

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSE OF : STATE BOARD OF EXAMINERS
MARTIN GARNICK : ORDER OF REVOCATON

DOCKET NO. 445-05/97-141

At its meeting of May 15, 1997, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Mr. Garnick had been disqualified from public school employment pursuant to N.J.S.A. 18A:6-7.1 *et seq.* due to his April 1976 conviction for possession of marijuana for which he was sentenced to pay a fine of \$50. The Office of Criminal History Review advised Mr. Garnick on March 6, 1997 concerning requirements for filing a proper appeal. Mr. Garnick did not appeal his disqualification. Mr. Garnick currently holds a County Substitute license. On his application for county substitute licensure Mr. Garnick stated he had not been convicted of a crime.

At that meeting, the State Board of Examiners voted that said disqualification constituted sufficient grounds for issuing an Order to Show Cause. The Order to Show Cause was mailed to Mr. Garnick by regular and certified mail on or about July 25, 1997. Said Order provided that if Mr. Garnick desired to file an Answer to said Order such answer must be filed within twenty (20) days. On August 1, 1997 an Answer to the Order to Show Cause was received from Mr. Garnick.

Pursuant to N.J.A.C. 6:11-3.6(a)1, on August 29, 1997, a hearing notice was mailed by regular and certified mail to Mr. Garnick. The notice advised him that, it appearing that no material facts are in dispute, he was provided the opportunity to offer legal argument why his disqualification from public employment pursuant to N.J.S.A. 18A:6-7.1 *et seq.* was not conduct unbecoming a certificate holder. The certified mail return receipt was not returned. The regular mail copy also was not returned. No response to the hearing notice was received from, or on behalf of Martin Garnick. On October 23,

1997, Mr. Garnick was advised by certified and regular mail that he was being provided an additional ten (10) days to file a response to the initial hearing notice. The certified mail receipt card was signed and returned. The regular mail copy was not returned. No response has been received from or on behalf of Mr. Garnick. Accordingly, in reviewing this matter, the State Board of Examiners considered Mr. Garnick's Answer as the sole submission in the hearing process.

Mr. Garnick's Answer admits his criminal history includes the possession of marijuana charge identified in the Order to Show Cause. He states he did appeal his disqualification and includes a copy of that appeal dated November 4, 1996. He claims the incident was one that occurred twenty years ago and that he had forgotten it in filing his application for a county substitute license. He submits he is not teaching and does not intend to teach in the public school system. He adds that given a choice he would prefer to turn in his license to teach than to have it revoked.

Upon review of the record of this matter including the Answer filed in this matter, the State Board of Examiners determined that no material facts are in dispute. Mr. Garnick admitted he has been disqualified from employment in the public schools of this state. Pursuant to N.J.A.C. 6:11-3.6(a)1, therefore, it was determined that the matter could proceed to a hearing on the papers filed in the matter.

In enacting the Criminal History Review statute, N.J.S.A. 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. In 1989 the Legislature specifically amended the statute to include all convictions concerning controlled dangerous substances as disqualifying offenses. See, N.J.S.A. 18A:6-7.1b. This amendment was a clear recognition on the part of the Legislature that individuals with such drug convictions should not be permitted to be in contact with school-aged children. The consistent and long-standing policy of this State is to eliminate the use of illegal drugs. See, In the Matter of the

Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689. To that end, the State and the schools herein have engaged in extensive educational efforts to warn the citizenry of the perils of illicit drugs. See, In the Matter of the Certificate of Barbara Corwick, OAL Dkt. No. EDE 3562-87, State Board of Examiners decision (March 24, 1988). Those who violate this deep-rooted policy, whether by the use of drugs or their manufacture and distribution, endanger the public welfare; they cannot be entrusted with the responsibility of caring for school aged pupils. Accordingly, the State Board of Examiners finds that the disqualification of Respondent from service in the public schools of this State because of his conviction for a drug offense provides just cause to take action against Respondent's license.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1b also offers guidance to the State Board of Examiners 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 license 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.

The State Board of Examiners is further troubled by Mr. Garnick's dishonest misrepresentation of his criminal background on his application for licensure. Failure to be forthcoming regarding an applicant's criminal history may also be taken into account in assessing penalty. Because the Legislature considers Respondent's offense so significant, and because Mr. Garnick failed to acknowledge his criminal conviction in applying for licensure, the State Board of Examiners determines that the appropriate sanction in this case is the revocation of respondent's county substitute license.

Therefore, it is ORDERED that Martin Garnick's County Substitute license is hereby revoked on this 2nd day of April, 1998.

It is, therefore, further ORDERED that Martin Garnick 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.

Ida B. Graham, 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:Garnickrv