

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE LICENSE OF : STATE BOARD OF EXAMINERS  
R. SCOTT MCINTYRE : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO. 439 – 04\97-142

At its meeting of April 3, 1997 the State Board of Examiners received a Commissioner's Decision captioned In the Matter of the Tenure Hearing of R. Scott McIntyre, Board of Education or the North Hunterdon-Voorhees Regional High School District, Hunterdon County, N.J.A.R. 2d (EDU) 718 aff'd, State Board, June 7, 1995, aff'd, App. Div, July 10, 1996 (A-5942-94TS). Tenure charges of conduct unbecoming a teaching staff member were brought by the district based on Mr. McIntyre's arrest on September 13, 1993 for possession of less than 50 grams of marijuana. The findings of fact in the tenure proceeding include a statement that Respondent McIntyre did not dispute the results of the drug analysis performed by the State Police of the substance found in his possession, albeit that evidence of the arrest had been suppressed in the criminal proceeding because the patdown search of Mr. McIntyre was conducted without a warrant.

The Commissioner of Education concurred with the Administrative Law Judge's finding that Respondent McIntyre was in possession of marijuana on September 13, 1993 and that he was guilty of unbecoming conduct for possession of marijuana on that date. However, the Commissioner modified the initial decision with respect to penalty. The Commissioner found that possession of a controlled dangerous substance by an educator, absent mitigating circumstances, was sufficiently flagrant to warrant dismissal.

The State Board of Education affirmed the Commissioner's Decision on June 7, 1995. The Appellate Division affirmed the decision of the State Board of Education on July 10, 1996.

At that meeting the State Board of Examiners voted that the charges in the tenure matter constituted grounds for issuing an Order to Show Cause. Respondent McIntyre was served with said Order to Show Cause by regular and certified mail on or about April 23, 1997. The Order provided that if Respondent McIntyre desired to file an Answer to said Order such answer must be filed within twenty (20) days. Both copies were returned indicating that Respondent's forwarding order had expired. New Jersey Motor Vehicle Services also was unable to provide a current address for Mr. McIntyre. On October 10, 1997 and October 21, 1997 the Order to Show Cause was published in The Home News and Tribune newspaper. No response has been received from or on behalf of Mr. McIntyre.

It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. School law cases have traditionally recognized the right of the State Board of Examiners to revoke license where the teacher was involved in criminal activities, even if the 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). The Commissioner of Education, and the State Board of Education in the tenure matter brought against Mr. McIntyre stressed that possession of a controlled dangerous substance by an educator, absent mitigating circumstances, not found in the McIntyre's case, is sufficiently

flagrant conduct to warrant dismissal. In so deciding, the Commissioner reversed the ALJ's finding that a lesser penalty was appropriate, thus underscoring the seriousness with which drug use by educators will be treated in the state of New Jersey.

Accordingly, in light of this State's strong policy opposing the use of illegal drugs, the State Board of Examiners finds respondent's possession of marijuana on September 13, 1993 conduct unbecoming a license holder. The appropriate penalty for his unbecoming conduct is the revocation of respondent's license as a Teacher of Physical Science.

It is, therefore, ORDERED that, R. Scott McIntyre's license as a Teacher of Physical Science is hereby revoked on this 2nd day of April, 1998.

It is further ORDERED that R. Scott McIntyre return his license to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter.

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Secretary  
State Board of Examiners

Date of Mailing: April 29, 1998

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:McIntyrev