

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
RICHARD E. MCALLISTER : ORDER OF REVOCATION
_____ : DOCKET NO: 1718-230

At its meeting of May 24, 2018, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) regarding Richard E. McAllister. On March 26, 2018, McAllister pled guilty in federal court to Conspiracy to Commit Healthcare Fraud. Along with another individual, McAllister had recruited individuals to obtain fraudulently very expensive and unnecessary compounded medications from an out-of-state pharmacy covered by the State Health Benefits Program. The CHRU notified the Board that, as a result of his conviction, McAllister was disqualified from public school employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.* McAllister currently holds a Teacher of English Certificate of Eligibility and a Teacher of English certificate.

McAllister did not challenge the accuracy of his criminal history record before the Commissioner of Education. Upon review of the above information, the Board voted at its meeting of June 29, 2018 to issue McAllister an Order to Show Cause as to why his certificates should not be revoked.

The Board sent McAllister the Order to Show Cause by regular and certified mail on July 3, 2018. The Order provided that McAllister had 30 days to respond. The certified mail receipt was signed and returned and the regular mail copy was not returned. McAllister did not file a response.

Thereafter, on August 10, 2018, the Board sent McAllister another notice by certified and regular mail providing him an additional 15 days to respond to the Order to Show Cause. The

certified mail receipt was signed and returned and the regular mail copy was not returned. McAllister did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on September 5, 2018, the Board sent McAllister a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted as a result of his failure to file an Answer. Thus, McAllister 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, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against his certificates. It also explained that, upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if his offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. McAllister was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail copy was returned and the regular mail copy was not returned. Once again, McAllister did not file a response.

The threshold issue before the Board in this matter is whether McAllister's conviction and subsequent disqualification constitute conduct unbecoming a certificate holder or other just cause. Since McAllister failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, at its meeting of January 24, 2019, the Board considered only the allegations in the Order to Show Cause and the information received from the CHRU. The Board concluded that no material facts related to McAllister's offense were in dispute since he never denied that he had engaged in the conduct alleged and had been convicted and therefore determined that summary decision was appropriate in this matter.

N.J.A.C. 6A:9B-4.6(h). After reviewing the allegations, the Board found that McAllister had engaged in unbecoming conduct.

The Board must now determine whether McAllister's conviction and resulting disqualification, as set forth in the Order to Show Cause, represent just cause to act against his certificates pursuant to *N.J.A.C.* 6A:9B-4.4. 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 were not proper examples for them. Individuals convicted of crimes such as Conspiracy to Commit Healthcare Fraud fall squarely within this category. The strong legislative policy statement is also in accord with the Commissioner's long-standing belief that teachers must serve as role models for their students. "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." *Tenure of Sammons*, 1972 *S.L.D.* 302, 321. Moreover, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this instance, McAllister's conviction for Conspiracy to Commit Healthcare Fraud demonstrates behavior that falls far short of a role model.

The 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 Board 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 certificate 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. Thus, because the Legislature and the Commissioner consider McAllister's offense so significant, the Board believes that the only appropriate sanction in this case is the revocation of his certificates.

Accordingly, on January 24, 2019, the Board voted to revoke Richard E. McAllister's Teacher of English Certificate of Eligibility and his Teacher of English certificate. On this 8th day of March 2019, the Board voted to adopt its formal written decision and it is therefore ORDERED that the revocation of McAllister's certificates be effective immediately. It is further ORDERED that McAllister return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Rani Singh, Acting Secretary
State Board of Examiners

RS/MZ/th

Date of Mailing:

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.