

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
BRIAN R. BUDD : ORDER OF REVOCATION
_____ : DOCKET NO: 1718-113

At its meeting of September 15, 2017, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) regarding Brian R. Budd. On April 28, 2017, Budd pled guilty in Delaware to Sexual Solicitation of a Child. On July 7, 2017, he was sentenced to a five year prison sentence, to be suspended after six months, three years of supervised probation, ordered to register as a sex offender and fined. The CHRU notified the Board that, as a result of his conviction, Budd was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Budd currently holds a Teacher of Social Studies Certificate of Eligibility with Advanced Standing.

Budd did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of November 1, 2017 to issue Budd an Order to Show Cause as to why his certificate should not be revoked.

The Board sent Budd the Order to Show Cause by regular and certified mail on November 2, 2017. The Order provided that Budd had 30 days to respond. The certified mail receipt was signed and returned and the regular mail copy was not returned. Budd did not file a response.

Thereafter, on December 11, 2017, the Board sent Budd 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 and the regular mail copy was not returned. Budd did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on April 11, 2018, the Board sent him 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, Budd 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. Budd 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, Budd did not file a response.

The threshold issue before the Board in this matter is whether Budd's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Budd 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 June 29, 2018, the Board considered only the allegations in the Order to Show Cause and the information received from the CHRU. The Board concluded that no material facts related to Budd's offense were in dispute since he never denied that he engaged in the conduct alleged and therefore 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 Budd had engaged in unbecoming conduct.

The Board must now determine whether Budd's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificate 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 Sexual Solicitation of a Child 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, 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). In this instance, Budd's conviction demonstrates behavior that falls far short of a role model.

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 Budd's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificate.

Accordingly, on June 29, 2018, the Board voted to revoke Brian R. Budd's Teacher of Social Studies Certificate of Eligibility with Advanced Standing. On this 21st day of September 2018, the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Budd's certificate be effective immediately. It is further ORDERED that Budd 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:

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