

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

John A.Crouch
v.
North Kingstown School Committee

In Re: Certification of John A. Crouch

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DECISION

Held: In a de novo hearing, the North Kingstown School Committee demonstrated good and just cause for dismissal of Mr. Crouch from the position of tenured teacher. The Department of Education also proved that cause exists to annul his teaching certificate, despite the submission of additional evidence by Mr. Crouch on the issue of his rehabilitation.

DATE: January 28, 2005

Travel of the Case

On November 6, 2000 John Crouch filed an appeal from the decision of the North Kingstown School Committee to terminate him from his position as a tenured teacher in the school system. Mr. Crouch had asserted his statutory right to return to a tenured teaching position after he was terminated as the principal of the Quidnessett Elementary School in 1999, an action he did not contest. The decision of the North Kingstown School Committee to terminate Mr. Crouch from his position as a tenured teacher was made at its October 25, 2000 meeting. At that time the Committee also voted to forward a copy of its proceedings to Commissioner Peter McWalters for a determination of whether a hearing on the annulment of Mr. Crouch's certificate should be ordered.

Mr. Crouch requested at that time that his appeal be held in abeyance until a grievance he had filed with respect to his termination could be resolved. Counsel for the School Committee objected to deferral of the hearing process and requested that if the Department of Elementary and Secondary Education would be seeking to revoke Mr. Crouch's teaching certificate, that hearing on revocation be consolidated with hearing on Mr. Crouch's appeal from his termination. At a prehearing conference on December 20, 2000, the parties discussed pending litigation in the Superior Court with respect to the issue of arbitrability and agreed to hold this appeal in abeyance until the Court's ruling. Upon issuance of a Superior Court ruling enjoining Mr. Crouch from pursuing arbitration of the issue of his termination, Counsel for the School Committee requested that barring an appeal, the matter be set down for hearing. Given a consensus that hearing of this appeal should be further deferred until the matter was resolved by the Supreme Court, a hearing was not scheduled.

In the meantime, the Rhode Island Department of Education wrote to Mr. Crouch notifying him that a recommendation to revoke his elementary teaching certificate would be made to the Commissioner of Education. On December 3, 2001, counsel for the Department of Education notified the hearing officer that Mr. Crouch had requested a hearing on the proposed revocation of his certificate and requested that this hearing be consolidated with his termination appeal. After reviewing the positions of the parties on this issue, a decision was made to wait until the ruling of the Supreme Court on the arbitrability issue. In its November 8, 2002 ruling, the Supreme Court determined that the collective bargaining agreement in North Kingstown did not provide for the arbitration of disputes relating to the dismissal of tenured teachers. The Court also found that Mr. Crouch had clearly elected to pursue his statutory remedy by appealing to the Commissioner under R.I.G.L. 16-13-4. The matter was then clearly before the Commissioner for resolution, and it was consolidated with the issue of Mr. Crouch's eligibility to hold a teaching certificate.

On November 13, 2002 the hearing officer wrote to the parties and two hearing dates were scheduled. After issues with respect to subpoenas for certain documentation were litigated, the matter was finally heard. Testimony concluded on April 30, 2004. The last post-hearing brief was submitted on July 13, 2004 at which time the record in this case closed.

Issues:

- Did the North Kingstown School Committee have good and just cause to terminate John Crouch from his position as a tenured teacher?¹
- Is there cause to revoke Mr. Crouch's life professional elementary teaching certificate?²

Findings of Relevant Facts:

- John Crouch was a tenured teacher in the North Kingstown school system, beginning his career at the Stony Lane Elementary School in 1979, and then at Quidnessett Elementary School. He became a principal in the system in 1988 first serving at Fishing Cove School and in 1993 became principal of Quidnessett. Joint Ex.A; Crouch Ex.D;
- Until 1996, Mr. Crouch's performance was exemplary; he was a gifted and hard-working teacher, a highly effective and beloved principal, who worked very hard to ensure that teachers were also being successful in the classroom. Joint Ex.A; Crouch Ex. C and Ex.D; Tr.Vol.I, pp.44-46,55,72, and 78.
- Starting in 1996, Mr. Crouch began misappropriating students' medication, in particular Ritalin, and using some of the students' pills for his own personal use. This practice continued until approximately mid-May, 1999 when the school nurse reported irregularities to the Superintendent who instituted an internal investigation. In early June of 1999, the school department turned the matter over to the North Kingstown police. Joint Ex.A.
- Mr. Crouch was terminated from his position as principal of Quidnessett Elementary School on or about December 8, 1999, but asserted rights to return to a tenured position within the system pursuant to R.I.G.L. 16-13-3 (c). On February 2, 2000 Superintendent James M. Halley notified Mr. Crouch of his intent to present to the School Committee a recommendation that he be terminated as a tenured teacher. On February 17, 2000 the North Kingstown School Committee made a preliminary decision to approve the Superintendent's recommendation, but agreed to defer full hearing on the matter at Mr. Crouch's request for three months to permit the criminal case against him to be resolved. Joint Ex. A.

