

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
NINA CHAVIS : ORDER OF SUSPENSION
_____ : DOCKET NO: 0607-220

At its meeting of June 7, 2007, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Nina Chavis was convicted in 1999 of child abuse. As a result of this conviction, Chavis was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Chavis currently holds a Teacher of Elementary School Certificate of Eligibility, issued in January 1997 and a Teacher of Elementary School certificate, issued in August 1998. Upon review of the above information, the State Board of Examiners voted to issue Chavis an Order to Show Cause at its meeting of June 7, 2007.

The Board sent Chavis the Order to Show Cause by regular and certified mail on June 13, 2007. The certified copy was returned, but the copy sent by regular mail was not returned. When Chavis failed to file an Answer to the Order to Show Cause, a second notice was sent to her by regular and certified mail on July 18, 2007. The certified copy was returned, but the copy sent by regular mail was not returned. Chavis did not file a response to the second notice.

On February 19, 2008, a notice was sent to Chavis providing her with the opportunity to file a written submission with regard to the appropriate sanction in the event that the Board finds just cause to revoke or suspend her certificate and offering her the opportunity to appear to offer her testimony on the sanction issue. Counsel for Chavis submitted a letter to the State Board of Examiners in which he related that Chavis had not received the notices sent to her since she had moved and that:

The facts related to this matter have been the subject of litigation specifically on February 6, 2008 before Edgar R. Holmes,

Administrative Law Judge, with the State being represented by Joyce Atkins, Deputy Attorney General. There are a number of facts which need to be discussed and the judge proposed a universal settlement. My hope is that you will assign this matter to the same Deputy Attorney General so that we can move the matters concurrently.

Accordingly, on May 21, 2008, the Board sent Chavis another copy of the Order to Show Cause and provided her 30 days to respond. Chavis responded on June 4, 2008 and admitted that she had been disqualified from public employment by the Office of Criminal History Review. (Answer, ¶ 3.) On June 5, 2008, the Board voted to deny Chavis' request to consolidate her appeal of the disqualification and the certification case. The Board held there were no material facts in dispute in the certification case since Chavis had admitted that she had been convicted of child abuse and had been disqualified.

Thereafter, on June 12, 2008 the Board sent Chavis a hearing notice providing her with the opportunity to file a written submission with regard to whether her conduct provided just cause to revoke or suspend her certificates. Chavis was also allowed to address appropriate sanctions, if warranted, and to appear before the Board to offer testimony on the sanction issue. In response to the hearing notice, Chavis' attorney moved to stay the certification proceedings pending a determination on her appeal of the Commissioner's decision which had rejected Chavis' argument that the disqualification statute did not apply to the facts of her case. Chavis' counsel did not address the sanction issue. The Board rejected Chavis' motion at its meeting on October 16, 2008. It then sent Chavis an additional hearing notice allowing her to address the sanction issue and to appear before the Board. Chavis filed a response but did not appear before the Board to testify.

In her response, Chavis argued that her position in the Atlantic City School District did not involve regular contact with pupils and therefore did not fall within the parameters of the disqualification statute, *N.J.S.A. 18A:6-7.1*. (Answer Brief, pp. 3-4.) She further noted that her “ancient conduct” in disciplining her own child by hitting him with a plastic jump rope for not doing his homework and for lying to her did not occur in a school setting, was not that harmful to the child and should not be used to revoke or suspend her certificates now. (Answer Brief, pp. 4-5.) Moreover, she added that she could not teach in a public school setting due to her pending appeal regarding the applicability of the disqualification statute to her case and the approaching time to seek an expungement of the charge. (Answer Brief, p. 5.) She therefore urged the Board of Examiners “to let those forces interplay and not independently here suspend or revoke.” (Answer Brief, p. 5.)

Although this case has a complicated procedural history, the issue before the Board of Examiners is straightforward: whether the conduct underlying Chavis’ disqualifying offense constitutes conduct unbecoming a certificate holder. At its meeting of January 13, 2009, the State Board of Examiners reviewed the charges and papers Chavis 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 her offense were in dispute since she admitted that she had committed the offense and had been disqualified because of it. Thus, the Board of Examiners determined that summary decision was appropriate in this matter and the charges are deemed admitted. *N.J.A.C. 6A:9-17.7(h)*.

The State Board of Examiners must now determine whether the conduct underlying Chavis’ disqualification, which was predicated on the same offense as was set forth in the Order

to Show Cause, represents just cause to act against her 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 of child abuse fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-standing view that: "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, the Board of Examiners is mindful that Chavis has a conviction for child abuse. Moreover, contrary to Chavis' argument, a teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain her certificate. *In re Grossman*, 127 *N.J. Super.* 13, 30 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). Accordingly, the State Board of Examiners finds that Chavis' disqualification from service in the public schools of this State because of her conviction for child abuse provides just cause to take action against her certificates.

Although Chavis does have a disqualifying offense in this case, the Board is mindful of the unique circumstances here, namely, that the offense involved her own child, was a minor incident and was reported by a disgruntled husband in the midst of a divorce. While those circumstances do not excuse her actions and still invite condemnation from this Board, the incident is not so egregious as to warrant the revocation of Chavis' certificates.

Accordingly, on January 13, 2009 the Board of Examiners voted to suspend Nina Chavis' Teacher of Elementary School Certificate of Eligibility and Teacher of Elementary School certificate for one year. On this 23rd day of February 2009 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the one-year suspension of Chavis' certificates be effective immediately. It is further ORDERED that Chavis return her certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing:

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

RRH:MZ: