

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
DOUGLAS SCOCCO : ORDER OF REVOCATION
_____ : DOCKET NO: 679-01/02-292

At its meeting of January 17, 2002, the State Board of Examiners reviewed information received from the Office of Criminal History Review indicating that Douglas Scocco was convicted in December 2000 on charges of possession of a controlled dangerous substance or analog. As a result of such conviction, Scocco was disqualified from public service pursuant to N.J.S.A. 18A:6-7.1 et seq. Scocco did not appeal such disqualification before the Commissioner of Education. Upon review of the above information, at that meeting the State Board of Examiners voted to issue an Order to Show Cause to Respondent. Scocco currently holds Teacher of the Handicapped, Teacher of Elementary School, Teacher of the Blind or Partially Sighted, Teacher of the Deaf or Hard of Hearing and Supervisor certificates.

The Board sent Scocco the Order to Show Cause by regular and certified mail. The Order provided that Scocco must file an Answer within 20 days. Scocco responded to the Order to Show Cause on April 23, 2002. In that response, he indicated that his guilty plea had been vacated and his conviction overturned. The court's order also reinstated the original charges and set the matter back on the trial calendar. Upon receipt of this new information, on June 13, 2002, the Board of Examiners tabled Scocco's case pending the resolution of the criminal charges against him. On July 16, 2002 Scocco notified the Board of Examiners that he had plead guilty to two counts of Failure to Make Lawful Distribution of CDS, a disorderly persons offense pursuant to N.J.S.A. 2C:35-10c.

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on August 21, 2002, the Board of Examiners sent Scocco a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute regarding Scocco's conduct, he 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 certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any.

Scocco responded to the Hearing Notice on September 11, 2002. In his response, Scocco claimed that while at a concert he spotted a plastic bag on the ground that appeared to contain drugs. While carrying the bag to a police area, his hands became wet with a liquid that turned out to be LSD. Scocco stated that he became disoriented and panicky. (Hearing Notice, p.1.) He further argued that he did not pick up the drugs with the intent to possess or distribute but only to turn them over to police. Scocco therefore argued that his behavior was not conduct unbecoming a teacher. (Hearing Notice, pp.2-3.)

Prior to hearing the matter again, Scocco retained an attorney who supplemented the record with a further response to the Hearing Notice. In his letter dated December 7, 2002, Thomas Behrendt, Esq., reiterated that Scocco had at all times acted responsibly by attempting to turn over dangerous narcotics to police. Behrendt argued that Scocco's behavior, including his disorientation and panic, was consistent with someone who had an unintended and unexpected reaction to drugs rather than someone who intended to use the drugs recreationally. (Behrendt letter, p.2.) Behrendt also emphasized that Scocco's unfamiliarity with the safe handling of these drugs indicated that he did not intend to ingest them. (Behrendt letter, p.2.) Finally, Behrendt also claimed that the Judge in Scocco's criminal case stressed Scocco's extensive experience with disabled children and took pains to ensure that Scocco's plea to a disorderly persons offense would not require his disqualification from teaching. (Behrendt letter, p.3.)

At its meeting of December 12, 2002, the State Board of Examiners reviewed the charges and papers Scocco had filed in response to the Order to Show Cause. After review of the

response, the Board of Examiners determined that no material facts related to Scocco's offense were in dispute. The issue before the State Board of Examiners in this matter, therefore, is to determine whether Scocco's disqualification represents just cause to act against his certificates 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 Scocco's disqualification from service in the public schools of this State because of his conviction for Failure to make Lawful Distribution of a CDS provides just cause to take action against his certificates. The fact that Scocco's conviction is for a disorderly person's offense is immaterial for purposes of the disqualification statute. N.J.S.A. 18A:6-7.1b.

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 Scocco'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 certificates 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 Douglas Scocco's Teacher of the Handicapped, Teacher of Elementary School, Teacher of the Blind or Partially Sighted, Teacher of the Deaf or Hard of Hearing and Supervisor certificates be revoked on this 12th day of December, 2002. It is further ORDERED that Douglas Scocco 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 15 days of receipt of this decision.

Joan E. Brady, Secretary
State Board of Examiners

Date of Mailing: July 30, 2003

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