

SB #57-98

IN THE MATTER OF THE ISSUANCE OF :
A COUNTY SUBSTITUTE CERTIFICATE : STATE BOARD OF EDUCATION
TO KAREN GABA. : DECISION

Decided by the State Board of Examiners, June 8, 1998

For the Petitioner-Appellant, Karen L. Gaba, pro se

For the Respondent-Respondent, Michelle L. Miller, Deputy Attorney General
(John J. Farmer, Jr., Attorney General of New Jersey)

On June 12, 1998, Karen Gaba (hereinafter "petitioner") filed an appeal to the State Board of Education from a letter decision issued on June 8, 1998 by the Secretary of the State Board of Examiners indicating that the Board of Examiners had voted "to block issuance of a new county substitute license" to petitioner. Petitioner was informed that the Board of Examiners had:

also found troubling what it perceived as inconsistencies between your signed resignation of February 14, 1994 and the recitation of the facts that led to the revocation of your county substitute license, as you now report them in your letter of March 10, 1998. While you admit the presence of students whom you did not invite to your home on February 12, 1994, nowhere in your March 10, 1998 letter do you acknowledge knowingly serving students alcohol or providing "aprox 1 hit of pot" to any student at your home on that night. Such inconsistency creates question regarding your rehabilitation and sincerity in reapplying for licensure. These factors, combined with the relatively short period of time since the earlier revocation of your county substitute license, militated against granting licensure following the revocation of your county substitute license.

After a careful review of the record, we agree that petitioner should not be issued another county substitute certificate at this time. Like the Board of Examiners, we are troubled by the fact that petitioner has failed to address or acknowledge a signed statement dated February 14, 1994 in which she admitted that she had provided alcoholic beverages and marijuana to students. Given the gravity of such admission, we conclude that the petitioner has not shown an entitlement to receive a county substitute certificate. However, we find that the procedure utilized in this case was not in accordance with our regulations.

A county substitute certificate, in contrast to a standard certificate, is issued by a county superintendent, rather than by the State Board of Examiners, and is not a teaching certificate. In the Matter of the Revocation of the Teaching Certificate of Shawn Hines, decided by the State Board of Education, November 6, 1996, slip op. at 3; N.J.A.C. 6:11-4.5.¹ Nonetheless, the Board of Examiners took jurisdiction over petitioner's application on the basis of N.J.A.C. 6:11-3.6(g), which provides that:

Where an applicant for certification indicates that he or she previously held a certificate issued by the State Board of

¹ N.J.A.C. 6:11-4.5 provides, in pertinent part, that:

(a) Persons who do not hold a standard instructional certificate issued by the State Board of Examiners but who can present a minimum of 60 semester-hour credits completed in an accredited college, may be granted a county substitute certificate for day-to-day substitute teaching in the county which grants the certificate.

(b) Each district board of education shall submit to the county superintendent for review and approval, each applicant's official transcripts, oath of allegiance, and credentials.

(c) The certificate will be issued for a three-year period, but the holder may serve for no more than 20 consecutive days in the same position in one school district during the school year. Such certificates, which are issued by the county superintendent of schools, are to be granted only when the supply of properly certificated teachers is inadequate to staff the school....

Examiners, which certificate was revoked, the Board of Examiners may require the applicant to set forth the pertinent circumstances relating to the revocation, and require the applicant to demonstrate to the Board rehabilitation which warrants reinstatement of the revoked certificate.... (Emphasis added.)

We conclude that N.J.A.C. 6:11-3.6(g) did not provide the Board of Examiners with the authority to consider petitioner's application. Petitioner's previously-held county substitute certificate had not been issued by the Board of Examiners. Nor was she applying for reinstatement of a revoked certificate. Unlike a standard teaching certificate, a county substitute certificate may only be issued for a period of three years. N.J.A.C. 6:11-4.5(c). Petitioner's previously-held certificate, which had been issued in August 1993 and revoked by the State Board of Examiners in August 1996, had an expiration date of January 2, 1997.² Consequently, the certificate would have expired prior to petitioner's instant application for a new three-year county substitute certificate. Thus, notwithstanding the fact that petitioner's previously-held county substitute certificate had been deemed revoked,³ our regulations did not provide the Board of Examiners with the authority to determine petitioner's instant application. In accordance with the terms of N.J.A.C. 6:11-4.5, petitioner's application should have been submitted to the County Superintendent for review and approval.

² The county substitute certificate issued to petitioner in August 1993, while indicating in accordance with the regulations that it "will be issued for a three-year period," also stated that "[t]his certificate will expire three years from the first day of July or the second day of January next following the date of issuance," and included an expiration date of January 2, 1997, three years and four months after its issuance. Although the issue is not currently before us, we can find no authority in the regulations for the issuance of a county substitute certificate for a period of more than three years.

³ We note that petitioner had entered into a stipulation of settlement with the Board of Examiners in August 1996 in which she agreed to surrender her county substitute certificate and that such surrender would be deemed to be a revocation. We note further that, for purposes of this decision, we do not address whether the Board of Examiners has the authority under the regulations to revoke a county substitute certificate.

We find it unnecessary, however, to remand this matter to the County Superintendent. As the ultimate administrative decision-maker in matters arising under the school laws, Matter of Tenure Hearing of Tyler, 236 N.J. Super. 478, 485 (App. Div. 1989), certif. denied, 121 N.J. 615 (1990); Dore v. Board of Educ., 185 N.J. Super. 447, 452 (App. Div. 1982), we have reviewed the record, which includes petitioner's application for a new county substitute certificate and her submissions to the Board of Examiners in support of her application. For the reasons stated above, we deny petitioner's application.

November 3, 1999

Date of mailing _____