

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ERICA UMOSELLA : ORDER OF REVOCATION
_____ : DOCKET NO: 0708-143

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 Erica Umosella was convicted in December 2007 of aggravated sexual assault, criminal sexual conduct and official misconduct. As a result of the conviction, Umosella was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Umosella currently holds a Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, issued in July 2003, a Teacher of Health and Physical Education Provisional certificate, issued in October 2003, a Teacher of Health and Physical Education certificate, issued in September 2004, and a Teacher of Driver Education certificate, issued in December 2004. Umosella did not challenge the accuracy of her criminal history record before the Commissioner of Education. Upon review of the above information, the State Board of Examiners voted to issue Umosella an Order to Show Cause at its meeting of February 21, 2008.

The Board sent Umosella the Order to Show Cause by regular and certified mail on March 6, 2008. The certified mail copy was returned. The regular mail copy was not returned. The Order provided that Umosella must file an Answer within 30 days. Umosella did not file an Answer. Thereafter, on July 10, 2008, the Board sent Umosella a second notice by regular and certified mail providing her 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. Once again, Umosella did not file an Answer.

Thereafter, pursuant to *N.J.A.C.* 6A:9-17.7(e), on February 5, 2009, the Board sent Umosella a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute and Umosella 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 her and the legal arguments tendered in her defense, the State Board of Examiners would determine if the conduct underlying her conviction and resulting disqualification warranted action against her certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Umosella was also provided the opportunity to appear before the Board and testify on the sanction issue. Umosella did not file a response although the certified mail return receipt card had been signed and returned; the regular mail copy of the notice was not returned..

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Umosella's conviction and resulting disqualification constitutes conduct unbecoming a certificate holder. Since Umosella failed to respond to the Order to Show Cause or the hearing notice, at its meeting of May 11, 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 Umosella's offense were in dispute since she never denied that she had committed the offense nor did she deny that she had been disqualified because of it. Thus, the Board of Examiners 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 Umosella's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against her 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 assault 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, Umosella has a conviction for a crime that involved aggravated sexual assault, criminal sexual conduct and official misconduct. 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 Umosella's disqualification from service in the public schools of this State because of her conviction for Aggravated Sexual Assault, criminal Sexual Conduct and Official Misconduct provides just cause to take action against her 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 herself out as a teacher. Thus, because the Legislature considers Umosella's offense so significant, the State Board of Examiners believes that the only appropriate sanction in this case is the revocation of her teaching certificates.

Accordingly, on May 11, 2009, the Board of Examiners voted to revoke Erica Umosella's Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, her Teacher of Health and Physical Education Provisional certificate, and her Teacher of Health and Physical Education and Teacher of Driver Education certificates. On this 22nd day of June 2009 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Umosella's certificates be effective immediately. It is further ORDERED that Umosella 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: