

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE LICENSES OF : STATE BOARD OF EXAMINERS
FREDERICK CUCOLO : ORDER OF REVOCATION
_____: DOCKET NO. 239 – 02/94-144

Frederick Cucolo is the holder of Principal, Student Personnel Services, Director of Student Personnel Services and Elementary School Teacher licenses in New Jersey. He was most recently employed as a teacher for the Roselle Park Board of Education.

At its meeting of February 24, 1994, the State Board of Examiners voted to issue an Order to Show Cause to Frederick Cucolo. The order was based upon information received from the Office of Criminal History Review indicating that Mr. Cucolo was convicted in 1985 for distribution of a controlled dangerous substance and possession of cocaine with intent to distribute. For the 1985 convictions he was sentenced to serve 364 days in the county jail, five years probation, and fined. In 1988, he was convicted for possession of marijuana and cocaine. For the 1988 conviction he was sentenced to pay fines, a \$50 lab fee and loss of his driver's license for six months.

Accordingly, on November 27, 1991, he was disqualified from employment in the public schools of this state pursuant to N.J.S.A. 18A:6-7.1 *et seq.* Mr. Cucolo appealed his disqualification to the Commissioner of Education who upheld the disqualification. Notice thereof was then sent to the State Board of Examiners in accord with N.J.S.A. 18A:6-7.3.

Following notification of his disqualification, the Office of Criminal History Review confirmed for the Secretary of the State Board of Examiners, in response to her inquiry, that Mr. Cucolo forwarded a bogus employment approval letter to the Roselle Board of Education when

in fact the Office of Criminal History Review had disqualified him from serving in any school under the authority of the Department of Education.

The Order to Show Cause was mailed to Mr. Cucolo by regular and certified mail on April 4, 1994. On April 21, 1994 an Answer to the Order to Show Cause was received from Frederick Cucolo.

Mr. Cucolo's April 19, 1994 Answer to the Order to Show Cause admits that the facts stated within the Order are correct. He asked that the proceeding before the State Board of Examiners be held in abeyance because he had applied for clemency from the governor's office. He admits to both aggravating and mitigating factors in regard to his convictions. He suggests the aggravating factor was that he was convicted of a crime for which he was punished. The mitigating factor, he submits, is that he was a law-abiding citizen for a substantial period of time before the 1983 and 1988 problems and that he has continued to maintain this status since 1988. He states he believes that the mitigating factors substantially outweigh the aggravating factors. He admits he compromised his position as a teacher in the past and contends that he paid the price for his wrongdoing over the years. He states, though, that he has clearly demonstrated by words and deeds a strong record of stability and a record of achievements in the community. He submitted with his Answer to the Order to Show Cause records, letters and documents that he provided in support of his petition for clemency.

On May 15, 1994, a hearing notice was forwarded by regular and certified mail to Mr. Cucolo. On June 15, 1994 correspondence was received from Richard M. Roberts, Esquire, requesting an extension on behalf of Mr. Cucolo. Secretary to the State Board of Examiners Ida Graham granted the extension until September 22, 1994. On July 1, 1994, a response to the hearing notice was received from Mr. Roberts on behalf of Mr. Cucolo. His response argues

against disqualification and cites N.J.S.A. 18A:6-7.1 *et seq.* in support of his position. He submits a brief and supporting documentation pursuant to the requirements of that statute.

The matter was placed before the State Board of Examiners at its meeting of February 23, 1995 for a revocation/suspension hearing. The Board unanimously voted to table the matter until the Board's authority to conduct hearings was clarified. The State Board of Education then promulgated N.J.A.C. 6:11-3.6(a)1, which made clear that the State Board of Examiners was authorized to hear matters directly if no material facts are in dispute.

On February 5, 1996 the State Board received additional correspondence from Mr. Cucolo. In such correspondence, Mr. Cucolo admits that he falsified a Teacher of the Handicapped license in order to hold on to something very dear to him: the right to teach. He submits that in an attempt to resume teaching, he faced one roadblock after the other following his disqualification. He avers that the punitive action taken against him thus far is for the deeds of the past. He states he believes he should be given the opportunity to use his special teaching skills and vast experience interacting with substance abuse individuals. He seeks to be allowed to bring these skills into a classroom and help those students who are in danger of falling prey to drugs.

On August 28, 1996, the Board received additional material for review from Mr. Cucolo.

On July 1, 1997, a hearing notice advising him of the right to address the legal issues in this matter again was forwarded to Mr. Roberts by both certified and regular mail. It appearing that no material facts are in dispute, he was provided the opportunity to address the issue of why his convictions and disqualification were not cause to take action on his certificates.

The certified mail receipt card was signed and returned. The regular mail copy was not returned. Mr. Cucolo failed to respond to the hearing notice.

On August 15, 1997, Mr. Roberts was advised by certified mail that he was being provided an additional ten (10) days to file a response to the initial hearing notice on behalf of Mr. Cucolo. A regular mail copy was forwarded to Mr. Cucolo. The certified mail return receipt card was signed and returned. The regular mail copy was not returned.

By letter dated February 19, 1998, Mr. Roberts made an inquiry of Secretary Ida Graham concerning the status of Mr. Cucolo's licensure. Secretary Graham advised Mr. Roberts that a revocation/suspension hearing was scheduled for April 2, 1998. No further submissions were filed by Mr. Cucolo.

