

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JOSEPH MILLER : ORDER OF SUSPENSION
_____ : DOCKET NO: 1213-128

At its meeting of December 13, 2012, the State Board of Examiners (Board) reviewed information received from the Office of Criminal History Review (OCHR) and the Mercer County Prosecutor's Office regarding Joseph Miller. In April 2012, Miller was indicted on charges of Aggravated Sexual Assault, Sexual Assault and Endangering the Welfare of Children. If convicted, Miller would be disqualified from public employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Miller currently holds a Teacher of Earth Science Certificate of Eligibility, issued in April 2007 and a Teacher of Students With Disabilities Certificate of Eligibility, issued in June 2009. Upon review of the above information, at its meeting of January 25, 2013, the Board voted to issue Miller an Order to Show Cause as to why his certificates should not be suspended pending the resolution of the criminal proceedings against him.

After securing the correct address, the Board sent Miller the Order to Show Cause by regular and certified mail on February 12, 2013. The Order provided that Miller must file an Answer within 30 days. The certified mail receipt was signed and returned and the regular mail copy was not returned. Miller did not file a response. Thereafter, on March 21, 2013, the Board sent Miller 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. The regular mail copy was not returned. Miller did not respond to the second notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on May 2, 2013, the Board sent Miller a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Miller 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 offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Miller 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, Miller did not file a response.

The threshold issue before the Board in this matter, therefore, is whether Miller's indictment constitutes conduct unbecoming a certificate holder. Since Miller failed to respond to the Order to Show Cause or the Hearing Notice, at its meeting of July 25, 2013, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Miller's offense were in dispute since he never denied that he had been indicted for the offenses 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 Miller's indictment, as set forth in the Order to Show Cause, represents just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that it does.

The Board may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9-17.5*. 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 such as Aggravated Sexual Assault, Sexual Assault and Endangering the Welfare of Children fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-held belief that teachers must serve as role models for 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, Miller has an indictment for crimes that directly involved danger to children. 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). Moreover, 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). Accordingly, the State Board of Examiners finds that Miller’s potential disqualification from service in the public schools of this State because of his indictment on charges of Aggravated Sexual Assault, Sexual Assault and Endangering the Welfare of Children provides just cause to take action against his certificates.

Accordingly, on July 25, 2013, the Board voted to suspend Miller’s certificates pending resolution of the criminal proceedings against him. On this 20th day of September 2013 the Board formally adopted its written decision to suspend and it is therefore ORDERED that Joseph Miller’s Teacher of Earth Science and Teacher of Students With Disabilities Certificates of Eligibility be suspended effective this day. If the charges are resolved in his favor, he shall notify the Board for appropriate action regarding the suspension order. It is further ORDERED that Miller return his certificates to the Secretary of the State Board of Examiners, Office of Licensure and Certificates, PO 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.