

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
TOBIAS FOX : ORDER OF REVOCATION
_____ : DOCKET NO: 555-04/00-242

At its meeting of April 4, 2000, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Tobias Fox was convicted in 1994 on charges of failing to give the police a controlled dangerous substance. As a result of such conviction, Fox was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* He did not appeal his disqualification before the Commissioner of Education. Upon review of the above information, at that meeting the State Board of Examiners voted to issue Fox an Order to Show Cause. Fox currently holds a County Substitute certificate issued by the Essex County Office of Education.

The Order to Show Cause was mailed to Fox by regular and certified mail on June 26, 2000. The Order provided that an Answer to the Order must be filed within 20 days. Fox responded to the order on July 12, 2000. In his response, Fox claimed that he was not a criminal and only pled guilty to the charges because he was told it was a misdemeanor. (Answer, p.1). He also stated that he was trying to raise money to have the matter reviewed. (Answer, p.1). Fox also attached many reference letters and commendations to his Answer.

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on August 10, 2000, a hearing notice was mailed by regular and certified mail to Fox. The certified mail return receipt was signed and returned. The regular mail copy was not returned. The notice explained that since it appeared no material facts were in dispute regarding his disqualification, Fox 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. Fox did not respond to the Hearing Notice.

At its meeting of December 7, 2000, the State Board of Examiners reviewed the charges and papers Fox filed in response to the Order to Show Cause. Since Fox failed to respond to the hearing notice, the State Board of Examiners considered his Answer as the only responsive pleading in the hearing process. After review of the response, the Board of Examiners determined that no material facts related to Fox's offense were in dispute since Fox admitted he had been convicted of the drug offense mentioned in the Order to Show Cause.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Fox'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 Fox'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 Fox's disqualification from service in the public schools of this State because of his conviction for failing to give a controlled dangerous substance to police provides just cause to take action against Fox's certificate.

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. Because the Legislature considers Fox'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 Tobias Fox's County Substitute certificate be revoked on this 7th day of December 2000. It is further ORDERED that Fox 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: April 27, 2001

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

JFK:MZ:kb:Tobias Fox