¹ He did not contest his termination as principal of Quidnessett School.

² Mr. Crouch allowed his elementary principal certificate to expire in August of 2001.

- On February 23, 2000 the Chairperson of the School Committee provided Mr. Crouch with a formal statement of cause for his dismissal, as required by state law. Joint Ex.A (Tab C).
- After several hearings which began on June 7, 2000 and the receipt of written memoranda by the attorneys representing John Crouch and the Superintendent, the members of the North Kingstown School Committee voted to terminate John Crouch as a tenured teacher on October 25, 2000. The vote to terminate Mr. Crouch was six to one. Joint Ex. A³.
- During the period 1996-1999 John Crouch misappropriated Ritalin prescribed for students at the Quidnessett School. He did so by falsifying records on the numbers of pills delivered to the school by students and their parents, creating fraudulent records indicating medication had been taken from the school by parents, making false notations indicating students' medications had been changed, and lying to parents and the school nurse about the availability of medication for students. Joint Ex. A;
- Mr. Crouch kept Ritalin prescribed for various students at Quidnessett School in his desk. For some students he maintained only a portion of their medication; for at least four students, he kept the entire supply of their Ritalin medication. For one of these four students, there was no doctor's order or other school record that she had been prescribed daily Ritalin at noon while in school. Joint Ex. A. Tr. Vol. II⁴, pp.38, 51-54.
- The purpose of Mr. Crouch maintaining possession of students' Ritalin was so that he could have easier access to it and use it himself. Joint Ex. A (Tab H 16) (Tab J, p.24). During this same period of time Mr. Crouch had developed concentration problems, had difficulty organizing his work and completing it in a timely fashion. He found that Ritalin helped him concentrate and calmed him down. Joint Ex. A, Tab H 16, Tab I, p. 14; Tr. Vol.I,p. 107.
- According to his testimony and the statement he gave to the North Kingstown police, Mr. Crouch administered Ritalin to students, but not necessarily every day and not necessarily from their own supply of the medication⁵. Joint Ex.A; Tr.Vol.I, p.164-165; Vol. II, p.31, 33-35,65, 70, 102. He made no records on his administration of Ritalin to students, and neither did the school nurse. Joint Ex.A, Tab H 16; Tr. Vol.II p.43; N.K.Ex.1-9.
- For those students whose medication was in Mr. Crouch's exclusive control, there was seldom medication available to be administered to them by the school nurse in school year 1998-1999. N.K.Ex.3,5,6 and 7.

³ The record does not indicate that the School Committee provided Mr. Crouch with a written decision, detailing the reasons for its decision and a summary of the evidence on which it relied, but this has not been made an issue in this case. At the hearing on October 25, 2000 each of the members of the North Kingstown School Committee described the conclusions they had reached after reviewing the record created at the hearings before them. See Tab N, Joint Ex. A.

⁴ The parties agreed to introduce the entire record of proceedings before the School Committee as Joint Ex.A; This record was supplemented by additional testimony and documentation. Volumes I-III consist of the testimony taken before this hearing officer.

⁵ Mr. Crouch described this situation as a "Ponzi scheme".