At its meeting of April 2, 1998, the State Board of Examiners reviewed the charges against Respondent as well as his Answer to the Order to Show Cause, the hearing notices, and his other submissions. After review of his submissions, the State Board of Examiners determined that no material facts related to Respondent's drug offenses and disqualification were in contest. Respondent does not deny that he has multiple drug convictions and that he is disqualified from employment in the public schools of this State. He also admits he forged a letter of employment approval and a Teacher of the Handicapped license. With such admissions, the matter could proceed to a determination on the papers as to whether Mr. Cucolo's convictions and disqualification, based on drug-related offenses, coupled with his forgeries of official documents, constitute conduct unbecoming a license holder pursuant to N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners first notes that Mr. Cucolo's response of July 1, 1994 seeks a rehabilitation hearing pursuant N.J.S.A. 18A:6-7.1 et seq. That statute, however, governs disqualification appeals before the Commissioner of Education based on rehabilitation. It must be stressed that the hearing in this forum is not one that considers evidence of rehabilitation.

See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2d (EDE)1,aff'd App. Div Dkt. No. A-1246-96T5 (September 9, 1997) Therein, the State Board of Examiners emphasized that the purpose of the hearings conducted by the State Board of Examiners is “to permit circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation.” (citing, In the Matter of the Revocation of the Teaching Certificate of James Noll, State Board of Examiners decision (February 7, 1990) Id. at 16. Hence, the State Board of Examiners did not consider Mr. Cucolo’s statements concerning his alleged rehabilitation or how long he has been drug free, but instead focused on assessing whether his disqualification and drug convictions, along with his admitted forgeries, constitute conduct unbecoming a license holder.

Concerning his attempts to demonstrate rehabilitation in this forum, it must be noted that Mr. Cucolo was offered the opportunity to show rehabilitation. N.J.S.A. 18A:6-7.1 has a provision for proving to the Commissioner of Education by clear and convincing evidence that an individual who is barred from employment in the public schools as a result of a disqualifying offense is rehabilitated and thus is a suitable candidate for employment. Plainly, Respondent was unable to demonstrate to the Commissioner’s satisfaction rehabilitation following his drug convictions.

Moreover, even if the State Board of Examiners could consider rehabilitation, Mr. Cucolo’s conduct following his disqualification and appeal before the Commissioner militate against such claims. As noted, while contending that he was reformed, he manufactured a bogus employment letter, thereby adding deception to his offenses. Mr. Cucolo’s rationale is that, having stumbled over “roadblocks” erected by the State to prevent his further involvement with

the school children of this State, he created a bogus Teacher of the Handicapped license in order to permit him to teach. He justified his inappropriate conduct by suggesting that he has special teaching skills that he believes will serve school children well.

In this regard, school law cases have traditionally recognized the right of the State Board of Examiners to revoke license where the teacher was involved in criminal activities, even if said activities were not related to the classroom, see Cox v. State Board of Examiners (App. Div. Docket No. A-3527-81T3) (November 18, 1983); State Board of Examiners v. Krupp, 3 N.J.A.R. 285 (1981). Misuse of dangerous drugs by students themselves, or by the role models to whom students look for guidance, will not be tolerated under any circumstances. In the Matter of the Certificate of Barbara Corwick, OAL Docket No. EDE 3562-87, State Board of Examiners decision (March 24, 1988).

In enacting N.J.S.A. 18A:6-7.1 et seq., the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. It therefore barred from employment in schools those individuals convicted of drug offenses. This strong policy statement, that unrehabilitated drug offenders are precluded from any position that brings them in contact with public school pupils, is in accord with the Commissioner's policies regarding those who use illegal substances. In In the Matter of the Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689, he emphasized that the use of drugs and the possession of drugs are inconsistent with the State's policy to eliminate drug abuse in the schools.

Mr. Cucolo's offenses, however, transcend his misuse of drugs. He has a demonstrated history of blatant disregard for the law. Of his admissions that he forged both a Teacher of the Handicapped license and a employment approval letter, the conclusion is inescapable that Mr. Cucolo has no compunction in committing whatever deception will accomplish his own ends.

This, too, the State Board of Examiners soundly condemns. His conduct undermines the integrity of both the licensure and criminal disqualification systems.

Further, regarding Mr. Cucolo's application for gubernatorial clemency, it must be stated initially that he has not provided evidence that the Governor granted clemency. Moreover, even were such clemency granted, or, in the alternative, had he been able to expunge his record of his drug offenses, Mr. Cucolo's admitting that he had forged a employment approval letter and a Teacher of the Handicapped license would remain matters cognizable before this body pursuant to the Board's authority under N.J.S.A. 18A:6-38 and N.J.A.C. 6:11-3.6. These misdeeds weigh heavily in the State Board of Examiners' consideration of penalty in this case.

Accordingly, in light of this State's strong policy opposing the use of illegal drugs, the State Board of Examiners finds respondent's conviction conduct unbecoming a license holder. Because the State Board of Examiners recognizes as well that teaching staff members are exemplars, it condemns Mr. Cucolo's deceitful attempts to regain entry into the teaching profession by forging official documents. In light of the entire record of this case, it is the judgment of the State Board of Examiners, therefore, that the appropriate penalty for Frederick Cucolo's unbecoming conduct is the revocation of his licensure. The multiplicity of his offenses precludes further employment as a teacher in the public schools in this State.

It is, therefore, ORDERED that Frederick Cucolo's Principal, Student Personnel Services, Director of Student Personnel Services and Elementary School Teacher licenses are hereby revoked on this 2nd day of April, 1998.

It is further ORDERED that Frederick Cucolo return his licenses to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fourteen (14) days of receipt of this letter.

Secretary
State Board of Examiners

Date of Mailing: April 8, 1998

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

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