

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
SETH CANATA : ORDER OF REVOCATION
_____ : DOCKET NO: 0708-145

At its meeting of January 17, 2008, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Seth Canata was convicted in November 2007 of Criminal Sexual Contact and Official Misconduct. Canata was sentenced to three years incarceration in state prison. As a result of this conviction, he was also disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Canata currently holds a Teacher of Social Studies Certificate With Advanced Standing, issued in June 1997, and a Teacher of Social Studies certificate, issued in June 1998. Canata did not challenge the accuracy of his criminal history before the Commissioner of Education. Upon review of the above information, the State Board of Examiners voted to issue Canata an Order to Show Cause at its meeting on February 21, 2008.

The Board sent Canata the Order to Show Cause by regular and certified mail on March 4, 2008. The certified mail copy was returned as unclaimed. The regular mail copy was not returned. The Order provided that Canata must file an Answer within 30 days. Canata did not file an Answer. Therefore, on July 10, 2008, the Board sent Canata a second notice by regular and certified mail providing him an additional 15 days in which to file an Answer. The certified mail copy was returned as unclaimed. The regular mail copy was not returned. Canata did not file a response to the second notice.

Thereafter, pursuant to *N.J.S.A. 6A9-17.7(e)*, on November 17, 2008, the Board sent Canata a hearing notice by regular and certified mail. The notice explained that it

appeared that no material facts were in dispute and Canata was offered an opportunity to submit written arguments on the issue 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 the conduct underlying his conviction and resulting disqualification warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Canata was also provided the opportunity to appear before the Board and testify on the sanction issue. After both the regular and certified mail copies were returned, the Board secured a new address for Canata from the Motor Vehicles Commission, and on April 3, 2009, re-sent the Hearing Notice. Although the certified mail copy was returned, the regular mail copy of the notice was not returned. Although Canata did not file a written response, on April 17, 2009, he did leave a voicemail message indicating that he did not wish to contest the Order to Show Cause.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether the conduct underlying Canata's conviction and resulting disqualification constitutes conduct unbecoming a certificate holder. Since Canata failed to respond to the Order to Show Cause or the hearing notice, at its meeting on June 22, 2009, the State Board of Examiners considered only the allegations in the Order to Show Cause. The Board of Examiners determined that no material facts related to Canata's offense were in dispute since he never denied that he had committed the offense nor did he deny that he had been disqualified because of it. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the

charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether the conduct underlying Canata's conviction and resulting 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 dangerous. Individuals convicted of a crime that involves sexual contact and misconduct fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-held belief that teachers must serve as role models for students. "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, Canata has been convicted for a crime that involved sexual contact with a minor, placing the student at a substantial risk of harm. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certification. *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 Canata's disqualification from

service in the public schools of this State because of his conviction for Criminal Sexual Contact and Official Misconduct 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 to the 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 Canata'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.

Accordingly, on June 22, 2009, the Board of Examiners voted to revoke Seth Canata's Teacher of Social Studies Certificate of Eligibility With Advanced Standing, and his Teacher of Social Studies certificate. On this 28th day of July 2009, the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Canata's certificates be effective immediately. It is further ORDERED that Canata return his 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