- Mr. Crouch regularly used students' Ritalin for his own personal use during the period 1996⁶-1999. Joint Ex. A, Tab H 16; Tab J, pp. 13-15; Tr.Vol.I p.93.⁷
- Mr. Crouch admitted that "There may have been a day or two" that students missed their dosage of Ritalin because he did not administer it to them. Joint Ex.A. Tab H 16, statement of John Crouch dated June 23, 1999. In testimony at the Commissioner's level, he described the number of times children did not receive their Ritalin medication as "very limited". Tr.Vol.II, p.102.
- John Crouch was diagnosed with clinical depression in September of 1996 and was treated with antidepressant medication and psychotherapy. Joint Ex.A Tab I p.16; Tr.Vol. III pp. 48,62-63. He continued to be seen by his doctor approximately once a month from September 1996 through June 1999. Tr.Vol.III p.64.
- During this period, Mr. Crouch did not tell his doctor that he was taking Ritalin. Tr.Vol. III p.67. After Mr. Crouch was arrested for misappropriation of students' Ritalin, his doctor made an additional diagnosis of attention deficit disorder and prescribed Ritalin for him. Joint Ex.A. Tab I (Respondent's Ex. 8) Tr. Vol. III, p.49.
- The illnesses from which Mr. Crouch suffered from 1996-1999 did not impair his judgement. Tr. Vol. III pp.27-29, 69-71.
- At the time of the North Kingstown School Committee's decision to terminate Mr. Crouch, his treatment focused on the need to use appropriate medical resources for the treatment of attention deficit disorder and strengthening his realization that it is imperative to follow certain medical protocols. Joint Ex.A Tab I (Respondent's Ex. 8). His doctor and therapist indicated in writing at that time that Mr. Crouch had made excellent progress. (Crouch Ex.G) He was "ready to return to work as a school teacher" and "suited to return to classroom teaching responsibilities". They noted his honesty in discussing with them what had happened with respect to the students' Ritalin, his sincere remorse, and the fact that he had demonstrated no personality traits which would make him a danger to students. Joint Ex.A Tab I (Respondent's Ex. 8 and 9).
- Mr. Crouch's treatment most recently has consisted of supportive therapy to help him cope with the stress created by hearings related to his termination and retention of his teaching certificate. Tr.Vol.III p 12.
- Since his termination by the School Committee in October of 2000, Mr. Crouch has progressed well in his treatment for depression and attention deficit disorder. Crouch

⁶ In his police statement, Mr. Crouch stated that his personal use of students' Ritalin began in 1995, but for the most part the record indicates 1996 as the starting point.

⁷ In his sworn statement to the North Kingstown police dated June 23, 1999, Mr. Crouch initially stated that he took three to four Ritalin pills a week and then corrected his statement to three to four pills a day. Joint Ex.A, Tab H 16. In his testimony before the North Kingstown School Committee on September 11, 2000, Mr. Crouch stated that he could not recall the number of pills he took during a particular academic year or in total over this period. Joint Ex. A Tab J, p. 16. In testifying on appeal before the hearing officer, Mr. Crouch testified that he took about three to four Ritalin pills a week, but not necessarily every week. Tr. Vol. II, pp.35-37.

Ex. B, G,H,I,J and K; Tr.Vol.III, pp.13-14, 49-50. He has also secured and maintained a responsible position as front office manager in a Newport resort and is performing well in this position. Tr.Vol.I.pp.37-40. He has continued to be an active member of the North Kingstown community. Tr. Vol.I, pp.70-71, 124-125.

Positions of the Parties:

John Crouch

At the outset, Mr. Crouch fully admitted that he engaged in a pattern of taking possession of students' ritalin, using some of the medication for himself and concealing this practice from other school staff and parents. He has fully recognized that his behavior was inappropriate, but submits that terminating him as a tenured teacher and revoking his teaching certificate are too severe under the circumstances. Mr. Crouch argues that given the record as a whole, the drastic sanctions of a second termination (he has already been terminated as a principal in the North Kingstown system) and depriving him of certification in his chosen profession are unwarranted. He argues that revocation of his teaching certificate would be unconscionable.

In his memorandum, Mr. Crouch argues that the entire record in this case, not just his admitted misconduct, must be taken into account in determining whether there is "just cause" to terminate him as a teacher and revoke his certificate. The misconduct to which he has admitted was clearly an aberration. A talented educator, Mr. Crouch argues that it was his hard work and dedication as an administrator that brought him under stress so unbearable that it had serious impact on his mental health. Because he was ambivalent about seeking help (for his attention deficit disorder), he resorted to use of students' Ritalin. This clear aberration did not result in harm to any student or other person in the school community, he submits. Given his long record of hard work and dedication as an educator, Mr. Crouch deserves a second chance at continuing in his chosen career. Counsel argues that in at least two other recent cases involving substance abuse, both the North Kingstown School Committee and the Department of Education have given other educators second chances. Mr. Crouch is deserving of similar treatment. Many members of the community have stepped forward to affirm their continued trust and confidence that Mr. Crouch can function effectively as a teacher and role model for students. It is noted that at the time criminal charges against Mr. Crouch were resolved in Superior Court, the judge imposing his sentence also voiced his support for Mr. Crouch's return to teaching.

Counsel argues that this is clearly a case for the Commissioner to exercise his independent judgment to overturn the decision of the North Kingstown School Committee. The School Committee failed to put Mr. Crouch's misconduct into the context of his record of accomplishments as a teacher and principal. The committee failed to consider the extenuating circumstances of stressful working conditions and Mr. Crouch's mental health problems. Counsel for Mr. Crouch argues that increasingly stressful working conditions and Mr. Crouch's resulting mental health problems played a major role in his misconduct.

Two other factors should also invalidate the action taken by the School Committee. First, the Committee's vote to terminate John Crouch is inconsistent with its policy on a Drug-Free Workplace and Drug-Free Schools. The policy prohibits possession of illegal drugs and controlled substances (such as Ritalin) in schools, and requires that assistance be provided to individuals with substance abuse problems. To the extent that employees are disciplined for possessing/using drugs in the workplace, the discipline must be progressive. This policy, Mr. Crouch argues, should not be relied on to justify his termination, as it has been, but should be correctly applied to provide him with assistance and support a less severe penalty.

Secondly, if the School Department is to treat Mr. Crouch fairly, it must consider the precedent created in another recent case in which a teacher who had substance abuse issues was terminated only after he had been given multiple warnings. The record of progressive discipline meted out to North Kingstown teacher Frederick Daly is detailed in the Commissioner's decision in Daly v. North Kingstown School Committee, January 29, 1999 and cited by the Appellant. Unlike Mr. Crouch's case in which counsel argues no harm to children resulted, in the Daly case students had been the victims of a long pattern of abusive conduct by the teacher involved, and he had been derelict in his teaching duties for a number of years. Why should the School Committee not give Mr. Crouch opportunity to continue as a teacher in the school system when he, unlike Mr. Daly, has an otherwise exemplary record and no prior disciplinary infractions? The School Committee's decision to terminate Mr. Crouch thus violates its own established employment policies and precedent. It is therefore manifestly unjust. For these reasons, the Commissioner must exercise his independent judgment and order that John Crouch be allowed to assume a tenured teaching position in the district.

The Rhode Island Department of Education's recommendation to revoke Mr. Crouch's teaching certificate is similarly inconsistent with past decisions and precedent. In a series of decisions in which the Commissioner has acted with respect to drug offenses, a distinction has been made between the illegal possession of controlled substances, and their distribution. Counsel notes that Mr. Crouch's involvement with Ritalin was never for the purpose of illegal distribution to anyone, much less the children he supervised. Again, it is argued that no children were in fact harmed as a result of Mr. Crouch's drug involvement. If one considers the extenuating circumstances of his stress-induced mental illness, and gives appropriate weight to Mr. Crouch's long record of stellar performance, one could not support revocation of his teaching certificate.

Mr. Crouch's memorandum references a recent situation in which the Department did not find that a school nurse teacher's diversion of students' Ritalin to her own use was just cause to revoke her certificate. Instead, in an agreement worked out between the nurse-teacher, the school district and the department of education, the nurse agreed to surrender her nursing position, and after a period of treatment, she was allowed to return to a position as a classroom teacher. Mr. Crouch's situation parallels that of the school nurse teacher involved in the cited case. He should be allowed to assume a teaching position where it is highly unlikely he would ever have access to students' Ritalin.

Finally, counsel argues that the Commissioner is presented with evidence of the complete rehabilitation that Mr. Crouch has undergone in the five-year period since his removal from school. His treatment providers have unequivocally stated that he is unlikely to repeat the conduct that led to his removal from his position at Quidnessett. He has been successfully treated for attention deficit disorder, and his other mental health issues have been resolved. His counselor and doctor have emphatically stated that he poses no threat to children who might be placed in his care. He has obtained gainful employment in a position of trust, and has succeeded in being reintegrated into his community activities. Most importantly, numerous witnesses have testified, and the record otherwise supports, the conclusion that he can still serve as an effective role for students. There is only one conclusion to be drawn from the evidence—that there is no cause for the revocation of Mr. Crouch’s teaching certificate at this time.⁸

