

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
STANLEY UTLEY : ORDER OF REVOCATION
_____ : DOCKET NO: 652-10/01-327

At its meeting of October 1, 2001, the State Board of Examiners reviewed a decision forwarded by the Commissioner of Education that had dismissed Stanley Utley from his tenured position with the school district of Trenton. In the Matter of the Tenure Hearing of Stanley Utley, Dkt. No. 42-2/98 (Commissioner's Decision, March 2, 2000). On February 19, 1998, the Trenton Board of Education had brought tenure charges against Utley alleging unbecoming conduct. The district alleged that Utley had been indicted for possession of a controlled dangerous substance with intent to distribute and possession of a controlled dangerous substance in a quantity of one-half ounce or more but less than five ounces. Utley currently holds Teacher of the Handicapped and Teacher of Psychology certificates both issued in January 1995.

The tenure matter was held in abeyance pending resolution of Utley's criminal case. On January 19, 2000, the district notified the Commissioner that Utley had been found guilty of possession of a controlled dangerous substance (cocaine) and possession with intent to distribute and submitted a Judgment of Conviction. Utley did not respond to the tenure charges. The Commissioner found that Utley's actions constituted conduct unbecoming a teaching staff member and warranted his dismissal from his tenured position. (Commissioner's Decision, slip op. at 2.) Accordingly, the Commissioner ordered that summary judgment be granted to the Board. (Commissioner's Decision, slip

op. at 2.) The Commissioner also transmitted the matter to the State Board of Examiners pursuant to N.J.A.C. 6:11-3.6, for appropriate action against Utley's certificates.¹

Thereafter, on October 1, 2001, the State Board of Examiners issued Utley an Order to Show Cause as to why his certificates should not be suspended or revoked. The Order was predicated on the proven charges in the tenure proceeding.

The Board sent Utley the Order to Show Cause by regular and certified mail on March 12, 2002. The Order provided that he must file an Answer within 20 days. The certified mail return receipt was signed and returned and the regular mail was not returned. As Utley did not respond to the Order, on March 12, 2003 the Board sent him a second notice by regular and certified mail advising him that he had an additional ten days in which to file his Answer. The certified letter was signed for and the regular mail was not returned. Once again, Utley did not file an Answer.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Utley's conduct and conviction constitute conduct unbecoming a certificate holder. At its meeting of June 12, 2003, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since Utley did not respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. N.J.A.C. 6:11-3.6(a)1. Since Utley's conduct, which was predicated on the same conviction as was set forth in the

¹ On January 20, 2004, the State Board of Education adopted a new administrative code governing professional licensure and standards. N.J.A.C. 6A:9-1 et seq. Although this decision was mailed after the effective date of the new code, the Board of Examiners' decision in this case predates the effective date of the new code and was therefore decided under the old code. All citations in this decision therefore are to the prior administrative code.

Order to Show Cause, is admitted, the Board of Examiners must now decide whether that constitutes a sufficient basis to act against his certificates pursuant to N.J.A.C. 6:11-3.6(a)1. We find that it does.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. N.J.A.C. 6:11-3.4. Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), aff'd., 131 N.J.L. 326 (E & A 1944). “Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment.” Tenure of Sammons, 1972 S.L.D. 302, 321. School law cases have traditionally recognized the right of the State Board of Examiners to revoke certificates 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 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. Thus, the misuse of drugs by students, or by the role models to whom students look to for guidance, will not be tolerated under any circumstance. 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, in light of this State's strong policy opposing the use of illegal drugs, the State Board of Examiners finds Utley's conviction for possession of a controlled dangerous substance and possession with intent to distribute conduct unbecoming a certificate holder. That conduct also provides just cause to take action against Utley's certificates. Consequently, the Board determines that the appropriate penalty here is the revocation of those certificates.

Accordingly, it is therefore ORDERED that Stanley Utley's Teacher of the Handicapped and Teacher of Psychology certificates be revoked on this 12th day of June 2003. It is further ORDERED that Utley return his certificates to the Secretary of the State Board of Examiners, Office of Licensing, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: January 27, 2005

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