

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
GREGORY MONSOLINO : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-204

At its meeting of July 21, 2005, the State Board of Examiners voted to suspend the certificates of Gregory Monsolino pending the resolution of criminal charges against him. Monsolino had been indicted for Sexual Assault and Endangering the Welfare of a Child. Subsequent to the suspension, the Office of Criminal History Review (OCHR) advised the Board of Examiners that Monsolino had pled guilty to Sexual Assault and Endangering the Welfare of a Child on February 23, 2007. As a result of the guilty plea, Monsolino was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Monsolino currently holds a Teacher of Elementary School Certificate of Eligibility, issued in August 1998 and a Teacher of Elementary School Certificate of Eligibility With Advanced Standing, issued in April 2004.

Monsolino did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, at its meeting of June 7, 2007, the State Board of Examiners voted to issue Monsolino an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Monsolino the Order to Show Cause by regular and certified mail on June 15, 2007. The Order provided that Monsolino must file an Answer within 30 days. Monsolino filed his Answer on August 3, 2007.

In his Answer, Monsolino asserted that the criminal allegations against him were false and that his rights had been violated during the criminal investigation. (Answer, pp. 1-5.) He also claimed that the allegations were not made by any students and that in a ten-year teaching career he had never had any problems. (Answer, pp. 1-2.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on November 10, 2008, the Board sent Monsolino a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute and thus, Monsolino 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 disqualifying offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Monsolino did not file a response. Monsolino was sent an additional notice on March 9, 2009. He responded on March 11, 2009, asking for additional time to respond to the hearing notice in order to consult with his attorney. That extension was granted, but Monsolino did not file a response. On July 23, 2009, counsel for Monsolino requested additional time to review the case. That request was granted and Monsolino's hearing was adjourned until September 17, 2009. Monsolino did not submit any additional response.

The threshold issue before the State Board of Examiners in this matter is whether Monsolino's disqualifying offense constitutes conduct unbecoming a certificate holder. Since Monsolino failed to respond to the hearing notice despite several opportunities, the State Board of Examiners considered his Answer as the only responsive pleading in the hearing process.

At its meeting of September 17, 2009, the State Board of Examiners reviewed the charges and papers Monsolino filed in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to Monsolino's offense were in dispute since he never denied that he had been convicted of the offense nor did he deny that he had been disqualified because of it. Thus, the Board of Examiners determined

that summary decision was appropriate and that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. *N.J.A.C.* 6A:9-17.7(h).

The State Board of Examiners must now determine whether the conduct underlying Monsolino's conviction and his disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, represent just cause to act against his certificates 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 dangerous. Individuals convicted of crimes against children fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing condemnation of acts of violence 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, Monsolino pled guilty to Sexual Assault and Endangering the Welfare of a Child. Although Monsolino contends that the crime did not occur in a school context, 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). Here there can be no argument that Monsolino's offenses fit that description. Accordingly, the State Board of Examiners finds that Monsolino's disqualification from service in the public schools of this State because of his

conviction for Sexual Assault and Endangering the Welfare of a Child 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. Thus, because the Legislature considers Monsolino's offenses so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of Monsolino's certificates.

Accordingly, on September 17, 2009 the Board of Examiners voted to revoke Gregory Moonsolino's Teacher of Elementary School Certificate of Eligibility and Teacher of Elementary School Certificate of Eligibility With Advanced Standing. On this 22nd day of October 2009 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Monsolino's certificates be effective immediately. It is further ORDERED that Monsolino 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: