

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
HARRY BARAN : ORDER OF SUSPENSION
_____ : DOCKET NO: 0304-259

At its meeting of June 10, 2004, the State Board of Examiners reviewed information the Office of Criminal History Review had forwarded indicating that Harry Baran did not receive final approval for public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* because he failed to provide documentation regarding a 2002 arrest for a disqualifying offense. The criminal history background check revealed that Baran had an arrest for possession of a controlled dangerous substance. Upon review of the above information, at its June 10, 2004 meeting, the State Board of Examiners voted to issue Baran an Order to Show Cause. Baran currently holds a Teacher of the Handicapped certificate, issued in February 1993.

The Board sent Baran the Order to Show Cause by regular and certified mail on July 20, 2004. Both copies were returned as undeliverable and the Motor Vehicles Commission could not provide a current address for Baran. Accordingly, the Order to Show Cause was published in two New Jersey newspapers on August 14 and 17th, 2005. Baran did not respond to the published notices.

At its meeting of November 3, 2005, the State Board of Examiners reviewed the charges in the Order to Show Cause. Since there was no response, the Board of Examiners determined that no material facts related to Baran's offense were in dispute since he had never denied that he had been charged with the offense nor did he deny the resulting potential disqualification in the event of a conviction. It is therefore ORDERED that the charges in the Order to Show Cause are deemed admitted for the purpose of this proceeding.

The issue before the State Board of Examiners in this matter, therefore, is whether Baran's arrest and possible resultant disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificate 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. Accordingly, the State Board of Examiners finds that Baran's arrest and potential disqualification from service in the public schools of this State because of his drug offense 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:6-7.1(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 would be barred from service in

public schools if convicted of that offense, should not be permitted to retain the license that authorizes such service while the courts determine his or her culpability. This, because the Legislature considers Baran's offense so significant, the State Board of Examiners in this matter believes that the appropriate sanction pending resolution of the criminal charges against him is the suspension 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 the disqualification pursuant to *N.J.S.A. 18A:6-7.1*.)

Accordingly, it is therefore ORDERED that Harry Baran's Teacher of the Handicapped certificate be suspended on this 3rd day of November 2005. If the charges are resolved in his favor, he shall notify the Board of Examiners for appropriate action regarding the suspension order. It is further ORDERED that Baran return his certificate to the Secretary of the State Board of Examiners, Office of Licensure and Credentials, PO Box 500, Trenton, NJ 08625-0500 within 20 days of the mailing date of this decision.

Robert R. Higgins, Acting Secretary
State Board of Examiners

Date of Mailing: DECEMBER 2, 2005

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