

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
FRANK P. BENNETT : ORDER OF REVOCATION
_____ : DOCKET NO: 1617-275

At its meeting of July 27, 2017, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) regarding Frank P. Bennett. On April 26, 2017, Bennett pled guilty to Theft by Unlawful Taking and Possession of CDS. Bennett was sentenced to two years' probation. The CHRU notified the Board that, as a result of his conviction, Bennett was disqualified from public school employment pursuant to *N.J.S.A. 18a:6-7.1 et seq.* Bennett currently holds a Teacher of Health and Physical Education Certificate of Eligibility with Advanced Standing and a Teacher of Driver Education Certificate of Eligibility with Advanced Standing. Upon review of the above information, the Board voted at its meeting of September 15, 2017 to issue Bennett an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Bennett the Order to Show Cause by regular and certified mail on September 22, 2017. The Order provided that Bennett must file an Answer within 30 days. Bennett filed an Answer on October 18, 2017.

In his Answer, Bennett admitted that he pled guilty on April 26, 2017, to a Disorderly Persons Offense in the 5th degree of Theft by Unlawful Taking and another Disorderly Persons Offense of Failure to Turn Over a CDS. (Answer, p. 1). He added that he had already made the required restitution of \$190.49. (Answer, p. 1). Bennett noted that he was not proud of what he had done and apologized to the Board for his actions. (Answer, p. 1). He acknowledged that the theft happened because he was trying to buy opiates, which he had been introduced to six years prior, after his third knee surgery and first back surgery. (Answer, p. 1). Bennett stated that he was ashamed to say he had stolen to buy opiates but that he was now a different man. (Answer, p. 1). He detailed his extensive efforts at rehabilitation and also noted that he had returned to college to obtain a Doctorate of Physical Therapy. (Answer, p. 1). Bennett acknowledged that he had broken the rules and had to pay for his mistake, but added that one thing he had

not lost along the way was his “passion of educating and coaching children.” (Answer, p. 1). He also told the Board that he just needed “that chance to prove what I have learned, and who I have become.” (Answer, p. 1). Bennett emphasized that he was in a good position “to teach the youth about what drugs can do to you” since he had been through it. (Answer, p. 2). He added that he was ashamed of what he had done but not who he had become “because I am twice the man today that I was when I walked across that graduation stage in 2007.” (Answer, p. 2). Bennett requested to speak to the Board in person so that he could show the Board how serious he was about what he had done and his efforts to change. (Answer, p. 2).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on December 5, 2017, the Board sent Bennett a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Bennett 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 certificates. Bennett was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Bennett filed a response on December 23, 2017.

In that response, Bennett submitted character reference letters from various individuals detailing his role as a mentor and inspiration to them. In addition, he submitted documentation outlining his rehabilitation program and the various parts of it that he had successfully completed. Bennett also reiterated his request to appear before the Board. (Hearing Response, p. 1).

In testimony before the Board, Bennett apologized and took full responsibility for his actions. He detailed for the Board the many steps he had taken towards his rehabilitation and indicated that he had “been clean” for the past 18 months. In addition, he noted that he had re-enrolled in college and had a perfect 4.0 GPA. Bennett also spoke about his passion for teaching and coaching and indicated that he would always find a way to teach. He also thanked the Board for the opportunity to appear before it.

The threshold issue before the Board in this matter is whether Bennett’s conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. At its meeting of April 13, 2018, the Board considered the allegations in the Order to Show Cause as well as

Bennett's Answer, Hearing Response and testimony. The Board determined that no material facts related to Bennett's offense were in dispute since he did not deny that he had engaged in the conduct alleged in the Order to Show Cause. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*.

The Board must now determine whether Bennett'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:9B-4.4*. 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 a danger. Individuals convicted of crimes such as Theft by Unlawful Taking and Failure to Turn Over a CDS fall squarely within this category. The strong legislative policy statement is also in accord with the Commissioner's long-standing belief that teachers must serve as role models for their 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. Moreover, it is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. *See Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); *State Board of Examiners v. Krupp*, 3 *N.J.A.R.* 285 (1981). In this case, Bennett has a conviction for a crime involving drugs. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certificates. *In re Grossman*, 127 *N.J. Super.* 13, 30 (App. Div. 1943), cert. denied 65 *N.J.* 292 (1974).

The 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 Board 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 himself out as a teacher. Thus, because the Legislature and

the Commissioner consider Bennett's offenses so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificates.

Furthermore, notwithstanding Bennett's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See *In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners*, 96 N.J.A.R. 2D (EDE) 1, 16 *aff'd*, App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing *In the Matter of the Revocation of the Teaching Certificate of James Noll*, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Bennett has completed his probation requirements, is engaged in active rehabilitation activities and has returned to school to further his education, while steps in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on April 13, 2018, the Board voted to revoke Frank P. Bennett's Teacher of Health and Physical Education and Teacher of Driver Education Certificates of Eligibility with Advanced Standing. On this 24th day of May 2018 the Board voted to adopt its formal written decision and it is therefore ORDERED that Bennett's certificates be revoked, effective immediately. It is further ORDERED that Bennett return his certificates 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:

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