

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
KIMBERLY A. BARGIEL : ORDER OF REVOCATION
_____ : DOCKET NO: 1920-127

At its meeting of July 30, 2020, the State Board of Examiners (Board) reviewed information regarding Kimberly A. Bargiel. The Office of Student Protection (OSP) and the Middlesex County Vicinage of the Superior Court of the State of New Jersey provided information to the State Board of Examiners (Board) regarding Bargiel. On September 16, 2019, Bargiel waived indictment and was Accused of Theft by Deception (2nd degree) after she allegedly obtained the property of various financial institutions in the amount of over \$233,000 by creating the impression that she was someone else, namely the victim A.J. She was found guilty and received 36 months in Pretrial Intervention and was ordered to pay restitution in the amount of \$233,602.49 and undergo drug/alcohol and medical/psychological testing as directed. The OSP notified the Board that, as a result of her conviction, Bargiel is disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Bargiel holds a Teacher of Elementary Grades K-8 Certificate of Eligibility.

Bargiel did not challenge the accuracy of her criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting January 23, 2020 to issue Bargiel an Order to Show Cause as to why her certificates should not be revoked.

The Board sent Bargiel the Order to Show Cause by regular and certified mail on January 27, 2020. The Order provided that Bargiel had 30 days to respond. The certified mail card was received and signed for and the regular mail was not returned. Bargiel did not respond.

Thereafter, on March 5, 2020, the Board sent Bargiel another notice by certified and regular mail providing her an additional 15 days to respond to the Order to Show Cause. The certified mail copy was signed for and the regular mail copy was not returned. Bargiel did not file a response.

Accordingly, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on June 3, 2020, the Board sent Bargiel 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 her failure to file an Answer. Thus, Bargiel 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 her certificates. It also explained that, upon review of the charges against her and the legal arguments tendered in her defense, the Board would determine if her offense warranted action against her certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Bargiel was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail card was signed for and the regular mail copy was not returned. Once again, Bargiel did not file a response.

The threshold issue before the Board in this matter is whether Bargiel's conviction for Theft by Deception (2nd degree) and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Bargiel 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 July 30, 2020 the Board considered only the allegations in the Order to Show Cause and the information received and considered by the Board. The Board concluded that no material facts related to Bargiel's offense were in dispute since she never denied that she 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 Bargiel engaged in unbecoming conduct.

The Board must now determine whether Bargiel's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against her 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 were not proper examples for them. Individuals convicted of crimes such as Theft by Deception 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, Bargiel's conviction for Theft by Deception 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 herself out as a teacher. Thus,

because the Legislature and the Commissioner consider Bargiel's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of her certificate.

Accordingly, on July 30, 2020, the Board voted to revoke Kimberly A. Bargiel's Teacher of Elementary Grades K-8 Certificate of Eligibility. On this 29th day of October 2020, the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Bargiel's certificate be effective immediately. It is further ORDERED that Bargiel return her 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, Secretary
State Board of Examiners

Date of Mailing:
By 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.