

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
CARLOS GARCIA : ORDER OF REVOCATION
_____ : DOCKET NO: 0809-213

At its meeting of May 11, 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 Carlos Garcia pled guilty to 4th degree Abuse of a Child-Cruelty, Neglect in March 2009. On January 11, 2010, Garcia was sentenced to two years' probation. Garcia was also ordered to have no contact with the victim. As a result of the conviction, Garcia was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Garcia currently holds a Teacher of Spanish Certificate of Eligibility, issued in August 2000, and a Teacher of Spanish certificate, issued in June 2001. Garcia 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 Garcia an Order to Show Cause at its meeting of June 22, 2009.

The Board sent Garcia the Order to Show Cause by regular and certified mail on August 13, 2009. The Order provided that Garcia must file an Answer within 30 days. Garcia responded in a letter dated August 18, 2008 (*sic*). In that response, Garcia insisted that he was innocent and stated that he was a good teacher. (Answer, p. 1.) He claimed that he had been fired from his teaching position without a formal or complete explanation and that he had also lost a job as a tractor trailer driver because of his criminal record. (Answer, p. 2.) Garcia stated that although he did not plan to go back to teaching, he did not want to lose the certificates he had worked so hard to earn. (Answer, p. 3.) In his Answer, Garcia also outlined his educational and professional background and mentioned various honors and awards he had received. (Answer, pp. 3-7.) He also detailed his community involvement and listed his extra-curricular

activities while he was a teacher. (Answer, pp. 7-10.) Finally, Garcia reiterated that it had taken him seven years of hard work to earn his teaching certificate and stated that “I don’t believe I deserve to lose my Teacher’s Certificate.” (Answer, p. 10.)

Thereafter, pursuant to *N.J.A.C.* 6A:9-17.7(e), on October 22, 2009, the Board sent Garcia a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Garcia 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. Garcia was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. After granting Garcia several extensions while he awaited sentencing, the Board received Garcia’s responses to the Hearing Notice on January 29, 2010 and February 18, 2010. In those responses, Garcia maintained his innocence and detailed instances where Spanish students in Paterson were treated unfairly. Garcia also appeared at the June 10, 2010 Board of Examiners meeting to testify regarding the sanction issue.

In his testimony, Garcia recounted his educational background and noted that he graduated from college when he was 53 years old. He stated that he became a teacher in Paterson in September 2000 and was excited to be there. He stated that Spanish students in Paterson were ill-treated and that he tried to intervene to help them. Garcia said that he was a great teacher and was accused of something he did not do. He claimed that he had told a student to have her mother put lotion on her body for a dry skin condition and he was then accused of saying something inappropriate. Garcia said that he was terminated by Paterson without

explanation and was never given a chance to tell his side of the story. He maintained that teaching is too dangerous in today's world and that he was safer driving a tractor-trailer, the job he had obtained after he was fired. Garcia stated that he would not go back to teaching but asked the Board not to revoke his certificates since he had worked so hard to earn them.

The threshold issue before the State Board of Examiners in this matter is whether Garcia'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, Garcia's responsive pleadings and his testimony. The Board of Examiners determined that no material facts related to Garcia'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 Garcia'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 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. 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 Garcia's disqualification from service in the public schools of this State because of his conviction for Child Abuse 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 Garcia'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 Carlos Garcia's Teacher of Spanish Certificate of Eligibility and Teacher of Spanish certificate. 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 Garcia's certificates be effective immediately. It is further ORDERED that Garcia 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.