

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
MARTIN S. HUBANY : ORDER OF REVOCATION
_____ : DOCKET NO: 1718-198

At its meeting of November 1, 2018, the State Board of Examiners (Board) reviewed information the New Jersey Superior Court and the Criminal History Review Unit (CHRU) had provided regarding Martin S. Hubany. On June 4, 2018, Hubany pled guilty to two counts of third degree Endangering-Abuse/Neglect of a Child by Non-Caretaker after he attempted suicide by handgun in the presence of the minor victims. On July 27, 2018, he was sentenced to three years' probation and ordered to complete a drug and alcohol dependence evaluation and comply with recommendations. He was also ordered to complete medical treatment, remain employed and forfeit his weapons. The CHRU notified the Board that, as a result of his conviction, Hubany was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Hubany currently holds Teacher of Social Studies and Teacher of Elementary School in Grades K-8 Certificates of Eligibility with Advanced Standing and Teacher of Social Studies and Teacher of Elementary School in Grades K-8 certificates.

Hubany 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 December 17, 2018 to issue Hubany an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Hubany the Order to Show Cause by regular and certified mail on December 20, 2018. The Order provided that Hubany had 30 days to respond. The certified mail receipt was signed and returned and the regular mail copy was not returned. Hubany did not file a response.

Thereafter, on January 29, 2019, the Board sent Hubany 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. Hubany did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on February 15, 2019, the Board sent Hubany 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, Hubany 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. 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 certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Hubany 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, Hubany did not file a response.

The threshold issue before the Board in this matter is whether Hubany's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Hubany 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 April 12, 2019, the Board considered only the allegations in the Order to Show Cause and the information received from the Superior Court and the CHRU. The Board concluded that no material facts related to Hubany's offense were in dispute since he never denied that he had engaged in the conduct alleged and had been convicted 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 Hubany had engaged in unbecoming conduct.

The Board must now determine whether Hubany'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 Endangering-Abuse/Neglect of a Child by Non-Caretaker 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, Hubany’s conviction for Endangering-Abuse/Neglect of a Child by Non-Caretaker 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 Hubany’s offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on April 12, 2019, the Board voted to revoke Martin S. Hubany’s Teacher of Social Studies and Teacher of Elementary School in Grades K-8 Certificates of Eligibility with Advanced Standing and his Teacher of Social Studies and Teacher of Elementary School in Grades K-8 certificates. On this 17th day of May 2019, the Board voted to adopt its formal written decision and it is therefore ORDERED that Hubany’s certificates be revoked, effective immediately. It is further ORDERED that Hubany 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.

Rani Singh, Acting Secretary
State Board of Examiners

Date of Mailing:
Via Certified and Regular mail

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