

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
GABRIEL NYENATOR : ORDER OF REVOCATION
_____ : DOCKET NO: 577-06/00-265

At its meeting of June 15, 2000, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Gabriel Nyenator was convicted in September 1997 on charges of possession of marijuana. As a result of such conviction, Nyenator was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Nyenator did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, at that meeting the State Board of Examiners voted to issue Nyenator an Order to Show Cause. Nyenator currently holds a County Substitute certificate issued by the Middlesex County Office of Education.

The Board sent Nyenator the Order to Show Cause by regular and certified mail on August 21, 2000. The Order provided that an Answer must be filed within 20 days. Nyenator responded to the Order on November 28, 2000. In that Answer Nyenator claimed he had been given a conditional discharge at his trial; that discharge was later revoked and he had to pay an additional fine. (Answer, ¶¶ 4-5.) Nyenator also stated that he could not put his education degree to use due to a mistake he made in college. He also recounted the work he had performed as a teacher assistant in Middlesex County. (Answer, ¶ 6-7.)

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on February 16, 2001, the Board mailed Nyenator a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute regarding his offense, respondent 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

certificate. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. Nyenator did not respond to the hearing notice.

At its meeting of June 14, 2001, the State Board of Examiners reviewed the charges and papers Nyenator filed in response to the Order to Show Cause. Since Nyenator failed to respond to the hearing notice, the State Board of Examiners considered his Answer as the only responsive pleading in the hearing process. After review of the response, the Board of Examiners determined that no material facts related to Nyenator's offense were in dispute.

The issue before the State Board of Examiners in this matter, therefore, is to determine whether Nyenator'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 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 Nyenator'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 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 Nyenator'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. 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 her disqualification pursuant to N.J.S.A. 18A:6-7.1.)

Accordingly, it is therefore ORDERED that Gabriel Nyenator's County Substitute certificate be revoked on this 14th day of June 2001. It is further ORDERED that Nyenator return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: November 27, 2002

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

IBG:MZ:es:Nyenator, Gabriel