

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
MICHAEL BURDEN : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-132

At its meeting of November 1, 2013, the State Board of Examiners (Board) reviewed information received from the Orono, Maine Police Department (OPD) and the Mantua Municipal Court (Mantua) regarding Michael Burden. The OPD informed the Board that Burden pled guilty to Assault in 2009 after being charged with Assault and Unlawful Sexual Contact. Mantua informed the Board that Burden pled guilty to Loitering for the Purpose of Engaging in Prostitution in September 2013. The transcript of the docket in that case indicates Burden had answered an ad placed by an undercover police officer on Craigslist offering sexual favors in exchange for cash. Burden responded to the ad offering money and marijuana in exchange for sexual activity. When Burden arrived at the agreed-upon meeting place, he was arrested. Burden currently holds a Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, issued in April 2012. Upon review of the information, at its December 6, 2013 meeting, the Board voted to issue Burden an Order to Show Cause.

The Board sent Burden the Order to Show Cause by regular and certified mail on December 11, 2013. The Order provided that Burden must file an Answer within 30 days. Burden responded on January 8, 2014. In that Answer, Burden admitted that he pled no contest to a misdemeanor charge of simple assault in 2009. (Answer, p. 1). Burden added that “the other charge I was allegedly accused of was dismissed.” (Answer, p. 1). Burden also admitted pleading guilty to loitering in September 2013 but claimed that he did not plead guilty to loitering for the purpose of engaging in prostitution. (Answer, p. 1). He added that “I have made poor decisions in my life at times” and hoped that his teaching certificate would not be taken away from him. (Answer, p. 1).

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on January 15, 2014, the Board sent Burden a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Burden 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 determined 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 Burden's offenses warranted action against his certificate. Thereupon, the Board would also determine the appropriate sanction, if any. Burden was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned as "Unclaimed" and the regular mail copy was not returned. Burden did not file a response.

The threshold issue before the Board in this matter is whether Burden's convictions constitute conduct unbecoming a certificate holder. At its meeting of April 4, 2014, the Board considered the allegations in the Order to Show Cause and Burden's Answer. The Board determined that no material facts related to Burden's offenses were in dispute since he admitted that he had been convicted of both offenses.¹ 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 Burden's convictions, as set forth in the Order to Show Cause, provide just cause to act against his certificate pursuant to *N.J.A.C.* 6A:9-17.5. The Board finds that they do.

The Board may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C.* 6A:9-17.5. "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.

¹ Although Burden claimed that he pled guilty only to Loitering, the statute with which he was charged and to which he pled guilty, *N.J.S.A.* 2C:34-1.1, is entitled Loitering for the Purpose of Engaging in Prostitution.

Moreover, it is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. *See Cox v. State Board of Examiners*, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); *State Board of Examiners v. Krupp*, 3 *N.J.A.R.* 285 (1981). Burden has two convictions, within four years of each other, one for a serious offense and the other for illegal activity in which he offered to provide an undercover officer with marijuana. A teacher's behavior outside the classroom may be relevant in determining that person's qualifications and continued fitness to retain his certificates. *In re Grossman*, 127 *N.J. Super.* 13, 30 (App. Div. 1943), cert. denied 65 *N.J.* 292 (1974).

The Commissioner has long held that teachers serve as role models for their students. Clearly, Burden's convictions within a relatively short amount of time, at the beginning of his teaching career, indicate that his actions here are not those of a role model. Thus, the Board believes that the only appropriate sanction in this case is the revocation of Burden's certificate.

Accordingly, on April 4, 2104, the Board voted to revoke Burden's Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing. 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 Michael Burden's certificate be effective immediately. It is further ORDERED that Burden return his certificate 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.

RRH:MZ:th