

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JAMES NAFUS : ORDER OF REVOCATION
_____ : DOCKET NO: 0304-299

At its meeting of May 6, 2004, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on October 17, 2003, James Nafus had pled guilty to charges of endangering the welfare of a child for possessing a laptop computer containing child pornography. On December 19, 2003, Nafus was sentenced to one year of probation and fined. Nafus currently holds a Teacher of Elementary School certificate, issued in September 2000. Upon review of the above information, at its May 6, 2004, meeting, the State Board of Examiners voted to issue Nafus an Order to Show Cause.

The Board sent Nafus the Order to Show Cause by regular and certified mail on July 1, 2004. The Order provided that Nafus' Answer was due within 30 days. The certified mail receipt was signed and returned. The regular mail copy was not returned. Nafus did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on May 31, 2005, the Board of Examiners sent Nafus a second notice by regular and certified mail. The notice explained that Nafus had an additional 15 days in which to submit an Answer. If he did not do so, the allegations in the Order to Show Cause would be deemed admitted and the Board would decide the matter based on the evidence before it. The certified mail copy was again signed and returned and the regular mail copy was not returned. Once again, Nafus did not file a response.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Nafus' conviction for endangering the welfare of a child constitutes conduct unbecoming a certificate holder. At its meeting of November 3, 2005, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since Nafus had not responded to the Order, the charges were deemed admitted. 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 Nafus' conviction as set forth in the Order to Show Cause, provides just cause to act against his certificate pursuant to *N.J.A.C.* 6A:9-17.5. The Board finds 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.* 6A:9-17.5. "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. Nafus' acts of endangering the welfare of a child are inexcusable for any individual, teacher or not.

Furthermore, 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). In this instance, Nafus' possession of child pornography on his laptop computer qualifies as a "sufficiently flagrant" incident.

Accordingly, it is therefore ORDERED that James Nafus' Teacher of Elementary School certificate be revoked on this 3rd day of November 2005. It is further ORDERED that Nafus return his certificate to the Secretary of the State Board of Examiners, Office of Licensure, PO 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 2, 2005

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