

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ANTHONY VESPER : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-285

At its meeting of June 9, 2005, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Anthony Vesper was convicted on March 30, 2005, of possession of a weapon. As a result of such conviction, Vesper was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.*

Vesper did not challenge the accuracy of his criminal history record before the Commissioner of Education. Vesper currently holds a Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, issued in June 2002 and a Teacher of Health and Physical Education certificate, issued in April 2003. Upon review of the above information, at its June 9, 2005 meeting, the State Board of Examiners voted to issue Vesper an Order to Show Cause.

The Board sent Vesper the Order to Show Cause by regular and certified mail on July 27, 2005. The Order provided that Vesper must file an Answer within 30 days. Vesper filed an Answer and in his Answer, he asserted that his conviction was not disqualifying. (Answer, ¶¶ 3-4).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on September 15, 2005, the Board sent Vesper a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, Vesper 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 his disqualifying offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Vesper filed a response to the hearing notice on October 11, 2005. In that response he claimed that his conviction for unlawful possession of a weapon was for a 4th degree crime and therefore not disqualifying. (Hearing Response, p. 1). He added that his conviction was unlike the other disqualifying crimes in the disqualification statute, because it was not for a drug-related offense, a violent offense or one related to minors. (Hearing Response, p.2). Vesper also stated that he had done everything required in his sentence and had not violated his probation since being convicted. (Hearing Response, p.2). He noted that this conviction was his “one and only involvement with the legal system.” (Hearing Response, p. 2).

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Vesper’s disqualifying offense constitutes conduct unbecoming a certificate holder. At its meeting of December 8, 2005, the State Board of Examiners reviewed the charges and papers Vesper 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 Vesper’s offense were in dispute since he never denied that he had committed the offense. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*.

The State Board of Examiners must now determine whether Vesper’s disqualification, which was predicated on the same offense as was 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.

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 Vesper's fall squarely within this category. Vesper argues that because his crime, possession of a weapon, is a fourth-degree crime, it is not disqualifying under *N.J.S.A.* 18A:6-7.1. Vesper misreads the disqualification statute. Crimes such as his, which fall within chapter 39 of Title 2C of the New Jersey statutes, are disqualifying regardless of their degree. *N.J.S.A.* 18A: 6-7.1(c) 2. Furthermore, "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 addition, 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). 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 Vesper's disqualification from service in the public schools of this State because of his conviction for unlawful possession of a weapon provides just cause to take action against his certificates.

That 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 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 Vesper's offense so

significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of his teaching certificates.

Moreover, notwithstanding Vesper's contentions of 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).

Accordingly, it is therefore ORDERED that Anthony Vesper's Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing and Teacher of Health and Physical Education certificate be revoked on this 8th day of December 2005. It is further ORDERED that Vesper return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: DECEMBER 20, 2005

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