

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JOHN POPEK : ORDER OF REVOCATION
_____ : DOCKET NO: 560-4/00-244

At its meeting of April 6, 2000, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on February 9, 1998, Popek had pled guilty to one count of criminal sexual contact in the 4th degree. On May 1, 1998, Popek was sentenced to three years' probation, ordered to attend and complete a psychotherapy program, to comply with the appropriate provisions of Megan's Law, N.J.S.A. 2C:7-1 et seq. and to avoid contact with the victim and her family. Popek also had to forfeit his teaching certificate and pay several fines. Popek is currently the holder of a Teacher of Music certificate. Upon review of the above information, at that April meeting, the State Board of Examiners voted to issue Popek an Order to Show Cause.

The Board sent Popek the Order to Show Cause by regular and certified mail on June 22, 2000. The Order provided that an Answer must be filed within 20 days. Popek did not respond to the Order to Show Cause. On August 8, 2000, the Board provided Popek an additional 10 days to file a response to the Order to Show Cause. He was advised that if no response was received, the allegations in the Order would be deemed admitted and the State Board would proceed to a decision as to revocation or suspension on the basis of the evidence before it. Popek filed an Answer on August 23, 2000. In that Answer, Popek admitted to the charges outlined in the Order to Show Cause. He also stated that except for this one lapse he had had a nineteen-year career as a hard working, dedicated professional. (Answer, ¶ 6). He spoke of his accomplishments in his career and included letters of commendation and support. (Answer, ¶ 6). Popek spoke of his remorse for the incident but added that he did not believe that "nineteen years of dedication, excellence and profound positive influence on young people should be completely obliterated by a one-time lapse in judgment." (Answer, ¶ 6). He added that he had learned from his mistake and asked for a second chance. (Answer, ¶ 6).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on October 5, 2000, the Board of Examiners sent Popek a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, Popek 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. 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 Popek's offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. On October 20, 2000, Popek submitted his reply asking that the Board of Examiners consider his Answer to the Order to Show Cause as his response to the hearing notice. (Hearing Response, p. 1).

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Popek's guilty plea to criminal sexual contact in the 4th degree constitutes conduct unbecoming a certificate holder. At its meeting of December 7, 2000, the State Board of Examiners reviewed the charges and papers Popek filed in response to the Order to Show Cause. After review of his submissions, the Board of Examiners determined that no material facts related to Popek's offense were in dispute since he admitted that he had pled guilty to the offense charged and had been sentenced accordingly. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners must now determine whether Popek's offense as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

The State Board of Examiners 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. 6:11-3.4. "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. Popek's act of engaging in a sexual relationship with a minor is inexcusable for any individual, teacher or not. While Popek may have been an exceptional teacher in the classroom, he has not demonstrated like behavior outside that arena.

Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), *aff'd*. 131 N.J.L. 326 (E & A 1944). In this instance, Popek's actions were so egregious that the Court ordered him to forfeit his teaching his certificate permanently.

Moreover, notwithstanding Popek's contentions of remorse and rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to

show rehabilitation.” See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 aff’d App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing In the Matter of the Revocation of the Teaching Certificate of James Noll, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Popek recognizes his profound error, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, it is therefore ORDERED that John Popek’s Teacher of Music certificate be revoked on this 7th day of December 2000. It is further ORDERED that Popek return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: March 28, 2001

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

IBG:MZ:kb:John Popek