

DHPL #507-96
SB # 91-96

IN THE MATTER OF THE DISQUALIFI- : STATE BOARD OF EDUCATION
CATION FROM SCHOOL EMPLOYMENT : DECISION
OF D.W. :

Decided by the Deputy Commissioner of Education, November 15, 1996

For the Petitioner-Appellant, Rusignola, Pugliese & Rusignola (Carmen
Rusignola, Esq., of Counsel)

D.W. (hereinafter "petitioner") was disqualified by the Office of Criminal History Review of the Department of Education from continued employment as a substitute teacher in the State's schools when a fingerprint search conducted pursuant to N.J.S.A. 18A:6-7.1 revealed four convictions arising from arrests for drug offenses between June 1989 and January 1992. Petitioner sought to overturn her disqualification on the basis of rehabilitation.

In a letter decision dated November 15, 1996, the Deputy Commissioner of Education upheld the disqualification,¹ finding that, while petitioner was progressing toward rehabilitation, she had failed to demonstrate clear and convincing evidence of her rehabilitation as required by N.J.S.A. 18A:6-7.1.

¹ We note that N.J.S.A. 18A:4-33 authorizes the Commissioner to "designate an assistant commissioner as deputy commissioner with full power to act in his place and stead during any absence or inability of the commissioner and at such other times as the commissioner may designate." Such authority expressly includes assignment by the Commissioner of the "hearing and determination of controversies and disputes which may arise under the school laws...." N.J.S.A. 18A:4-34.

Petitioner filed the instant appeal to the State Board.

After a through review of the record, we affirm the decision of the Deputy Commissioner. Although the record reveals that petitioner is making impressive progress towards rehabilitation, it also indicates that her convictions included charges of Distribution of Controlled Dangerous Substances and Possession with Intent to Distribute Controlled Dangerous Substances, and that the drugs at issue included cocaine and heroin. In view of the recent and extremely serious nature of petitioner's disqualifying offenses, see N.J.S.A. 18A:6-7.1(e)(2) and (4), we are unable to conclude at this time that petitioner has affirmatively demonstrated her rehabilitation by clear and convincing evidence. Moreover, as required by 18A:6-7.1(e)(1), we have considered the "nature and responsibility" of the position petitioner would hold in the public school system. In this respect, we stress that petitioner was disqualified from employment as a substitute teacher, a position which includes responsibility for the care, supervision and instruction of students. Given these circumstances, petitioner faces a heavy burden in attempting to demonstrate her rehabilitation. In the Matter of the Disqualification from School Employment of William R. Palumbo, decided by the State Board, February 7, 1996, aff'd, Docket #A-4065-95T3 (App. Div. 1996). See Application of Matthews, 94 N.J. 59 (1983).

Accordingly, we affirm the decision of the Deputy Commissioner disqualifying petitioner from service as a substitute teacher in the schools of New Jersey. We note in so doing, however, that nothing in our decision herein precludes petitioner from reapplying to the Office of Criminal History Review once additional time has passed

and seeking a determination from the Commissioner that she is qualified for school employment on the basis of rehabilitation.

March 5, 1997

Date of mailing _____