

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE LICENSE OF : STATE BOARD OF EXAMINERS  
MICHAEL BALDI : ORDER OF SUSPENSION  
\_\_\_\_\_ : DOCKET NO. 262 - 09/94 - 89

At its meeting of September 22, 1994, the State Board of Examiners reviewed the Judgment of Conviction forwarded to it from the Ocean County Office of Education against Michael Baldi, who holds a Teacher of Health and Physical Education license in the State of New Jersey. Said Judgment of Conviction concerned a November, 1993 conviction of Mr. Baldi for possession of a controlled dangerous substance (marijuana) for which he was sentenced to one (1) year probation, a mandatory substance abuse evaluation, loss of his driver's license for six months and fines.

At that meeting the State Board of Examiners voted that said conviction constituted sufficient grounds for issuing an Order to Show Cause. The Order to Show Cause was mailed to Mr. Baldi by regular and certified mail on October 6, 1994. On November 14, 1994, James M. Blaney, Esq., attorney for Mr. Baldi, was served with said Order to Show Cause. Mr. Blaney, on behalf of his client, was granted a reply extension until November 16, 1994. On November 14, 1994, an answer to the Order to Show Cause was received from Mr. Blaney.

On April 28, 1995, Mr. Blaney requested that the State Board of Examiners set a hearing date. He was advised on May 3, 1995 that due to an administrative backlog, a hearing date had not yet been scheduled. Said administrative backlog was due to two State Board of Education decisions appealed from the State Board of Examiners. The first was captioned In the Matter of the Certificates of Sheridan. The other was In the Matter of the Certificates of Vitola. Within these two decisions the State Board of Education determined that the State Board of Examiners was required to amend its regulations in order to permit it to hear directly legal matters in which material facts are not in dispute.

During the period of recodification of the State Board of Examiners regulations regarding its hearing process, all such hearings before the Board of Examiners were held in abeyance. Said regulatory amendment process was completed in May of 1997.

Thereafter, on June 26, 1997 a hearing notice was mailed by certified mail to Mr. Blaney pursuant to N.J.A.C. 6:11-3.6(a)1. Said notice explained that, it appearing that no material facts were in dispute, Mr. Baldi was provided an opportunity to offer legal argument on the issue of whether his conviction constituted conduct unbecoming a teacher.

On July 17, 1997, a response to the hearing notice was received on behalf of Mr. Baldi. Mr. Baldi's response to the hearing notice raises six points:

1. The disorderly person's offense at issue, possession of less than 50 grams of marijuana, took place five years before, on July 28, 1992. Mr. Baldi contends this is not considered a crime in New Jersey but rather a quasi-crime, and is now a remote blemish on his record.
2. The offense did not take place on school property, did not involve any student, nor was it in any way associated with his position with the Toms River School system.
3. At the time of the offense, Michael Baldi was recovering from back surgery, which rendered him inactive and on several different forms of medication, which contributed to a pain ridden and depressing period of his life. Mr. Baldi contends he admitted his mistake at the time of his arrest and gave up his position of sixteen years as a teacher.
4. Not only was Mr. Baldi punished by the loss of his job but he also lost his driver's license for six months, was fined and placed on probation. He argues that his family was subjected to a series of critical newspaper articles and rejected by some of his friends.
5. Although he was disqualified pursuant to N.J.S.A. 18A:6-7.1 et seq., he appealed and by decision of the Deputy Commissioner dated January 31, 1997, was requalified for employment as a teacher by virtue of his having demonstrated rehabilitation.
6. Mr. Baldi relies on a case captioned, In the Matter of the Tenure Hearing of Robert P. Valenti, School District of the Township of Monroe, Gloucester County, Oak Dkt. No. EDU 4926-89, Agency Dkt. No. 200-6/89, 1990 S.L.D. 410 decided by the Commissioner, as well as numerous character reference letters and his own affidavit summarizing the circumstances of the offense in support of his request that the State Board of Examiners take no further action against his teaching license.

At its meeting of October 9, 1997, the State Board of Examiners reviewed the charges against Mr. Baldi as well as his responses to the Order to Show Cause and the hearing notice. After review of his responses, the State Board of Examiners determined that no material facts related to Mr. Baldi's offense were in contest. While he had provided further information regarding the offense, he did not deny that he had been convicted of a drug offense. The matter could, therefore, proceed to a determination as to whether the charges related to his drug conviction constitute conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

In assessing the merits of Mr. Baldi's responsive arguments, the State Board of Examiners noted that school law cases have traditionally recognized the right of the State Board of Examiners to revoke licenses where the teacher was involved in criminal activities, even if said 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).

Moreover, the State Board of Examiners in preceding case law has commented on respondent's argument that his offense, involving drugs, did not touch or concern his employment as a teaching staff member. In Krupp, supra, the respondent contended that his offense, murder, committed while he was under the influence of drugs, was also not one that involved pupils or others at the school, or the performance of his teaching duties. Therein, it was determined:

In the determination of issues affecting the security of tenured teachers in their positions and their holding of teaching certificates, the private lives of teachers, separate from

their school duties, have frequently been considered legitimate concerns. In this regard, the Commissioner held in the case captioned, In the Matter of the Tenure Hearing of Robert H. Beam, 1973, S.L.D. 157, at 163:

[R]espondent's argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. Individuals who must comport themselves as models for young minds to emulate choose the teaching profession. This heavy responsibility does not begin at 8:00a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. See, In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County, 1965 S.L.D. 159, *aff'd* State Board of Education 1970 S.L.D. 448; In the Matter of the Tenure Hearing of John H. Stokes, School District of the City of Rahway, Union County, 1971 S.L.D. 623.

