

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOSE CARDENAS : ORDER OF REVOCATION
_____ : DOCKET NO: 1112-160

At its meeting of January 19, 2012, the State Board of Examiners (Board) reviewed information received from the Office of Criminal History Review (OCHR) regarding Jose Cardenas. The OCHR notified the Board that Cardenas was convicted in November 2011 of Endangering the Welfare of Children. As a result of the conviction, Cardenas was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Cardenas currently holds a Teacher of Elementary School in Grades K-5 Certificate of Eligibility, issued in September 2004 and a Teacher of Elementary School in Grades K-5 certificate, issued in July 2006.

Cardenas did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of March 1, 2012 to issue Cardenas an Order to Show Cause why his certificates should not be revoked.

The Board sent Cardenas the Order to Show Cause by regular and certified mail on March 7, 2012. The Order provided that Cardenas must file an Answer within 30 days. The certified mail receipt was signed and returned. The regular mail copy was not returned. Cardenas did not file a response. Thereafter, on April 12, 2012, the Board sent Cardenas another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail receipt was signed and returned and the regular mail copy was not returned. Cardenas did not respond to the second notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on May 8, 2012, the Board sent Cardenas a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Cardenas 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 Board would determine if his disqualifying offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Cardenas was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned and the regular mail copy was not returned. Once again, Cardenas did not respond.

The threshold issue before the Board in this matter is whether Cardenas' conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Cardenas failed to respond to the Order to Show Cause or the hearing notice, at its meeting of July 26, 2012, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Cardenas' offense were in dispute since he never denied that he had been convicted of the offense charged. Thus, the Board 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 Board must now determine whether Cardenas' 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 a crime such as Endangering the Welfare of Children 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. Clearly, Cardenas' actions here are not those of a role model.

The 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 Board 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 Cardenas' offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of Cardenas' certificates.

Accordingly, on July 26, 2012, the Board voted to revoke Jose Cardenas' Teacher of Elementary School in Grades K-5 Certificate of Eligibility and Teacher of Elementary School in Grades K-5 certificate. On this 21st day of September 2012 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Jose Cardenas' certificates be effective immediately. It is further ORDERED that Cardenas 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*.