspension of his

certificates for a period of time equivalent to that ordered by the court in his criminal case. (Hearing Response, p. 5.)

The threshold issue before the State Board of Examiners in this matter, therefore, is whether the conduct underlying Naylor's conviction for Computer Criminal Activity-Theft and Harassment constitutes conduct unbecoming a certificate holder. At its meeting of May 11, 2009, the State Board of Examiners reviewed the charges and papers Naylor filed in response to the Order to Show Cause. After review of Naylor's submissions, the Board of Examiners determined that no material facts related to his offense were in dispute since he 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)*. 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 Naylor'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. Naylor's acts of theft and harassment are inexcusable for any individual, teacher or not. While Naylor may have been an exceptional teacher in the classroom, he has not demonstrated like behavior outside that arena. Balancing his

career accomplishments against his crimes, there can be no doubt as to the outcome of this matter.

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, what makes Naylor's behavior particularly egregious is that his harassment and theft were perpetrated against students and their families. The Commissioner has long held that teachers serve as role models for their students. It is safe to say that Naylor has vitiated any claim to that title.

Notwithstanding Naylor's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See *In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners*, 96 N.J.A.R. 2D (EDE) 1, 16 *aff'd*, App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing *In the Matter of the Revocation of the Teaching Certificate of James Noll*, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Naylor has begun "regular mental health therapy," while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on May 11, 2009, the Board of Examiners voted to revoke Richard Naylor's Teacher of Bookkeeping and Accounting, Teacher of Data Processing, Teacher of General Business and Teacher of Typewriting certificates. On this 22nd day of June 2009 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Naylor's certificates be effective immediately. It is further ORDERED that Naylor

return his certificates 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: