

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS  
DONALD MACK : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 0304-260

At its meeting of May 6, 2004, the State Board of Examiners reviewed information the Office of Criminal History Review had forwarded indicating that Donald Mack was convicted in 1991 on charges of conspiracy to commit cocaine possession. As a result of such conviction, Mack was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Mack did not appeal the disqualification before the Commissioner of Education. Upon review of the above information, at its May 6, 2004, meeting, the State Board of Examiners voted to issue Mack an Order to Show Cause. Mack currently holds a Teacher of the Handicapped certificate, issued in February 1993.

The Board sent Mack the Order to Show Cause by regular and certified mail on July 1, 2004. The Order provided that Mack must file an Answer within 30 days. Mack filed his response on July 26, 2004. In that Answer, he claimed that he had always informed his employers of his past problems with the criminal justice system. (Answer, ¶ 1.) Mack also stated that he had spent the last fifteen years of his life recreating himself. He stated that he had had a positive impact on all of the students with whom he had come in contact and had made a worthwhile contribution to teaching. (Answer, ¶¶ 2, 3.) Mack also added that while he could not change the past, he had proven that through hard work and discipline the past could be overcome. (Answer, ¶ 5.) Finally, he argued that he could be a positive role model for students “being confronted with the same obstacles that I was confronted with most of my life.” (Answer, ¶ 6.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on August 25, 2004, the Board sent Mack a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute regarding Mack's offense, he 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. The certified mail was returned unclaimed. The regular mail copy was not returned. Mack did not file a response. Since Mack failed to respond to the hearing notice, the State Board of Examiners considered his Answer as the only responsive pleading in the hearing process.

At its meeting of December 9, 2004, the State Board of Examiners reviewed the charges and papers Mack filed in response to the Order to Show Cause. After review of the response, the Board of Examiners determined that no material facts related to Mack's offense were in dispute since he admitted to his conviction.

It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. The issue before the State Board of Examiners in this matter, therefore, is whether Mack's disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, represents just cause to act against his certificate pursuant to *N.J.A.C. 6A:9-17.5*. It finds that it does.

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. 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:6-7.1(b)*. 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 Mack's disqualification from service in the public schools of this State because of his conviction for a drug offense 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(b)* 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 Mack'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. *See In the Matter of the Revocation of the Teaching Certificate of Patricia Rector, Agency Dkt. No. 19-02 (St. Bd. of Education,*

August 7, 2002) (affirming the decision of the State Board of Examiners to revoke Rector's teaching certificate on the basis of the disqualification pursuant to *N.J.S.A. 18A:6-7.1*.)

Furthermore, notwithstanding Mack's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." *See In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners*, 96 *N.J.A.R. 2D (EDE) 1, 16 aff'd*, App. Div. Dkt. No. A-1246-96T5 (September 9, 1997) citing *In the Matter of the Revocation of the Teaching Certificate of James Noll*, State Bd. of Examiners decision (February 7, 1990). Thus, the fact that Mack has remained a law-abiding citizen for the past 15 years, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, it is therefore ORDERED that Donald Mack's Teacher of the Handicapped certificate be revoked on this 9th day of December 2004. It is further ORDERED that Mack return his certificate to the Secretary of the State Board of Examiners, Office of Licensure and Credentials, PO Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

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Michael K. Klavon, Acting Secretary  
State Board of Examiners

Date of Mailing: FEBRUARY 7, 2005

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