

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
ROBERT D. CAIN : ORDER OF REVOCATION
_____ : DOCKET NO: 1516-142

At its meeting of October 30, 2015, the State Board of Examiners (Board) reviewed information the Special Commissioner of Investigation (SCI) for the New York City School District and the Bergen Arts and Science Charter School (BASCS) had forwarded regarding Robert D. Cain. The SCI substantiated allegations that Cain had been involved in an inappropriate relationship with a student while employed at James Madison High School in Brooklyn. In a referral letter to the Chancellor of the New York City Public Schools, the SCI determined that while teaching Student A in November 2013, Cain whispered in her ear “I have inappropriate feelings for you.” She later followed him to his office where he fondled her breasts and vagina. They also had sex. Student A told investigators she began to cut her 5th period class on a daily basis and she and Cain would have sex in his office. Student A stated that this became a daily routine for two months.

Student A also told investigators that Cain took her to a hotel in Brooklyn in December 2013 where they engaged in sexual activity. SCI investigators visited the hotel and discovered that Cain had rented a room there on December 30, 2013, and charged the fee on his credit card. According to records, he was assigned Room 307. The investigators also accessed the hotel’s surveillance camera security system which showed a male and female entering the hotel lobby, proceeding to a room on the third floor and later leaving the hotel. Student A viewed the photos taken from the surveillance footage and identified herself and Cain. She also identified Cain’s car in the parking lot.

When SCI investigators interviewed Cain, he denied that he had a sexual relationship with Student A. He stated that he had emailed with her, but through a Department of Education (DOE) account. When he was showed email messages between him and Student A on accounts not associated with the DOE, he denied he had sent them. Cain also stated that Student A performed community service

work in his office during 5th period and stated he assumed it was one of her free periods. He denied that he engaged in sexual activity with Student A anywhere in the school.

Cain also denied that he drove a student in his car or took a student to a hotel. He specifically denied that he took student A to a hotel in Brooklyn. When Cain was shown a copy of the charge receipt for his credit card used at the hotel, pictures of his car and pictures of him walking with Student A in the lobby and up the stairs of the hotel, he became upset and said “So what if I took [Student A], it doesn’t matter anymore. I’m not a tenured teacher, and I won’t get a job teaching anywhere. I might as well resign.”

During the course of the SCI investigation, Cain applied for a position with BASCS and was hired in June 2014 for the 2014-2015 school year. On April 13, 2015, BASCS issued a letter of reprimand to Cain for violating Harassment, Intimidation and Bullying (HIB) guidelines. The school found evidence that Cain had made insulting or demeaning sexual comments towards students and publicly humiliated a student. Specifically, the school found that Cain had: called a group of students “losers” and “stupid,” made inappropriate jokes to students about female body parts, made a rape joke in class in response to a question, inappropriately touched students’ heads and shoulders, and told one student who asked to go to the nurse; “We all know you’re having your feminine problems but you’ll have to wait.” BASCS did not renew Cain’s employment contract.

Cain currently holds a Teacher of Social Studies Certificate of Eligibility, issued in October 2009. Upon review of the above information, at its December 10, 2015 meeting, the Board voted to issue Cain an Order to Show Cause as to why his certificate should not be revoked.

The Board sent Cain the Order to Show Cause by regular and certified mail on December 16, 2015. The Order provided that Cain had 30 days to respond. The certified mail receipt was signed and returned and the regular mail copy was not returned. Cain did not file a response.

Thereafter, on February 1, 2016, the Board sent Cain another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail copy was returned as “Unclaimed” and the regular copy was not returned. Cain did not respond.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on February 23, 2016, the Board sent Cain a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted as a result of his failure to file an Answer. Thus, Cain 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 found just cause 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 his offense warranted action against his certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Cain was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was signed and returned and the regular mail copy was not returned. Once again, Cain did not respond.

The threshold issue before the Board in this matter is whether Cain's conduct constitutes conduct unbecoming a certificate holder or other just cause. Since Cain failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, at its meeting of May 20, 2016, the Board considered only the allegations in the Order to Show Cause and the information received from the SCI and BASCS. The Board concluded that no material facts related to Cain's offense were in dispute since he never denied that he engaged in the conduct alleged. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*. After reviewing the allegations, the Board found that Cain had engaged in unbecoming conduct.

The Board must now determine whether Cain's conduct, as set forth in the Order to Show Cause, provides just cause to act against his certificate pursuant to *N.J.A.C. 6A:9B-4.4*. The Board finds that it does.

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:9B-4.4*. "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. Moreover, 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 (1943), *aff’d*, 131 *N.J.L.* 326 (E & A 1944). Cain’s actions in having a sexual relationship with a student, taking her to a hotel and making insulting and demeaning sexual comments towards students indicates a pattern of conduct that is inexcusable for a role model. The Board therefore concludes that the appropriate response to his breach is the revocation of his teaching certificate.

Accordingly, on May 20, 2016, the Board voted to revoke Robert D. Cain’s Teacher of Social Studies Certificate of Eligibility, effective immediately. On this 23rd day of June 2016 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Cain’s certificate be effective immediately. It is further ORDERED that Cain return his certificate to the Secretary of the State Board of Examiners, Office of Certification and Induction, 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

RRH/MZ/th

Date of Mailing:
via regular and certified mail

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.