North Kingstown School Committee

The position of the School Committee is that there is overwhelming evidence of “good and just cause” to support the Committee’s decision to terminate John Crouch as a tenured teacher. Most, if not all, of the facts supporting just cause have been admitted by Mr. Crouch. The School Committee rejects any contention that an undiagnosed medical condition caused Mr. Crouch to commit the acts of misconduct on which his termination was based. The School Committee directs the hearing officer to medical evidence in the record from John Crouch’s own witnesses. The Committee argues that this evidence confirms John Crouch’s ability to make moral and ethical judgments despite his medical condition. His misconduct resulted from flaws in his character, not from illness. Therefore, the fact that he has since received treatment for his medical condition does not establish his fitness to return as a classroom teacher. The School Committee also argues that a review of its decision de novo does not permit the Commissioner to consider new evidence, especially that related to subsequent rehabilitation of Mr. Crouch, because this evidence was not available to the School Committee when it voted on Mr. Crouch’s termination.⁹

⁸ Counsel for Mr. Crouch also argues that on review by the Commissioner, Mr. Crouch’s post-discharge conduct should be taken into account in determining whether he should be reinstated to his position as a teacher in North Kingstown. While the traditional view may have suggested otherwise, it is argued that a more enlightened approach evidenced in recent arbitration cases, would take into account post-discharge rehabilitation, particularly in cases where the employee’s conduct was the result of substance abuse or mental illness. See page 26 of Mr. Crouch’s Posthearing Memorandum.

⁹ Mr. Crouch’s appeal from his termination was consolidated with hearing on the Department of Education’s recommendation that the Commissioner revoke his teaching certificate. The result was that evidence of subsequent rehabilitation, not all of which was available when the School Committee considered this matter in October of 2000 was submitted by Mr. Crouch, and received into evidence. This evidence was clearly relevant to the issue of revocation of Mr. Crouch’s teaching certificate. The School Committee argued that it should not be considered in a de novo review of its decision. The position of the hearing officer with respect to this issue was that while *events* occurring after the School Committee’s decision should not be taken into account in considering the termination issue, the parties were not limited to the evidence brought forward to the School Committee at its hearing of the matter. The parties had agreed that the entire record before the School Committee would be submitted to the hearing officer. Both Mr. Crouch and the North Kingstown

In examining the record for just cause, the School Committee points to the uncontested evidence in the record of Mr. Crouch's diversion of Ritalin from students at Quidnessett School. Counsel notes that for a four-year period Mr. Crouch engaged in what he described as a Ponzi scheme in which he embezzled and consumed Ritalin prescribed for his students, falsified school records, and lied to parents and other school department personnel to cover up his scheme. The School Committee's memo details the trafficking in Ritalin at Quidnessett school and describes how the documentation related to students' medication was fictionalized to protect Mr. Crouch's illegal diversion of this controlled substance. When the scheme began to unravel in 1999, Mr. Crouch reacted by "replacing outright lies with half-truths" essentially admitting some improprieties with respect to documentation and storage of students' Ritalin, but denying that he himself was taking students' medication. He would later detail a somewhat different picture in his police statement on June 23, 2000.

From this record, the School Committee argues, the inevitable conclusion is that just cause for termination does exist. It argues that just cause is found in Mr. Crouch's immoral and criminal conduct over a span of years and his "perfidy" in covering up this conduct. The record clearly shows a long period of unlawful diversion and conversion of students' medication, fraudulent record keeping and lies to cover this up. Underlying these specific acts is the fact that John Crouch placed his own perceived self-interest before his students' health and jeopardized their academic performance. He abused the trust and confidence of parents and the North Kingstown school administration.

Contrary to the argument of Mr. Crouch's counsel, the fact that he has sought, and received, medication to effectively control his own symptoms of attention deficit disorder, and has made excellent progress overall in regaining his mental health, have no bearing on either the just cause issue or his fitness to teach. First, Mr. Crouch's flawed character and sense of morality—and not his mental illness—led to his criminal, fraudulent conduct. Implicit in this argument is the notion that his medical condition during that period does not provide an extenuating factor or mitigating circumstance. There is no evidence that his condition impaired his judgment or otherwise constitutes an excuse for what occurred. Secondly, his progress in treatment does not address the character flaws which caused the misconduct in the first place. Even if a medical condition did explain his diversion of students' medication, recent developments in his treatment were not before the Committee at the time it made its decision. A *de novo* review of that decision should not, therefore, take his current medical status into account.

