

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSE OF : STATE BOARD OF EXAMINERS
VANESSA McALLISTER : ORDER OF REVOCATION
_____ : DOCKET NO. 257 - 06/94 - 96

At its meeting of June 16, 1994, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that Vanessa McAllister, who holds a Teacher of Health and Physical Education license in New Jersey, pled guilty on June 22, 1993 to possession of a controlled dangerous substance (cocaine) with intent to distribute. She was sentenced to three (3) years in state prison, fined and lost her driving privileges for six (6) months.

At that meeting the State Board of Examiners voted that said conviction constituted sufficient grounds for issuing an Order to Show Cause. The Order to Show Cause was mailed to Ms. McAllister by regular and certified mail on July 1, 1994. An Answer to the Order to Show Cause was received from Ms. McAllister on July 22, 1994.

On February 2, 1995, an initial hearing notice was mailed by regular and certified mail to Ms. McAllister. No response was received from, or on behalf of, Ms. McAllister.

Thereafter, the State Board of Education decided two cases which impacted on the hearing process conducted by the State Board of Examiners. The first case is captioned, In the Matter of the Certificates of Sheridan. The other is captioned, In the Matter of the Certificates of Vitola. Within these two cases, the State Board of Education determined that the State Board of Examiners was required to amend its regulation in order to permit it to hear directly legal matters in which material facts are not in dispute. During the pendency of the revisions to the State

Board of Examiner' regulations regarding its hearing process, all such hearings were held in abeyance. Said regulatory amendments were finally codified in May of 1997.

On July 1, 1997, pursuant to the newly amended hearing process set forth at N.J.A.C. 6:11-3.6(a)1, another hearing notice was forwarded to Ms. McAllister by certified and regular mail. Said notice explained that, it appearing that no material facts were in dispute, Ms. McAllister was provided an opportunity to offer legal argument on the issue of whether her conviction constituted conduct unbecoming a teacher.

On July 25, 1997, a response to the hearing notice was received from Ms. McAllister.

Ms. McAllister's response to the hearing notice raises the following points:

While admitting to her offense, and granting that her actions were not honorable, Ms. McAllister contends her offense was committed as a lay person and not in her capacity as a teacher. She submits that while a teacher she comported herself with the utmost professionalism in and about the school grounds, and believes if she were reinstated to the profession she would be a positive role model to young people. Her Answer to the Order to Show Cause, dated July 20, 1994 adds that she paid a high price for her offense, by losing her freedom, but that she has gained a better understanding of herself and believes her past experience with drugs can be used to an advantage in discouraging young people from committing the same mistakes.

At its meeting of October 9, 1997, the State Board of Examiners reviewed the charges against Ms. McAllister as well as her responses to the Order to Show Cause and the hearing notice. It determined that no material facts related to Ms. McAllister's offense were in contest, and that the matter could, therefore, proceed to a determination as to whether the charges levied in the Order to Show Cause constitute conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

In its consideration of this case at the October 9, 1997 meeting, the State Board of Examiners first noted that the instant hearing is not one which considers evidence of rehabilitation. See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, decided by the State Board of Examiners March 28, 1996, aff'd State Board of Education September 6, 1996. Therein, the State Board of Examiners held:

Neither does the language of this regulation [N.J.A.C. 6:11-3.6] support Petitioner's apparent contention that "new findings" includes evidence of rehabilitation or current ability to teach. See, e.g., In the Matter of the Revocation of the Teaching Certificate of James Noll by the State Board of Examiners, decided by the State Board of Examiners, February 7, 1990, citing Cox v. State Bd. of Examiners (App. Div. Docket No. A-3527-81T3)(November 18, 1983). Therein, it was determined that the purpose of the hearings conducted by the State Board of Examiners pursuant to N.J.A.C. 6:11-3.7(b)ii (now, N.J.A.C. 6:11-3.6(a)1) is 'to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth the Order to Show Cause, not to afford an opportunity to show rehabilitation. *Id.* at p. 4)

Hence, the State Board of Examiners did not consider Ms. McAllister's statements concerning her alleged rehabilitation, but instead focused on assessing whether the criminal charges at issue, which Ms. McAllister does not deny having committed, constitute conduct unbecoming a license holder.

In this regard, school law cases have traditionally recognized the right of the State Board of Examiners to revoke licenses where the teacher was involved in criminal activities, even if said activities were not related 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). The use of drugs and the possession of drugs are inconsistent with the State's policy to eliminate drug abuse in the schools, In the Matter of the Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689. Misuse of dangerous drugs by students themselves, or by the role models to whom students look for guidance, will not be tolerated under any circumstances. In

the Matter of the Certificate of Barbara Corwick, OAL Docket No. EDE 3562-87, State Board of Examiners decision (March 24, 1988).

Accordingly, in light of this State's strong policy opposing the use of illegal drugs, the State Board of Examiners finds respondent's conviction conduct unbecoming a license holder. The drug offenses in this matter included not only possession of cocaine but also intent to distribute, which implicates more than Ms. McAllister's own self-destruction. In light of the very serious nature of the crimes involved herein, the State Board of Examiners determined that the appropriate penalty for her unbecoming conduct is the revocation of respondent's Teacher of Health and Physical Education license.

It is, therefore, ORDERED that Vanessa McAllister's Teacher of Health and Physical Education license is hereby revoked on this 9th day of October, 1997.

It is further ORDERED that Vanessa McAllister return her license to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter.

Secretary
State Board of Examiners

Date of Mailing: November 19, 1997

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

IBG:KHK:br:McAllisterrv