

SBE #643-12/01
SB # 14-03

IN THE MATTER OF THE REVOCATION OF :
THE TEACHING CERTIFICATES OF : STATE BOARD OF EDUCATION
HAYWARD VEREEN BY THE : DECISION
STATE BOARD OF EXAMINERS. :

Decided by the State Board of Examiners, December 12, 2002

Decision on motion by the State Board of Education, July 2, 2003

For the Respondent-Appellant, Bergman & Barrett (Michael T. Barrett,
Esq., of Counsel)

For the Petitioner-Respondent, Kathleen Asher, Deputy Attorney General
(Peter C. Harvey, Attorney General of New Jersey)

Appellant in this case possessed certification as a Teacher of Elementary School and as a Teacher of Social Studies and had taught social studies at South Brunswick High School since 1990. On September 14, 2001, appellant pled guilty to criminal sexual contact in the fourth degree. That plea was a consequence of an incident that occurred between appellant and a female friend at a New Year's Eve party on December 31, 2000. As a result, appellant was sentenced to two years' probation, directed to have no contact with the victim, to pay for her therapy, to submit to random urine monitoring, to submit to an evaluation by the Treatment Assessment Service Center, and to complete a sex offender counseling/treatment program.

On June 19, 2002, the State Board of Examiners (hereinafter "Board") issued an order to show cause why appellant's certification should not be revoked. In a decision rendered on December 12, 2002 and mailed on May 1, 2003, the Board revoked appellant's certification. The Board's determination was based on the fact that appellant's offense was a disqualifying offense pursuant to N.J.S.A. 18A:6-7.1 and, as such, constituted "other just cause" under N.J.A.C. 6:11-3.4 to justify revoking or suspending his certification.¹ In doing so, the Board rejected appellant's argument that he should retain his certification since the incident resulting in his conviction had not occurred on school grounds. The Board stressed that, in the context of tenure charges, the Commissioner has held that teachers serve as role models for their students, and it found that whatever the circumstances surrounding appellant's plea, his behavior "as recognized under the law" was not compatible with that of a role model. Board of Examiners' Decision, slip op. at 4.

On appeal to the State Board of Education, appellant indicates that he entered the plea agreement because he was advised by his lawyer that his teaching position would not be forfeited. Appeal Brief, at 1. He also maintains that he believed that the activity resulting in the plea was consensual so that the offense to which he pled guilty did not accurately reflect what had occurred. Id. On this basis, he contends that he is entitled to a hearing with respect to his conduct and that his conduct was not unbecoming conduct warranting revocation of his certification.

¹ N.J.A.C. 6:11-3.4 specifies that the Board of Examiners may revoke or suspend the certification of an individual on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher, or "other just cause." The regulation further provides that "other just cause" includes offenses under N.J.S.A. 18A:6-7.1.

In support of his appeal, appellant has submitted a certification that he had submitted to the Board of Examiners. That certification reflects that he is a graduate of Brown University, that he has always received excellent evaluations during his teaching career and that he has never been the subject of disciplinary proceedings of any kind. He also has submitted a letter from his probation officer dated June 16, 2003 indicating that he would be successfully completing his probation on September 13, 2003, and a letter dated June 18, 2003 from the therapist who had been treating him as part of the plea agreement stating that appellant had successfully completed treatment and that he supported reinstatement of appellant's license to teach.

As part of its response, the Board of Examiners has moved to strike the two letters submitted by appellant because they had not been part of the record before the Board when it acted to revoke appellant's certification.

After careful consideration, the State Board of Education affirms the determination of the Board of Examiners to revoke appellant's certification. Regardless of the circumstances of his plea, appellant's guilt of criminal sexual contact is settled for purposes of these proceedings by the fact that he entered a guilty plea with respect to the offense. As recognized by the Board of Examiners, criminal sexual contact is an offense that disqualifies an individual from employment in the public schools. N.J.S.A. 18A:6-7.1(a). As such, a conviction for this offense justifies revocation of appellant's certification.

We stress that we are compelled to sustain revocation of appellant's certification regardless of whether he has been rehabilitated and could now serve as an exemplary member of the teaching profession. Prior to 1998, an individual convicted of an offense

that was disqualifying under N.J.S.A. 18A:6-7.1 could be employed in the public schools if he affirmatively demonstrated rehabilitation to the Commissioner of Education by clear and convincing evidence.² However, effective June 30, 1998, the statute was amended to eliminate any provision for rehabilitation. Hence, unless a criminal record is expunged,³ an individual who has been convicted of an offense that is disqualifying under N.J.S.A. 18A:6-7.1 is permanently disqualified from employment in the public schools regardless of subsequent rehabilitation.

Therefore, for the reasons stated herein, the State Board of Education affirms the decision of the State Board of Examiners in this case. In view of our determination, we need not pass upon the motion to strike that was filed on behalf of the Board of Examiners.

September 3, 2003

Date of mailing _____

² In determining whether an individual was rehabilitated, the Commissioner was required to consider 1.) the nature of the position that would be held by the individual, 2.) the nature and seriousness of the offense, 3.) the circumstances under which the offense occurred, 4.) the date of the offense, 5.) the age of the individual at the time, 6.) whether the offense was an isolated or repeated incident, 7.) any social conditions which may have contributed to the offense, and 8.) any evidence of rehabilitation.

³ We note that the offense to which appellant pled guilty is not an offense which can be expunged.