

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CREDENTIAL OF : STATE BOARD OF EXAMINERS
NICKOLAS GENOVESE : ORDER OF REVOCATION
_____ : DOCKET NO: 0910-198

At its meeting of June 10, 2010, the State Board of Examiners (Board) reviewed information received from the Office of Criminal History Review indicating that respondent Nickolas Genovese was convicted in April 2010 of Criminal Sexual Contact. As a result of the conviction, Genovese was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Genovese currently holds a Substitute Credential which expires in July 2014.

Genovese did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted to issue Genovese an Order to Show Cause at its meeting of July 22, 2010.

The Board sent Genovese the Order to Show Cause by regular and certified mail on July 27, 2010. The Order provided that Genovese must file an Answer within 30 days. The certified mail receipt was signed and returned. The regular mail copy was not returned. Genovese did not file a response. Thereafter, on August 31, 2010, the Board sent Genovese 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 mail copy was not returned. Genovese did not respond to the second notice.

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on October 6, 2010, the Board sent Genovese a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Genovese 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 credential. 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 credential. Thereupon, the Board would also determine the appropriate sanction, if any. Genovese was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. Once again, the certified mail receipt was signed and returned and the regular mail copy was not returned. Genovese did not file a response.

The threshold issue before the Board in this matter is whether Genovese's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. Since Genovese failed to respond to the Order to Show Cause or the hearing notice, at its meeting of December 9, 2010, the Board considered only the allegations in the Order to Show Cause. The Board determined that no material facts related to Genovese's offense were in dispute since he never denied that he had been convicted of the offense charged. 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 Genovese's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his credential 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 to them. Individuals convicted of a crime such as Criminal Sexual Contact fall squarely within this category. This strong legislative policy statement is 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. Clearly, Genovese's actions here are not those 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 considers Genovese's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of Genovese's credential.

Accordingly, on December 9, 2010, the Board voted to revoke Nickolas Genovese's Substitute Credential. On this 20th day of January 2011 the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Nickolas Genovese's credential be effective immediately. It is further ORDERED that Genovese return his credential 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.