In response to Mr. Crouch's argument that principles of progressive discipline should apply and that his conduct was clearly remediable, counsel for the School Committee argues that given the serious and criminal nature of the conduct, it is irremediable. Several cases are cited to support the proposition that particularly in serious crimes, and those which call into question honesty and credibility, a teacher can no longer

School Committee presented additional evidence. The last two findings of fact are events which developed after the School Committee's October 25, 2000 decision, and are therefore considered only with respect to revocation of his teaching certificate.

serve as a role model, because he has become incapable of imparting basic societal values to students. The inability of a teacher to function as a trusted member of the school community is a basis on which to conclude that misconduct is irremediable. All of these factors are argued to apply with respect to Mr. Crouch and the circumstances of his misconduct.

The implications of the evidence in this record are that Mr. Crouch knowingly and willfully violated school policy related to students' medication and broke state laws with respect to possession of controlled substances, embezzlement, and creating false documents. He deprived students of their medication on at least one or two occasions¹⁰ and falsified student medication records. He deceived parents, staff and members of the administration (even after the scheme was uncovered). He can no longer serve as a role model or occupy a position of trust in the school community, be it a principal or a teacher.

Rhode Island Department of Elementary and Secondary Education

The Department relies on the same record created by the School Committee with respect to evidence of cause to revoke Mr. Crouch's elementary teaching certificate. Counsel for the Department notes that Mr. Crouch has essentially admitted to the existence of all thirteen grounds for revocation set forth in its letter of October 5, 2001. It is argued that the evidence shows a long-term and elaborate scheme of deception designed to facilitate Mr. Crouch's misappropriation of students' Ritalin pills for his own personal use. In spite of the significant amount of time that has elapsed since this situation was uncovered, Mr. Crouch has not acknowledged the full consequences of his actions at any point in this drawn-out process.

The evasive nature of the testimony he presented before the North Kingstown School Committee with respect to the number of pills he took from students is noted, and the fact that this testimony was essentially repeated in hearings before the Commissioner. Counsel argues that given the extent of deliberation and planning that Mr. Crouch's scheme to divert medication required, he should be able to give a "straightforward estimate" of the number of Ritalin pills he took from students. Instead, Mr. Crouch goes to great lengths to explain what the number of stolen pills could not be. For example, he relates the number of pills he took to the absence of any reports of "extreme changes" in childrens' behavior. His failure to provide an estimate constitutes refusal to acknowledge the extent of his deception and admit to the seriousness of the health risks he created.

The Department takes the position that "until Mr. Crouch directly acknowledges the extent and hazards of his wrongdoing, he should be prohibited from holding a teaching certificate". (See page 4 of the Department's memorandum). This acknowledgement has evidently not occurred in the course of his therapy because even his treatment providers do not have a complete picture of the extent of Mr. Crouch's misconduct. Because full

¹⁰ The School Committee takes the position that although it cannot prove that Mr. Crouch understated the number of occasions on which students were deprived of their Ritalin, this inference should be drawn from other facts in the record. See page 13, footnote 7; page 19 of the School Committee's brief.

acknowledgement of his wrongdoing has not even occurred in the treatment setting, the opinions of his doctor and counselor are based on “false assumptions and incomplete information”. Mr. Crouch’s therapist’s testimony indicates that he did not understand that Mr. Crouch’s storage and administration of students’ medication was in direct violation of school department policy. He was unaware that Mr. Crouch’s scheme, not school department protocol on medication, gave him access to and control of students’ Ritalin. He testified that Mr. Crouch was victimized and placed in an unfair position by the school system. He testified that based on the easy access to Ritalin provided to Mr. Crouch, he doubted that he fully comprehended the seriousness of his diversion of this medication. His opinion with respect to Mr. Crouch’s current fitness to serve as a classroom teacher should, it is argued, be given no weight.

For the same reason, the Department asserts that the testimony of Mr. Crouch’s psychiatrist is entitled to no weight. Dr. Gallo testified that he could not recall the nature of the scheme utilized by Mr. Crouch over the period in question. His opinion that Mr. Crouch is fit to return to a classroom setting, the department argues, is thus without factual basis. Mr. Crouch failed to prove his complete rehabilitation at this hearing, and given the nature of the misconduct, and the lingering doubts as to whether Mr. Crouch appreciates the seriousness of it, he continues to be professionally unfit.

