

IN THE MATTER OF THE DISQUALI- :
FICATION FROM SCHOOL : COMMISSIONER OF EDUCATION
EMPLOYMENT OF J.H., J.R., : DECISION
_____ :

SYNOPSIS

Teacher aide appealed his qualification from school employment pursuant to criminal record check. During the course of this appeal, appellant also contested the application of *N.J.S.A. 18A:67.1* to the employees of private schools for the educationally disabled which accept public school students.

Initially, the ALJ concluded that the requirements of *N.J.S.A. 18A:6-7.1* apply to the employees of a facility, center, or school under the supervision of either the Department or a local Board of Education. ALJ found that legislative history shows a legislative intent that the bill's requirements so apply and that, further, where a statute is ambiguous, the interpretation of the statute by the administrative agency that administers it, while not binding, is entitled to weight in the determination of the statute's meaning and intent.

Having review the testimony and documents admitted into evidence, the ALJ concluded that appellant affirmatively demonstrated rehabilitation. ALJ ordered that appellant was not disqualified from school employment as a teacher's assistant.

Commissioner adopted findings and determination in initial decision as his own, concurring that the requirements of *N.J.S.A. 18A:6-1.1* apply to the employees of a facility, center or school under the Department of Education or a local Board of Education. In noting there was no cause to question the ALJ's assessment of petitioner's credibility, Commissioner deemed petitioner qualified for school employment as a teacher aide.

JULY 10, 1997

OAL DKT. NO. EDU 6571-96
AGENCY DKT .NO .DHP #50-96

IN THE MATTER OF THE DISQUALI- :
FICATION FROM SCHOOL : COMMISSIONER OF EDUCATION
EMPLOYMENT OF J.H., J.R., : DECISION
_____ :

The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon a careful and independent review of the record, the Commissioner adopts the findings and conclusions of the Administrative Law Judge (ALJ) that the requirements of *N.J.S.A.* 18A:6-7.1 apply to the employees of a facility, center or school under the supervision of either the Department of Education or a local board of education.

The Commissioner further concurs that petitioner has demonstrated rehabilitation in accordance with *N.J.S.A.* 18A:6-7.1, and is, therefore, qualified for school employment within the intent of the criminal history record check laws. It is observed in reaching this decision, that the Commissioner had no cause to question the ALJ's assessment of petitioner's credibility as such assessment is not belied by the record. Moreover, it was the ALJ who had the opportunity to hear petitioner's sworn testimony and to observe his demeanor, so that he was in the optimum position to make such determination.

ACCORDINGLY, for the reasons expressed therein, the Commissioner adopts the initial decision as the final decision in this matter and Petitioner is deemed qualified for school employment as a teacher aide.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

JULY 10, 1997