The Commissioner of Education as well as the State Board of Education has affirmed this concept often. See, e.g., In the Matter of the Tenure Hearing of Paula Grossman, et al., 1972 S.L.D. 144, *aff'd* App. Div. 127 N.J. Super 13 (App. Div. 1974); In the Matter of the Tenure Hearing of John Gish, 1980 S.L.D., (decided by the Commissioner of Education October 27, 1980); In the Matter of the Tenure Hearing of Ernest Tordo, 1974 S.L.D. 97. Accord, Alfredo Arocha and Lazaro Gonzalez, v. Board of Education of the Hudson County Areas Vocational-technical Schools District, Hudson County, decided by the Commissioner August 16, 1984, *rev'd*, State Board of Education, April 3, 1985. Therein, the State Board of Education dismissed two non-tenured custodians/school bus drivers for drug convictions that took place outside school. The State Board of Education concluded that:

the paramount interests of the students dictate that all public school employees who have significant contact with students and who therefore may affect drug use among students by virtue of their positions have an obligation to avoid conduct that encourages or condones drug use. A conviction for drug related conduct violates this duty, thereby touching the position of such employee. *Id. at* p. 8.

See, also, In the Matter of the Tenure Hearing of R. Scott McIntyre, Board of Education of North Hunterdon-Voorhees Regional High School District, 96 N.J.A.R. 2d EDU 718, decided by the Commissioner January 13, 1995, State Board decision June 7, 1995, Appellate Decision July 10, 1996. Therein the Commissioner of Education dismissed a four-year tenured teaching staff member who was convicted of possession of 6.29 grams of marijuana, finding respondent guilty of conduct unbecoming a teaching staff member. The Commissioner rejected the teacher's argument that his conviction did not touch and concern his teaching position, rejecting as well reliance on Robert P Valenti, *supra*. The Commissioner emphasized that with respect to the possession of controlled dangerous substances by an educator, analyses which consider quantity or measure shades of misconduct are inappropriate. (Id at. 725.) In rejecting McIntyre's contention that the offense did not touch and concern his teaching position, the Commissioner relied on Aroca and Gonzalez, *supra*. In addition he quoted, In re Tenure Hearing of Jacque Sammons, 1972 S.L.D. 302, 321, for the proposition that

Teachers mold the habits and attitudes of their pupils and these pupils learn “\*\*\*not only what they are taught by the teacher, but what they see, hear, experience, and learn about the teacher.

Both the State Board of Education and the Appellate Division of the New Jersey Superior Court agreed with the Commissioner's reasoning in the McIntyre matter. The Appellate Division noted in its decision that “The State and District Boards reasonably could have concluded that it was time to send a strong message to all teachers and that dismissal of McIntyre was necessary to avoid trivializing drug use and possession in the minds of students.” McIntyre, Super Ct., App. Div., supra at p.727.

Thus, despite where the drug violation occurred, what amount of drugs the conviction was predicated upon, the length of time a school employee has served, or the explanation for the drug use,

drug offenses touch, concern and violate the lofty position of trust held by teaching staff members. Hence respondent's contrary arguments posited in this matter are dismissed as being without merit.

Accordingly, in light of this State's strong policy opposing the use of illegal drugs, the State Board of Examiners finds respondent's conviction conduct unbecoming a license holder. However, the State Board of Examiners also notes that since his offense, the Commissioner of Education has declared Mr. Baldi rehabilitated pursuant to N.J.S.A. 18A: 6-7.1. Moreover, as Mr. Baldi was advised in the hearing notice, because the sole issue in this matter is whether the conduct in question is unbecoming a license holder, the State Board of Examiners does not consider evidence of rehabilitation. In the Matter of the Revocation of the Teaching Certificate of James Noll, OAL Dkt. No. EDE 2725-89 (State Board of Examiners decision, February 7, 1990). Because the Commissioner of Education and the State Board of Examiners decide two different issues, there is no disparity between the State Board of Examiners' determination that Mr. Baldi is guilty of inappropriate conduct for a teacher and the Commissioner of Education's finding that he has shown rehabilitation in the years since his criminal conviction. Viewed in this light, the State Board of Examiners concludes that the instant drug offense committed by Mr. Baldi warrants censure. It determines, therefore, that the appropriate penalty for his unbecoming conduct is the suspension of respondent's license for a period of two (2) months, commencing July 1, 1998 through August 31, 1998.

It is, therefore, ORDERED that, the State Board of Examiners having reviewed the charges and having found that said charges constitute conduct unbecoming a teaching staff member, Michael Baldi's Teacher of Health and Physical Education license is hereby suspended for two months between July 1, 1998 through August 31, 1998. It is so ORDERED on this 9<sup>th</sup> day of October, 1997.

It is further ordered that Michael Baldi return his license to the Secretary of the State Board of Examiners, Office of Licensing, P.O. Box 500, Trenton, NJ 08625-0500 during the period of the suspension.

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Secretary  
State Board of Examiners

Date of Mailing: November 19, 1997

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:Baldirv