

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
JACQUELINE M. KELLY : ORDER OF REVOCATION
_____ : DOCKET NO: 1718-273

At its meeting of October 29, 2020, the State Board of Examiners (Board) reviewed information regarding Jacqueline M. Kelly. On April 11, 2018, Kelly was arrested and charged with Possession of Controlled Dangerous Substance (CDS), Use/Possession with Intent to Use, and Possession Hypodermic Syringe. While investigating a suspicious vehicle in a parking lot, law enforcement observed Kelly in her car nodding off during the hour of surveillance. Kelly was ordered out of her vehicle, and a search was performed, and heroin was found.

On April 21, 2018, Kelly was arrested and charged with Possession of CDS, Use/Possession with Intent to Use, and Possession Hypodermic Syringe. After a traffic stop of a car driven by Kelly, a search was performed which resulted in the discovery of several empty/full wax folds of heroin as well as hypodermic syringes in Kelly's purse. She was also found with a syringe in her bra.

On May 27, 2018, Kelly was arrested and charged with Possession of CDS and Use/Possession with Intent to Use. A concerned citizen advised law enforcement that there was a black vehicle parked near his vehicle with a female inside, later identified as Kelly. Kelly appeared to be "on the nod," slumped forward with her arm out with a glass pipe used as a crack pipe and a small glass vile near the gear shifter. Kelly had to be physically shaken to wake her and awoke with a slurred voice. Law enforcement searched the vehicle and found drug paraphernalia. Additionally, on August 11, 2018, Kelly was arrested and charged with Possession of CDS.

As a result of the April 11, 2018 charges, and the May 27, 2018 charges, on July 22, 2019, Kelly pled guilty to one count of Possession of CDS (3rd degree) and was sentenced to probation for a period of 2 years. The Office of Student Protection (OSP) notified the Board that, as a result of her conviction, Kelly is disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Kelly holds a Teacher of Elementary Grade K-6 Certificate of Eligibility with Advanced Standing, Teacher of Students with Disabilities Certificate of Eligibility, and Teacher of Elementary Grade K-6 and Teacher of Students with Disabilities standard certificates.

Kelly 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 of December 10, 2020 to issue Kelly an Order to Show Cause as to why her certificates should not be revoked.

The Board sent Kelly the Order to Show Cause by regular and certified mail on December 16, 2020. The Order provided that Kelly had 30 days to respond. The certified mail was marked as received via the United States Postal Service online tracking system and the regular mail was not returned. Kelly did not respond.

Thereafter, on February 24, 2021, the Board sent Kelly 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 as received and the regular mail copy was not returned. Kelly did not file a response.

Accordingly, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on March 25, 2021, the Board sent Kelly 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, Kelly 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. Kelly was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail card was signed for as received and the regular mail copy was not returned. Once again, Kelly did not file a response.

The threshold issue before the Board in this matter is whether Kelly's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Kelly 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 13, 2021 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 Kelly'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 Kelly engaged in unbecoming conduct.

The Board must now determine whether Kelly'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 Possession of Controlled Dangerous Substances (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, 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, Kelly's conviction for 3rd degree possession of CDS 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 Kelly's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of her certificates.

Accordingly, on June 25, 2021, the Board voted to revoke Jacqueline M. Kelly's Teacher of Elementary Grade K-6 Certificate of Eligibility with Advanced Standing, Teacher

of Students with Disabilities Certificate of Eligibility, and Teacher of Elementary Grade K-6 and Teacher of Students with Disabilities standard certificates. On this 25th day of June 2021, the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Kelly's certificate be effective immediately. It is further ORDERED that Kelly 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.