

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
JAMES GARDNER : ORDER OF REVOCATION
_____ : DOCKET NO: 0405-155

At its meeting of October 28, 2004, the State Board of Examiners reviewed information the Office of Criminal History Review had forwarded indicating that James Gardner had been arrested and charged with possession of a controlled dangerous substance/analog, possession of marijuana/hash, distribution of heroin/cocaine and possession of drug paraphernalia. If Gardner is convicted, he would be disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Gardner did not challenge the accuracy of his criminal history record. Gardner currently holds a Teacher of Elementary School Certificate of Eligibility, issued in June 2003. Upon review of the above information, at its October 28, 2004 meeting, the State Board of Examiners voted to issue Gardner an Order to Show Cause as to why his certificate should not be suspended pending resolution of the underlying criminal charges against him.

The Board sent Gardner the Order to Show Cause by regular and certified mail on January 6, 2005. The certified mail receipt was signed and returned. The regular mail copy was not returned. The Order provided that Gardner must file an Answer within 30 days. Gardner did not respond to the Order. Thereafter, on February 15, 2005, the Board sent Gardner a second notice by regular and certified mail providing him an additional 15 days in which to file an Answer. The certified mail receipt was signed and returned. The regular mail copy was not returned. Once again, Gardner did not file an Answer. Both notices advised Gardner that if he did not respond to the charges, the Board would decide the matter based solely on the information it already possessed.

At its meeting of May 5, 2005, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since there was no response, the Board of Examiners determined that no

material facts related to Gardner's offense were in dispute since he had never denied that he had committed the offense nor did he deny the resulting potential disqualification in the event of a 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 Gardner's arrest and possible resultant disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificate pursuant to *N.J.A.C. 6A:9-17.5*. The Board finds that they do.

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 its schools 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 Gardner's arrest and potential disqualification from service in the public schools of this State because of his 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(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 would be barred from service in public schools if convicted of that offense, should not be permitted to retain the license that authorizes such service while the courts determine his or her culpability. Thus, because the Legislature considers Gardner's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction pending resolution of the criminal charges against him is the suspension 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.)

Accordingly, it is therefore ORDERED that James Gardner's Teacher of Elementary School Certificate of Eligibility be suspended on this 5th day of May 2005. It is further ORDERED that Gardner 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.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: JUNE 2, 2005

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