

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION  
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS  
FRED DEL GUERCIO : ORDER OF REVOCATION  
\_\_\_\_\_ : DOCKET NO: 554-04/00-234

At its meeting of April 6, 2000, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Fred Del Guercio was convicted in 1973 on charges of possession of marijuana. As a result of such conviction, Del Guercio was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 et seq. Respondent did not appeal such disqualification before the Commissioner of Education. Upon review of the above information, at that April meeting the State Board of Examiners voted to issue Del Guercio an Order to Show Cause. Del Guercio currently holds a Teacher of Art Certificate of Eligibility.

The Order to Show Cause was mailed to Del Guercio by regular and certified mail on June 26, 2000. The regular mail was not returned and the certified mail was returned unclaimed. The Order provided that an Answer had to be filed within 20 days. Del Guercio did not respond to the Order to Show Cause. On August 8, 2000, the Board of Examiners provided Del Guercio an additional 10 days to respond to the Order. He was advised that if no response was received, the allegations in the Order to Show Cause would be deemed admitted and the State Board of Examiners would proceed to a decision as to revocation or suspension based on the evidence before it. Although the regular mail was not returned and the certified mail was claimed, once again, Del Guercio did not respond to the Order to Show Cause.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Del Guercio's disqualification from serving in the public schools of New Jersey gives

the Board just cause to act against his certificate pursuant to N.J.A.C. 6:11-3.6(a)1. Since Del Guercio did not respond to the Order to Show Cause, the State Board of Examiners had no responsive pleading to consider in the hearing process. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding. N.J.A.C. 6:11-3.6(a)1. Since Del Guercio's disqualification, which was predicated on the same offense as was set forth in the Order to Show Cause, is admitted, the Board of Examiners must now decide whether that constitutes a sufficient basis to act against his 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 Del

Guercio's disqualification from service in the public schools of this State because of his conviction for possession of marijuana 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:6-7.1b 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 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 Del Guercio'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 Fred Del Guercio's Teacher of Art Certificate of Eligibility be revoked on this 2nd day of November, 2000. It is further ORDERED that Del Guercio 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.

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Secretary  
State Board of Examiners

Date of Mailing: January 17, 2001

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

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