

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ANTHONY YURCHAK : ORDER OF REVOCATION
_____ : DOCKET NO: 0809-201

At its meeting of March 31, 2009, the State Board of Examiners reviewed information from the Office of Criminal History Review indicating that Anthony Yurchak pled guilty in January 2009 to charges of Theft and Possession of a Controlled Dangerous Substance With Intent to Distribute Within 1000 Feet of School Property. As a result of the conviction, Yurchak was disqualified from public service pursuant to *N.J.S.A. 18A:6-7.1 et seq.* Yurchak did not appeal the disqualification before the Commissioner of Education. Yurchak currently holds a Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing, issued in July 2007 and a Teacher of Health and Physical Education Provisional certificate, issued in September 2007. Upon review of the above information, at its May 11, 2009, meeting, the State Board of Examiners voted to issue Yurchak an Order to Show Cause.

The Board sent Yurchak the Order to Show Cause by regular and certified mail on May 14, 2009. The Order provided that Yurchak must file an Answer within 30 days. Yurchak filed an Answer on June 8, 2009. In that Answer, Yurchak admitted that he was convicted of Theft and Possession of a Controlled Dangerous Substance, but averred that the incident did not take place on school property. (Answer, ¶4.) In the remainder of his Answer, Yurchak explained that he had injured his back and was prescribed oxycontin by his orthopedic surgeon. (Answer, ¶ 7.) Yurchak said he became addicted to the drug and because he worked in a pharmacy took what he “needed” rather than seek help for his addiction. (Answer, ¶ 7.) He added that since his arrest, he received help and completed a drug rehabilitation program. (Answer, ¶ 7.) Yurchak stated

that he was working towards becoming a certified alcohol and drug counselor and wanted to retain his certificates so that he could use his experience to help others. (Answer, ¶ 7.)

Thereafter, pursuant to *N.J.A.C. 6A:9-17.7(e)*, on June 30, 2009, a hearing notice was mailed by regular and certified mail to Yurchak. The notice explained that it appeared that no material facts were in dispute. Thus, Yurchak 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. Yurchak was also provided the opportunity to appear before the Board to testify on the sanction issue.

Yurchak responded on July 27, 2009. In his response, Yurchak repeated his account of stealing drugs from the pharmacy where he worked because of his addiction to oxycontin. (Hearing Response, p. 1.) He claimed that the only reason he was charged with possession near school property was the happenstance that the pharmacy was located one block from a school. (Hearing Response, p. 1.) He added that at no time did he ever bring drugs onto school property or try to distribute them to students. (Hearing Response, p. 1.)

Yurchak also detailed his rehabilitation, stating that he had been drug free since his arrest in February 2008. (Hearing Response, p. 2.) He noted that he consistently tested negative in all of his random drug tests. (Hearing Response, p. 2.) He asked that he be allowed to retain his certificates because he wanted to help others and “it’s difficult giving up yet one more thing that had meant so much to me and for which I had worked so hard.” (Hearing Response, p. 3.) He

added that he never took drugs for recreational purposes but “because of a prescribed drug addiction that quickly grew out of control.” (Hearing Response, p. 3.)

Yurchak also asked for leniency in regard to his certificates stating that “I am ready to accept suspension, but I am hoping against revocation.” (Hearing Response, p. 4.) He emphasized his desire to share his experiences with today’s youth and recounted how harshly society treats recovering addicts. (Hearing Response, p. 4.)

In his testimony before the Board, Yurchak told how he became addicted to prescription drugs, wished that his mistake had not happened and reiterated that he had been drug free since February 2008. He asked the Board to put his certificates on hold until he could have his conviction expunged in the future.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Yurchak’s conviction and subsequent disqualification constitute conduct unbecoming a certificate holder. At its meeting of December 2, 2009, the State Board of Examiners reviewed the allegations in the Order to Show Cause, Yurchak’s responses and his testimony. The Board of Examiners determined that no material facts related to Yurchak’s offense were in dispute since he never denied that he had pled guilty to the offenses charged and had been sentenced accordingly. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9-17.7(h)*. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The State Board of Examiners must now determine whether Yurchak’s conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificates 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. In this case, although Yurchak argues that he never actually possessed drugs on school property, he knowingly pled guilty under the provisions of *N.J.S.A. 2C:35-7*, which governs possession crimes near public schools. Accordingly, the State Board of Examiners finds that Yurchak's conduct and resulting disqualification from service in the public schools of this State because of his conviction for Theft and Possession of a Controlled Dangerous Substance With Intent to Distribute Within 1000 Feet of School Property 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 Yurchak'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 Ed., 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) *rev'd on other grounds*, No. A-0454-02T3 (App. Div. January 3, 2004).

Furthermore, notwithstanding Yurchak'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 Yurchak has completed a drug rehabilitation program and is seeking to become a certified alcohol and drug counselor, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification.

Accordingly, on December 2, 2009, the Board of Examiners voted to revoke Anthony Yurchak's Teacher of Health and Physical Education Certificate of Eligibility With Advanced Standing and his Teacher of Health and Physical Education Provisional certificate. On this 7th

day of January 2010 the Board of Examiners voted to adopt its formal written decision and it is therefore ORDERED that the revocation of Yurchak's certificates be effective immediately. It is further ORDERED that Yurchak return his certificates to the Secretary of the State Board of Examiners, Office of Licensure, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

Date of Mailing:
RRH:MZ

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.