

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
SHARON NICOLL : ORDER OF REVOCATION
_____ : DOCKET NO: 692-12/01-318

At its meeting of December 6, 2001, the State Board of Examiners reviewed information it had received from the Office of Criminal History Review indicating that in October 1976, Sharon Nicoll was convicted on charges of importation of cannabis in England. As a result of that conviction, Nicoll was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Nicoll did not challenge the accuracy of her criminal history record before the Commissioner of Education. Upon review of the above information, at that December meeting the State Board of Examiners voted to issue Nicoll an Order to Show Cause as to why her certificate should not be suspended or revoked. Nicoll currently holds a Teacher of Mathematics Certificate of Eligibility issued in September 2001.

The Board sent Nicoll the Order to Show Cause by regular and certified mail on April 5, 2002. The certified mail receipt card was signed and returned. The regular mail copy was not returned. The Order provided that Nicoll's Answer must be filed within 20 days. Nicoll did not file a response within 20 days. Thereafter, the Board of Examiners sent her a second notice by certified and regular mail allowing her an additional ten days to file a response to the Order. Neither copy was returned, although the Office of Licensure and Credentials did not receive a certified mail receipt card. Once again, Nicoll did not file a response.

The threshold issue before the State Board of Examiners in this matter, therefore, is whether Nicoll's disqualification from public employment constitutes conduct unbecoming a certificate holder. Since Nicoll 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)1.¹ Since Nicoll's disqualification, which was predicated on the same conviction 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 her 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 Nicoll's

¹ On January 20, 2004, the State Board of Education adopted a new administrative code governing professional licensure and standards. N.J.A.C. 6A:9-1 et seq. Although this decision was mailed after the effective date of the new code, the Board of Examiners' decision in this case predates the effective date of the new code and was therefore decided under the old code. All citations in this decision therefore are to the prior administrative code.

disqualification from service in the public schools of this State because of her conviction for a drug offense provides just cause to take action against her 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 herself out as a teacher. Because the Legislature considers Nicoll's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction for her disqualification is the revocation of her 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 the disqualification pursuant to N.J.S.A. 18A:6-7.1) rev'd on other grounds, A-0454-02T3 (App. Div. 2004).

Accordingly, it is therefore ORDERED that Sharon Nicoll's Teacher of Mathematics Certificate of Eligibility be revoked on this 8th day of May 2003. It is further ORDERED that Nicoll return her certificate to the Secretary of the State Board of Examiners, Office of Licensure and Credentials, PO Box 500, Trenton, NJ 08625-0500 within 15 days of receipt of this decision.

Michael K. Klavon, Acting Secretary
State Board of Examiners

Date of Mailing: November 17, 2004

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