

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JEFFREY WEINGARTEN : ORDER OF REVOCATION
_____ : DOCKET NO: 574-05/00-239

At its meeting of May 11, 2000, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Jeffrey Weingarten was convicted in 1980 on charges of attempted criminal sale of a controlled dangerous substance and in 1981 for felony criminal sale of a controlled dangerous substance. As a result of those convictions, Weingarten was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Weingarten did not appeal the disqualification before the Commissioner of Education. Upon review of the above information, at that May meeting the State Board of Examiners voted to issue Weingarten an Order to Show Cause. Weingarten currently holds a County Substitute certificate issued by the Hudson County Office of Education.

The Board sent Weingarten the Order to Show Cause by regular and certified mail on June 26, 2000. The Order provided that an Answer must be filed within 20 days. Weingarten responded to the Order on July 21, 2000.

In his Answer Weingarten claimed that his offense occurred more than 20 years ago and that he was a different person then. Weingarten claimed that in 1979 when he and his wife returned on a vacation to the United States from Europe, they sought to earn money to support themselves. (Answer, p. 1). He stated that they fell into the wrong crowd, which convinced them to buy drugs, and then reported them to the police. Weingarten said that rather than face a lengthy jail term he and his wife pled guilty to one count of criminal sale of a controlled substance in the second degree. (Answer, p.2). He was sentenced to three years in prison and

was given work release after two years. Weingarten added that he has had no involvement with the criminal justice system for over 18 years. (Answer, p.2). He also claimed that he did challenge the technical accuracy of his criminal history record because he could only recollect pleading guilty to one offense, not the two listed on his record. (Answer, p.2). He added, however, that since the court clerk told him that getting a certified copy of his judgment of conviction would take up to a month or more, he was relying on his best recollection of pleading guilty to a single incident and hoped the Board of Examiners would do the same. (Answer, p.20.

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on August 8, 2000, a hearing notice was mailed by regular and certified mail to Weingarten. The notice explained that since it appeared no material facts were in dispute regarding his Answer, Weingarten 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. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his disqualifying offense warranted action against his certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Weingarten responded to the Hearing Notice on September 1, 2000.

In his response, Weingarten claimed that he was not trivializing his offense but added that all individuals have engaged in "conduct unbecoming a teacher" at one point or another. (Hearing Response, p.1). He stated that his offense occurred over 20 years ago and he was not a teacher at that time. Moreover, he claimed that his offense did not involve force, violence, weapons, sex, children or drug taking. (Hearing Response, p.1). Weingarten alleged that the individuals who sold him the drugs entrapped him and also spent time in prison. Weingarten added that he was well respected in his community and was an education consultant and child

advocate. He claimed that he wanted to retain his certificate because of his “sincere desire to utilize my innate abilities as an educator!” (Hearing Response, p.2).

At its meeting of November 2, 2000, the State Board of Examiners reviewed the charges and papers Weingarten filed in response to the Order to Show Cause. After review of those responses, the Board of Examiners determined that no material facts related to Weingarten’s offense were in dispute since he admitted to criminal sale of a controlled dangerous substance in the second degree. (Even if, as Weingarten states, he was only convicted of one drug offense, that alone is a sufficient predicate for disqualification and consideration for revocation or suspension.)

The issue before the State Board of Examiners in this matter, therefore, is whether Weingarten’s disqualification, which was predicated on the same drug offenses as set forth in the Order to Show Cause, represents just cause to act against Weingarten’s certificate pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

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 Weingarten's disqualification from service in the public schools of this State because of his conviction for two drug offenses provides just cause to take action against his certificate.

That strong policy statement on the part of the Legislature set forth in N.J.S.A. 18A:6-7.1 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. Because the Legislature considers Weingarten's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction for his disqualification is the revocation of his certificate to teach.

Accordingly, it is therefore ORDERED that Jeffrey Weingarten's County Substitute certificate be revoked on this 2nd day of November 2000. It is further ORDERED that Weingarten return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: February 1, 2001

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

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