DECISION

The role of the hearing officer in this case is to determine if the North Kingstown School Department and the Rhode Island Department of Education have established “just cause” for the termination of John Crouch and the revocation of his elementary teaching certificate. The decision must be based on the record. We observe at the outset that the extensive record placed before the Commissioner for this decision is much different from the record upon which other conclusions about Mr. Crouch’s professional qualifications have been drawn. Neither the trial judge involved with the criminal charges, Mr. Crouch’s colleagues in the profession, nor the members of the community, all of whom have somehow or other weighed in on the issue of his continuing in the education profession, have reviewed the information in the record here. While the focus of others may be the exemplary and inspiring performance of John Crouch over two decades as a teacher and principal, our record includes evidence of serious and extensive misconduct which placed children at the Quidnessett school at great risk of harm.

In focusing on the elements of misconduct in our analysis of just cause in this decision, it is unfortunate that we cannot go into greater detail about the many contributions to students and colleagues that Mr. Crouch has made over the years. Some, but surely not all, are included in the record here and they are extensive contributions and accomplishments. Mr. Crouch’s record of performance, and his obvious talent as an educator do not, however, obscure the conclusion that there was just cause for Mr. Crouch’s termination by the North Kingstown School Committee. Since issues exist as to his present fitness to teach, we also conclude that his certificate should be revoked at this time.

We have conducted a de novo review of the record created before the School Committee,¹¹ the supplementary record created at this level, and exercised independent judgment on the issue of whether just cause existed for Mr. Crouch's termination. An issue of some complexity developed because of the passage of time and the fact that the revocation case brought by the Department of Education was consolidated with Mr. Crouch's appeal from his termination. With respect to the termination issue we did not take into account matters which developed well after the School Committee's decision, e.g. Mr. Crouch's current employment as a desk manager and his ongoing community activities in North Kingstown. The April 30, 2004 testimony of Dr. Gallo and Mr. Hickey (Mr. Crouch's therapist) was considered with respect to the issue of termination even though these witnesses were not presented to the School Committee. These witnesses expanded upon opinions which had been provided in writing to the School Committee at the time of its deliberations. To the extent these witnesses updated the status of Mr. Crouch's progress to 2004, this "new" information was limited to the revocation case.¹²

On the basis of the findings of fact in this matter, it is clear that the North Kingstown School Committee had just cause to terminate John Crouch as a tenured teacher.¹³ The record reflects a pattern of misconduct which was illegal and violated important medication protocols designed to ensure that children in school receive the medication prescribed for them. This misconduct was not an isolated act, but extended over several years. Mr. Crouch's "Ponzi scheme" placed in jeopardy the health and educational welfare of students entrusted to his care. It was extremely detrimental to the interests of his employer in that it breached the trust that school officials enjoy when they act in loco parentis and exposed the school system to potential liability.

Mr. Crouch's argument that no harm to a student can be demonstrated ignores the fact that it was his scheme which left his administration of medication to children undocumented. The inaccurate records on administration of medication to students (N.K. Ex.1-9)¹⁴ are an important element of his misconduct since they leave the North Kingstown School Department with no ability to demonstrate that the children at Quidnessett School who were supposed to receive Ritalin daily did in fact receive it. The question of precisely how many times children did not receive their medication, or of

¹¹ which by agreement of counsel was submitted in evidence on this appeal.

¹² Findings of Fact and citations to the record reflect this approach. We understand de novo hearing at the Commissioner's level to enable the parties to create a different record from that created below. However, to permit the record to include evidence of events which occurred after the School Committee's decision would seem to be illogical, given that the commissioner's role is appellate review of a school committee decision which is fixed in point of time.

¹³ The argument that just cause does not exist because of precedent involving another teacher is rejected. Even if the School Committee failed to terminate another teacher in a prior situation in which just cause was present, it is not a sufficient reason to prevent the committee from taking appropriate action in this case.

Similarly, the argument that the Drug Free Schools act constrained the School Committee from terminating Mr. Crouch is rejected. We find that the language of that policy does not cover a situation in which a principal is misappropriating students' Ritalin for his own use. This creates a substantially different disciplinary issue than the possession of illicit drugs on school premises.

¹⁴ and the total absence of records on administration of Ritalin to Student E.C. during the school year 1998-1999.

specific harm to individual children is, we find, unanswered in this record, and we draw no inference one way or the other. We do not accept the inference argued by the Appellant, that no student was harmed. The serious health risks posed by the entire scheme to the children prescribed Ritalin were intolerable.

