

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFIATES OF : STATE BOARD OF EXAMINERS
JULIO P. PINA-CATENA : ORDER OF REVOCATION
_____ : DOCKET NO: 1314-108

At its meeting of November 1, 2016, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) regarding Julio Pina-Catena. On July 25, 2016, after a jury trial, Pina-Catena was convicted of Aggravated Assault, Burglary, Criminal Mischief, Possession of a Weapon for an Unlawful Purpose, Computer Crime-Access Data, Computer Crime-Alter/Damage/Destroy Data and Hindering-Oneself-False Information. On September 9, 2016, he was sentenced to 21 years in prison. The CHRU notified the Board that, as a result of his conviction, Pina-Catena was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Pina-Catena currently holds a Teacher of Mathematics Certificate of Eligibility With Advanced Standing, issued in May 1999 and Teacher of Mathematics and Supervisor certificates, both issued in January 2005.

Pina-Catena 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 9, 2016 to issue Pina-Catena an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Pina-Catena the Order to Show Cause by regular and certified mail on December 15, 2016. The certified mail copy was returned as “Unclaimed” and the regular mail copy was not returned. Pina-Catena did not file a response. On March 29, 2017, after several failed attempts, the Board secured a correct prison address and sent Pina-Catena 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. Pina-Catena did not respond.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on April 21, 2017, the Board sent Pina-Catena 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, Pina-Catena 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. Pina-Catena 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, Pina-Catena did not respond.

The threshold issue before the Board in this matter is whether Pina-Catena's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Pina-Catena 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 27, 2017, the Board considered only the allegations in the Order to Show Cause and the information received from the CHRU. The Board concluded that no material facts related to Pina-Catena's offense were in dispute since he never denied that he engaged in the conduct alleged 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 Pina-Catena had engaged in unbecoming conduct.

The Board must now determine whether Pina-Catena'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 Aggravated Assault, Burglary, Criminal Mischief, Possession of a Weapon for an Unlawful Purpose, Computer Crime-Access Data, Computer Crime-Alter/Damage/Destroy Data and Hindering-Oneself-False Information 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, Pina-Catena's conviction 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. Moreover, Pina-Catena received a lengthy prison term for his crimes. Thus, because the Legislature, the Judiciary and the Commissioner consider Pina-Catena's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on July 27, 2017, the Board voted to revoke Julio Pina-Catena's Teacher of Mathematics Certificate of Eligibility With Advanced Standing and his Teacher of Mathematics and Supervisor certificates. On this 15th day of September 2017 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Pina-Catena's certificates be effective immediately. It is further ORDERED that Pina-Catena 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.

Robert R. Higgins, Secretary
State Board of Examiners

RRH/MZ/th

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.