

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JEFFREY BERKE : ORDER OF REVOCATION
_____ : DOCKET NO: 1011-237

At its meeting of July 28, 2011, the State Board of Examiners (Board) reviewed information regarding Jeffrey Berke. On December 12, 2006 Berke pled guilty in New York to one count of Possessing a Sexual Performance by a Child. Berke was sentenced to sixty days' incarceration and ten years' probation. On January 15, 2008, the New York State Commissioner of Education revoked Berke's teaching certificates. In New Jersey, Berke currently holds a Teacher of Physical Education certificate, issued in July 1976. Upon review of the above information, at its September 22, 2011 meeting, the Board voted to issue Berke an Order to Show Cause.

The Board sent Berke the Order to Show Cause by regular and certified mail on April 17, 2012. The certified mail receipt was signed and returned. The regular mail copy was not returned. The Order provided that Berke must file an Answer within 30 days. Berke did not file an Answer. Thereafter, on May 23, 2012, the Board sent Berke another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail receipt was signed and returned. The regular mail copy was not returned. Berke did not respond to the second notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on June 12, 2012, the Board sent Berke a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Berke 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 as well as arguments with regard to the appropriate sanction in the event that the Board determined to take action against his certificate. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if Berke's conduct warranted action against his certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Berke was also offered the opportunity to appear before the Board to provide testimony on the sanction

issue. Neither the certified mail nor the regular mail copy was returned. Once again, Berke did not file a response.

The threshold issue before the Board in this matter, therefore, is whether Berke's conviction and the revocation of his New York licenses constitute conduct unbecoming a certificate holder. Since Berke failed to respond to the Order to Show Cause or the hearing notice, at its meeting of September 21, 2012, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Berke's offense were in dispute since he never denied that he had been convicted of the offense charged and had been sentenced accordingly. Nor did he deny that his New York teaching certificates had been revoked. 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 Board must now determine whether Berke's conviction and the revocation of his New York certificates, as set forth in the Order to Show Cause, provide just cause to act against his New Jersey certificate pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

The Board 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. Berke's act of Possessing a Sexual Performance by a Child is inexcusable for any individual, teacher or not.

The Commissioner has long held that teachers serve as role models for their students. Clearly, a teacher convicted of Possessing a Sexual Performance by a Child cannot claim status as a role model to anyone. Berke's conviction therefore warrants revocation. *In the Matter of the Certificates of Kevin Jordan*, Dkt. No. A-0155-08T3 (App. Div. October 5, 2009) (Unpublished Opinion).

Accordingly, on September 21, 2012, the Board voted to revoke Jeffrey Berke's Teacher of Physical Education certificate. On this 30th day of November 2012 the Board voted to adopt its formal

written decision and it is therefore ORDERED that the revocation of Berke's certificate be effective immediately. It is further ORDERED that Berke return his certificate 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 *N.J.S.A. 18A:6-38.4*.