It is clear that Mr. Crouch was under a considerable amount of stress during this period, but we find that the adverse effect this stress had on his mental health does not excuse, or explain, his misconduct. We also do not find the fact that he himself had undiagnosed attention deficit disorder during this period of time constitutes a mitigating factor. Those who provided him medical treatment during this time testified emphatically that these factors did not impair his judgment. Diversion of students' Ritalin was a conscious choice, and since he suffered from attention deficit disorder himself, Mr. Crouch was keenly aware of the beneficial effects Ritalin produced for him as well as the students for whom it was prescribed. Although he evidently could have consulted his own physician for these symptoms, and received treatment, he did not.¹⁵ He could have changed this decision at any one of the monthly visits with Dr. Gallo, but did not do so. His alleged embarrassment or reluctance to raise this issue with his doctor, does not adequately explain his decision to expose students to the considerable risks produced by his "Ponzi" scheme.

We consider these same facts, supplemented by the evidence of Mr. Crouch's recent efforts at rehabilitation and the updated perspectives of his doctor and counselor, in determining the merits of the department's request to revoke his teaching certificate. We reach the conclusion that there is "cause" for the revocation of his teaching certificate. It is not our role to inflict additional "punishment" on Mr. Crouch¹⁶. In a certification case our role is to make a careful and reasoned inquiry into the teacher's present fitness to be certified.¹⁷ We must, and have, considered all relevant factors relating to Mr. Crouch's fitness to teach at this time. The voluminous record in this matter was subjected to an agonizing review for an extended period of time. Our focus was to determine whether, given the passage of time since the misconduct occurred, sufficient evidence exists of rehabilitation. The problem here is that in testimony and argument at the Commissioner's level, there is insufficient recognition and, apparently, understanding, of the serious risks that the misconduct created for students' health. In addition, Mr. Crouch's testimony indicates that he still relies on legitimate excuses for the scheme he contrived to give him access to students' medication: parents' convenience, prevention of a theft of the medication, protection of sensitive students, adverse effects of the medication on students' appetites, etc. Although consistently admitting his misconduct, he did not, in testimony, acknowledge the full nature and extent of it. From a lay perspective, this raises the issue of whether his rehabilitation is complete.

¹⁵ His treating doctor indicated he was surprised that Mr. Crouch diverted students' Ritalin to himself, when he could have sought help for these symptoms from him. See Tr. Vol.III p.88

¹⁶ One of his arguments is that any revocation of his certificate, in addition to all the other sanctions he has endured, would be unconscionable.

¹⁷ Morrison v. State Board of Education, 461 P 2d 375 (1969); West Valley Mission Community College District v. Concepcion, 2 Cal Rptr. 2d 5 (Cal. App. 6 Dist. 1993)

Medical testimony did not resolve this issue. His doctors indicated Mr. Crouch had been candid with them during his treatment,¹⁸ but yet they had incomplete information as to how Mr. Crouch obtained possession of Ritalin in the school setting. Dr. Gallo also testified that he was unaware that any student was ever deprived of his or her medication. Mr. Crouch had denied to him that any student went without medication because of his scheme. (See Tr.Vol.III, pp.77-78) Evidently, his admission that there were “very limited” occasions when students did not receive their medication was not made to Dr. Gallo. The record does not show that his doctors ever addressed the issue of the discrepancy between what actually happened and Mr. Crouch’s perception of what happened. They accepted his account. Also unexplored with him was why this unfortunate set of circumstances developed. Although embarrassment and “stigma” have been advanced as reasons, they do not reasonably explain the unnecessary creation of a risk of harm to students and placing a career in jeopardy. It is for these reasons that we find that further steps need to be taken before one can conclude that Mr. Crouch is now completely rehabilitated.

It is possible that Mr. Crouch could still be an effective role model and, if he has a will to do so, return to the teaching profession at some point. The conclusion that John Crouch could once again function as a role model and exemplar for students places this incident in the context of his entire career to date. His good character is certainly evidenced by outstanding work throughout his career and the resulting inference that he can and has made the welfare of students his priority in the past. While his reputation may have been tarnished, we have extensive anecdotal evidence of the continuing respect for him in his community despite “improprieties” involving students’ medication. We are of the opinion that once he has addressed the issues identified in this decision, he could return to the teaching profession by providing evidence of his professional fitness at that time and seeking reinstatement of his certificate.¹⁹

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

January 28, 2005
Date

¹⁸ except during the time when he was taking Ritalin and did not tell Dr. Gallo, his treating physician.

¹⁹ The certification office of the Department of Education will cooperate on with Mr. Crouch on an acceptable treatment plan, should it be requested to do so by Mr. Crouch.