

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSE OF : STATE BOARD OF EXAMINERS
CHRISTOPHER FIORE : ORDER OF REVOCATION
_____ : DOCKET NO. 314 - 06/95 -92

At its meeting of June 15, 1995, the State Board of Examiners reviewed information provided by the Office of Criminal History Review indicating that Christopher Fiore, who holds a county substitute license and who has applied for a Teacher of Music license, was disqualified from public school employment pursuant to N.J.S.A. 18A:6-7.1 et seq. Said disqualification resulted from his 1989 conviction for possession of marijuana for which he was sentenced to one year probation and a \$280 fine and to his 1991 conviction for possession of marijuana for which he was fined \$225. At the time of his offenses, Mr. Fiore was not a license holder.

At that meeting, the State Board of Examiners voted that said convictions constituted sufficient grounds for issuing an Order to Show Cause. The Order to Show Cause was mailed to Mr. Fiore by regular and certified mail on July 11, 1995. On July 28, 1995 an Answer to the Order to Show Cause was received from Mr. Fiore. On September 4, 1996, the State Board of Education dismissed Mr. Fiore's appeal of his disqualification as the appeal was not filed within the statutory time limit.

On July 3, 1997, pursuant to the newly revised hearing regulations codified within N.J.A.C. 6:11-3.6(a)1, a hearing notice was mailed by regular and certified mail to Mr. Fiore. Said notice explained that, it appearing that no material facts were in dispute, Mr. Fiore was provided an opportunity to offer legal argument on the issue of whether his conviction constituted conduct unbecoming a teacher.

On July 29, 1997, a response to the hearing notice was received from Mr. Fiore. Mr. Fiore's response to the hearing notice raises the following points:

He admits that smoking marijuana is conduct unbecoming a teacher, but that such past behavior on his part should not keep him from teaching today because at the time of his convictions, which he admits to having committed, he was not in the mental state that he is today. He states that six years ago, he had no intention of teaching. He claims that it was not until years later in an attempt to make something positive of his life that he decided to become a teacher. He avers that he proves he will be a good teacher because every Saturday he proves himself at the New Jersey Workshop for the Arts where he is a successful, well-liked teacher.

Mr. Fiore's Answer to the Order to Show Cause includes the materials he presented to the Commissioner of Education appealing his disqualification pursuant to N.J.S.A. 18A:6-7.1 *et seq.* and a letter from the Harrison Board of Education recommending him as a substitute teacher. Within his Answer, he admits both the March 23, 1989 offense and the November 15, 1991 offense and contends that the five years since have been aimed at overcoming his past mistakes.

At its meeting of October 9, 1997, the State Board of Examiners reviewed the charges against Mr. Fiore as well as his responses to the Order to Show Cause and the hearing notice. After review, the State Board of Examiners determined that no material facts related to Mr. Fiore's offenses were in contest, and that the matter could, therefore, proceed to a determination as to whether the Commissioner's conclusion that Mr. Fiore is disqualified pursuant to N.J.S.A. 18A:6-7.1 *et seq.* constitutes conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners first noted that the instant hearing is not one which considers evidence of rehabilitation. See, In the Matter of the Revocation of the Teaching

Certificate of Gloria Jackson by the State Board of Examiners, decided by the State Board of Examiners March 28, 1996, aff'd State Board of Education September 6, 1996. Therein, the State Board of Examiners held:

Neither does the language of this regulation [N.J.A.C. 6:11-3.6] support Petitioner's apparent contention that "new findings" includes evidence of rehabilitation or current ability to teach. See, e.g., In the Matter of the Revocation of the Teaching Certificate of James Noll by the State Board of Examiners, decided by the State Board of Examiners, February 7, 1990, citing Cox v. State Bd. of Examiners (App. Div. Docket No. A-3527-81T3)(November 18, 1983). Therein, it was determined that the purpose of the hearings conducted by the State Board of Examiners pursuant to N.J.A.C. 6:11-3.7(b)ii (now, N.J.A.C. 6:11-3.6(a)1) is 'to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth the Order to Show Cause, not to afford an opportunity to show rehabilitation. (Id. at p. 4)

Hence, the State Board of Examiners did not consider Mr. Fiore's statement concerning his current employment or his conduct since the offenses that gave rise to his disqualification pursuant to N.J.S.A. 18A:6-7.1. Mr. Fiore, however was offered the opportunity to show rehabilitation N.J.S.A. 18A:6-7.1 has a provision for proving to the Commissioner of Education by clear and convincing evidence that an individual who is barred from employment in the public schools as a result of a disqualifying offense is rehabilitated and thus is a suitable candidate for employment. Plainly Mr. Fiore was unable to demonstrate to the Commissioner's satisfaction that he was rehabilitated.

In enacting N.J.S.A. 18A:6-7.1 et seq, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. It therefore barred from employment in schools those individuals convicted of a drug offense. This strong policy statement, that unrehabilitated drug offenders are precluded from any position that brings them in contact with public school pupils, is in accord with the Commissioner's policies regarding those who use illegal substances. In In the Matter of the Tenure Hearing of David Earl Humphreys,

1978 S.L.D. 689, he emphasized that the use of drugs and the possession of drugs are inconsistent with the State's policy to eliminate drug abuse in the schools.

Mr. Fiore has been disqualified from employment in public schools because of his drug offenses. Accordingly, in light of the State's strong policy opposing the use of illegal drugs, Mr. Fiore's disqualification is deemed conduct unbecoming a certificate holder.

It is, therefore, ORDERED that said charges warrant revocation of Christopher Fiore's county substitute license, said license is hereby revoked on this 9th day of October, 1997. It is further Ordered that the State Board of Examiners block Christopher Fiore's application for a Teacher of Music license.

It is further ORDERED that Christopher Fiore return his license to the Secretary of the State Board of Examiners, Office of Licensing P.O. Box 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter.

Secretary
State Board of Examiners

Date of Mailing: November 21, 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:Fiorerv