

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
THOMAS O'BRIEN : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-222

At its meeting of March 31, 2005, the State Board of Examiners reviewed information the Atlantic County Special Services School District had submitted pursuant to *N.J.A.C. 6A:9-17.4*, indicating that on January 26, 2004, Thomas O'Brien had pled guilty to charges of aggravated criminal sexual contact and sexual assault. On September 10, 2004, O'Brien was sentenced to seven years' incarceration, ordered to register as a sex offender under Megan's Law and ordered to forfeit his public position. O'Brien currently holds a School Psychologist certificate, issued in July 1997 and a Supervisor certificate, issued in March 2001. Upon review of the above information, at its March 31, 2005, meeting, the State Board of Examiners voted to issue O'Brien an Order to Show Cause.

The Board sent O'Brien the Order to Show Cause by regular and certified mail on April 12, 2005. The Order provided that O'Brien's Answer was due within 30 days. O'Brien filed his response on May 5, 2005. In that Answer, O'Brien admitted to all of the allegations and stated that he was not contesting the facts in the Order to Show Cause. (Answer, ¶¶ 1-6).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on June 1 2005, the Board of Examiners sent O'Brien a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, O'Brien 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 O'Brien's offense warranted action against his certificates. Thereupon, the Board of

Examiners would also determine the appropriate sanction, if any. The regular mail copy was not returned and the certified mail copy was signed and returned. O'Brien did not file a response to the hearing notice.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether O'Brien's guilty plea to aggravated criminal sexual contact and sexual assault constitutes conduct unbecoming a certificate holder. At its meeting of September 22, 2005, the State Board of Examiners reviewed the charges and papers O'Brien filed in response to the Order to Show Cause. After review of O'Brien's submissions, the Board of Examiners determined that no material facts related to his offense were in dispute since he admitted that he had pled guilty to the offenses charged and had been sentenced accordingly. 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 O'Brien's offenses as set forth in the Order to Show Cause, provide just cause to act against his certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

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. O'Brien's acts of aggravated criminal sexual contact and sexual assault 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, O'Brien's heinous crimes negate any claim he can have to be a role model for children. The court understood this when it ordered him to forfeit his public position. Consequently, the only proper response to O'Brien's breach is the revocation of his certificates.

Accordingly, it is therefore ORDERED that Thomas O'Brien's School Psychologist and Supervisor certificates be revoked on this 22nd day of September, 2005. It is further ORDERED that O'Brien return his certificates 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: NOVEMBER 15, 2005

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