

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
GREGORY NETSCHERT : ORDER OF REVOCATION
_____ : DOCKET NO: 0506-262

At its meeting of May 4, 2006, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that respondent Gregory Netschert was convicted in 2004 of possession of a controlled dangerous substance. As a result of such conviction, Netschert was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Netschert currently holds a Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, issued in June 2000, and a Teacher Health and Physical Education certificate, issued in November 2001.

Netschert did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the State Board of Examiners voted to issue Netschert an Order to Show Cause at its meeting of May 4, 2006. It formally adopted the written Order to Show Cause on June 8, 2006.

The Board sent Netschert the Order to Show Cause by regular and certified mail on June 14, 2006. The Order provided that Netschert must file an Answer within 30 days. Netschert filed an Answer on June 19, 2006.

In his Answer, Netschert admitted to his conviction and sentence. (Answer, p. 1.) He admitted that his record spoke for itself, but he talked about his rehabilitation since his arrest. (Answer, p. 1.) He stated that he completed his probation and was working on becoming a registered nurse. (Answer, p. 1.) Netschert expressed the hope that he would be able to teach again, but also noted that if “that is not in the cards due to my record, and the results of the criminal history background check, I can live with that.” (Answer, p. 1.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on August 4, 2006, the Board sent Netschert a hearing notice by regular and certified mail. The notice explained that since it

appeared no material facts were in dispute, Netschert 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 certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. The regular mail was not returned and the certified mail copy was returned as unclaimed. Netschert did not file a response to the Hearing Notice.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Netschert's disqualifying offense constitutes conduct unbecoming a certificate holder. Since Netschert 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 November 2, 2006, the State Board of Examiners reviewed the charges and papers Netschert 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 Netschert's offense were in dispute since he never denied that he had committed the offense nor did he deny that he had been disqualified because of it. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*.

The State Board of Examiners must now determine whether Netschert'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 certificates pursuant to *N.J.A.C. 6A:9-17.5*. The Board 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 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 Netschert's disqualification from service in the public schools of this State because of his conviction for possession of a controlled dangerous substance provides just cause to take action against his certificates.

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 Netschert'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 certificates 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*.)

Notwithstanding Netschert'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 Netschert has completed a drug rehabilitation program and begun a new career in nursing, while steps in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on November 2, 2006, the Board voted to revoke Netschert's certificates. On this 7th day of December 2006, the Board formally adopted its written decision and it is therefore ORDERED that Gregory Netschert's Teacher of Health and Physical Education Certificate of Eligibility with Advanced Standing and Teacher of Health and Physical Education certificate be revoked effective this day. It is further ORDERED that Netschert return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: DECEMBER 14th, 2006

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