

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JOSEPH MACANGA : ORDER OF REVOCATION
_____ : DOCKET NO: 0809-249

At its meeting of July 28, 2009, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Joseph Macanga was convicted in federal court in June 2009 of Possession of Child Pornography. As a result of the conviction, Macanga was sentenced to 4 years, nine months imprisonment and was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Macanga currently holds a Teacher of Elementary School certificate, issued in February 1996.

Macanga 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 Macanga an Order to Show Cause at its meeting of September 17, 2009.

The Board sent Macanga the Order to Show Cause by regular and certified mail on September 24, 2009. The Order provided that Macanga must file an Answer within 30 days. The certified mail copy receipt was signed and returned and the regular mail copy was not returned. Macanga did not file a response. Thereafter, on November 16, 2009, the Board sent Macanga another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. Neither copy was returned. Macanga did not respond to the second notice either.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on December 8, 2009, the Board sent Macanga a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Macanga 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 certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Macanga was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Neither copy was returned. Macanga did not file a response.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Macanga's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Macanga failed to respond to the Order to Show Cause or the hearing notice, at its meeting of March 25, 2010, 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 Macanga's offense were in dispute since he never denied that he had pled guilty to the offense charged. 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 Macanga's conviction and resulting 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 a danger to them. Individuals convicted of a crime involving child pornography 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.

In this case, Macanga has been convicted of Possession of Child Pornography. A teacher’s behavior outside the classroom may be relevant in determining that person’s qualifications and continued fitness to retain his certification. *In re Grossman*, 127 *N.J. Super.* 13, 30 (App. Div.), cert. denied, 65 *N.J.* 292 (1974). 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 (1943), *aff’d*, 131 *N.J.L.* 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Macanga’s disqualification from service in the public schools of this State because of his conviction for Possession of Child Pornography provides just cause to take action against his certificate.

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

Accordingly, on March 25, 2010, the Board of Examiners voted to revoke Joseph Macanga’s Teacher of Elementary School certificate. On this 29th day of April 2010 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the

revocation of Macanga's certificate be effective immediately. It is further ORDERED that Macanga 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 *N.J.S.A.* 18A:6-38.4.

RRH:MZ:th