

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
FERMIN GALVEZ : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-217

At its meeting of March 31, 2005, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Fermin Galvez was convicted on January 31, 2005, on a charge of criminal sexual contact. As a result of his conviction, Galvez was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Galvez currently holds a Teacher of Spanish Certificate of Eligibility, issued in May 1997, a Teacher of Spanish certificate, issued in December 1999 and a Supervisor certificate, issued in June 2002.

Galvez did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the State Board of Examiners voted to issue Galvez an Order to Show Cause at its meeting of March 31, 2005.

The Board sent Galvez the Order to Show Cause by regular and certified mail on April 7, 2005. The certified mail copy was returned as unclaimed. The regular mail copy was not returned. The Order provided that Galvez must file an Answer within 30 days. Galvez did not file a response to the Order to Show Cause. Thereafter, on June 1, 2005, the Board of Examiners sent him a second notice by regular and certified mail providing him an additional 15 days in which to file an Answer. Neither copy was returned. Once again, Galvez did not file an Answer. Both notices advised Galvez that if he did not respond to the charges, the Board would decide the matter based solely on the information it already possessed.

At its meeting of July 21, 2005, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since there was no response, the Board of Examiners determined that no

material facts related to Galvez' offense were in dispute since he had never denied that he had been convicted of the offense nor did he deny the resulting disqualification. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The issue before the State Board of Examiners in this matter, therefore, is whether Galvez' conviction and resultant disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

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 criminal sexual contact fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing condemnation of criminal acts 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, Galvez has a conviction for criminal sexual contact. 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

Galvez' disqualification from service in the public schools of this State because of his conviction for criminal sexual contact 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 Galvez' offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of his teaching certificates.

Accordingly, it is therefore ORDERED that Fermin Galvez' Teacher of Spanish Certificate of Eligibility, and Teacher of Spanish and Supervisor certificates be revoked on this 21st day of July, 2005. It is further ORDERED that Fermin Galvez return his certificates 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: SEPTEMBER , 2005

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