

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
DAVID KANE : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 2122-178

At its meeting of May 19, 2022, the State Board of Examiners (Board) reviewed information regarding David Kane. The Office of Student Protection (OSP), the National Association of State Directors of Teacher Education and Certification, the Pennsylvania Professional Practices Commission, and the Washington Township Public School District provided information to the State Board of Examiners (Board) regarding Kane. On or about April 1, 2022, Kane pled guilty in Pennsylvania to Indecent Assault on a Person Less than 13 Years of Age. As a result, Kane surrendered his Pennsylvania educator certificate(s) and resigned from his teaching position in Washington Township. The OSP notified the Board that because of his conviction, Kane is disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.*

Kane holds a Teacher of Elementary Grades Kindergarten through 8 Certificate of Eligibility with Advanced Standing, issued October 1997; a standard Teacher of Elementary Grades Kindergarten through 8 certificate, issued July 1999; and a standard Teacher of Middle School with Subject Matter Specialization: Language Arts/Literacy, Grades 5 through 8 certificate, issued May 2014.

Kane 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 June 30, 2022 to issue Kane an Order to Show Cause as to why his certificates should not be revoked.

The Board sent Kane the Order to Show Cause by regular and certified mail on July 5, 2022. The Order provided that Kane had 30 days to respond. The USPS certified mail tracking system indicates that the certified mail was delivered and left with an individual and the regular mail was not returned. Kane did not respond.

Thereafter, on September 22, 2022, the Board sent Kane another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The certified mail copy was returned as “Unclaimed”, and the regular mail copy was not returned. Kane did not file a response.

Accordingly, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on December 16, 2022, the Board sent Kane 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, Kane 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. Kane was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail card was signed, and the regular mail copy was not returned. Once again, Kane did not file a response.

The threshold issue before the Board in this matter is whether Kane’s conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since Kane 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 March 3, 2023, 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 Kane's offense were in dispute since he never denied that he 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 Kane engaged in unbecoming conduct.

The Board must now determine whether Kane's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his 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 a crime such as Indecent Assault on a Person Less than 13 years of age 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, Kane's conviction for Indecent Assault 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 Kane's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on March 3, 2023, the Board voted to revoke David Kane's Teacher of Elementary Grades Kindergarten through 8 Certificate of Eligibility with Advanced Standing, a standard Teacher of Elementary Grades Kindergarten through 8 certificate, and a standard Teacher of Middle School with Subject Matter Specialization: Language Arts/Literacy, Grades 5 through 8 certificate. On this 13<sup>th</sup> day of April 2023, the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Kane's certificates be effective immediately. It is further ORDERED that Kane 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.

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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.