

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
NICHOLAS CAPUTI : ORDER OF REVOCATION
_____ : DOCKET NO: 567-05/00-271

At its meeting of May 11, 2000, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Nicholas Caputi was convicted in 1989 on charges of felony assault. As a result of such conviction, Caputi was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Caputi did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, at that May meeting the State Board of Examiners voted to issue Caputi an Order to Show Cause. Caputi currently holds a County Substitute certificate issued through the Mercer County Office of Education.

The Order to Show Cause was mailed to Respondent by regular and certified mail on June 23, 2000. The Order provided that an Answer must be filed within 20 days. Caputi responded on July 12, 2000. In his Answer, Caputi denied that he had been convicted of felony assault and also claimed that he had challenged the accuracy of his criminal history record. (Answer, ¶¶ 4,5.)

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on August 10, 2000, the Board sent Caputi a hearing notice by regular and certified mail. In that notice, Caputi 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. The notice 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 certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Caputi did not respond to the hearing notice.

After reviewing Caputi's Answer to the Order to Show Cause at its December 7, 2000 meeting, the Board of Examiners voted to table the matter and conduct further research regarding

his conviction. The Office of Criminal History Review had no record of an appeal from Caputi. On July 6, 2001, the Board of Examiners notified Caputi that it would permit him to submit information to counter the findings of the Office of Criminal History Review regarding his conviction for felony assault. Caputi never responded to the Board on this issue.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Caputi's disqualification from serving in the public schools of New Jersey gives the Board just cause to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1. Since Caputi failed to respond to the hearing notices, the State Board of Examiners considered his Answer as the only responsive pleading in the hearing process.

At its meeting of May 9, 2002, the State Board of Examiners reviewed the charges and papers Caputi filed in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to respondent's offense were in dispute. The Board therefore determined that Caputi's disqualification, which was predicated on the same felony assault as was set forth in the Order to Show Cause, provided just cause to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1.

In enacting the Criminal History Review statute, N.J.S.A. 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 of violence 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.

In this case, Caputi has a conviction for a violent crime that involved bodily injury. 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 (S. Ct. 1943), aff'd. 131 N.J.L. 326 (E&A 1944). 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). Accordingly, the State Board of Examiners finds that Caputi's disqualification from service in the public schools of this State because of his conviction for felony assault provides just cause to take action against his certificate.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b 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 Caputi's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of Caputi's County Substitute certificate.

Accordingly, it is therefore ORDERED that Nicholas Caputi's County Substitute certificate be revoked on this 9th day of May, 2002. It is further ORDERED that Caputi return his certificate to the Secretary of the State Board of Examiners, Office of Licensure and Credentials, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Joan E. Brady, Secretary
State Board of Examiners

Date of Mailing: June 17, 2003

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