

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
FRANK MATTIACE : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-102

At its meeting of October 22, 2009, the State Board of Examiners reviewed information received from the Division of Criminal Justice and the Office of Criminal History Review indicating that respondent Frank Mattiace was convicted of Child Abuse and Criminal Coercion in January 2009. On May 5, 2009, Mattiace was sentenced to four years' probation. Mattiace was also ordered to complete 100 hours of community service, have no contact with the victim or the victim's family and was prohibited from volunteering or seeking employment with children under the age of 18. As a result of the conviction, Mattiace was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Mattiace currently holds Secondary School Teacher of English and Secondary School Teacher of Social Studies certificates, both issued in August 1964, a Supervisor certificate, issued in July 1967, a School Administrator certificate, issued in August 1972, and a Teacher of the Handicapped certificate, issued in July 1985. Mattiace 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 Mattiace an Order to Show Cause at its meeting of December 2, 2009.

The Board sent Mattiace the Order to Show Cause by regular and certified mail on December 7, 2009. The Order provided that Mattiace must file an Answer within 30 days. Neither the certified mail nor the regular mail copy was returned. Mattiace did not file a response. Thereafter, on January 14, 2010, the Board sent Mattiace a second notice by regular

and certified mail providing him an additional 15 days to respond to the Order to Show Cause. Mattiace responded on January 28, 2010. In that response, Mattiace admitted to his conviction but denied that he was disqualified or that the State Board of Examiners had just cause to consider revoking his certificates. (Answer, ¶¶ 1-7.)

Thereafter, pursuant to *N.J.A.C.* 6A:9-17.7(e), on February 2, 2010, the Board sent Mattiace a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Mattiace 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, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against his certificates. 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. Mattiace was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Mattiace subsequently indicated that he would be willing to relinquish his certificates, but never submitted the affidavit sent to him to that effect. He did not otherwise respond to the hearing notice.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Mattiace's conviction and resulting disqualification constitute conduct unbecoming a certificate holder. At its meeting of June 10, 2010, the State Board of Examiners considered the allegations in the Order to Show Cause and Mattiace's responsive pleading. The Board of Examiners determined that no material facts related to Mattiace's offense were in dispute since he admitted that he had been convicted and 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 Mattiace's conviction and resulting disqualification, as 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 a danger to them. Individuals convicted of Child Abuse and Criminal Coercion 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.

Moreover, 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 (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 Mattiace's disqualification from service in the public schools of this State because of his conviction for Child Abuse and Criminal Coercion 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 Mattiace's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on June 10, 2010 the Board of Examiners voted to revoke Frank Mattiace's Secondary School Teacher of English, Secondary School Teacher of Social Studies, Supervisor, School Administrator and Teacher of the Handicapped certificates. On this 22nd day of July 2010 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Mattiace's certificates be effective immediately. It is further ORDERED that Mattiace 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:6-38.4.