

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
SCOTT RUBINETTI : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-107

At its meeting of September 20, 2013, the State Board of Examiners (Board) reviewed information received from the Bergen County Prosecutor's Office (BCPO) and the Office of Criminal History Review (OCHR) regarding Scott Rubineti. On March 4, 2012, Rubineti pled guilty to Criminal Sexual Contact and Tampering with a Witness. Rubineti was sentenced to five years' probation and ordered "not to teach or coach as employment or volunteer work anywhere." As a result of the conviction, Rubineti was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Rubineti currently holds a Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, issued in June 1997, a Teacher of Physical Education Certificate of Eligibility With Advanced Standing, issued in April 1998 and a Teacher of Health and Physical Education certificate, issued in July 1998.

Rubineti 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, 2013 to issue Rubineti an Order to Show Cause why his certificates should not be revoked.

The Board sent Rubineti the Order to Show Cause by regular and certified mail on November 12, 2013. The Order provided that Rubineti must file an Answer within 30 days. The certified mail receipt was signed and returned and the regular mail copy was not returned. Rubineti did not file a response. Thereafter, on December 27, 2013, the Board sent Rubineti 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 copy was not returned. Rubinetti did not respond.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on January 27, 2014, the Board sent Rubinetti a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Rubinetti 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 disqualifying offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Rubinetti 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, Rubinetti did not respond.

The threshold issue before the Board in this matter is whether Rubinetti's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Rubinetti failed to respond to the Order to Show Cause or the hearing notice, at its meeting of April 4, 2014, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Rubinetti's offense were in dispute since he never denied that he had been convicted of the offense charged and been subsequently disqualified. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The Board must now determine whether Rubinetti'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:9-17.5. 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 a crime such as Criminal Sexual Contact and Tampering with a Witness fall squarely within in 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, Rubinetti's conviction for Criminal Sexual Contact and Tampering with a Witness 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 Rubinetti's

offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on April 4, 2014, the Board voted to revoke Scott Rubinetti's Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, Teacher of Physical Education Certificate of Eligibility With Advanced Standing, and his Teacher of Health and Physical Education certificate. On this 22nd day of May 2014 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Scott Rubinetti's certificates be effective immediately. It is further ORDERED that Rubinetti return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, 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

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.