



eventually terminated in 2014; petitioner's records of participation in substance-abuse treatment from 2011 to 2018 and drug screens from 2014 to 2022; letters or records from petitioner's employers containing positive reviews of petitioner; letters from petitioner's current medical providers; letters of support from petitioner's father; and petitioner's own statements. The Board noted that petitioner's substance-abuse-treatment records indicated that she participated in treatment but did not reflect that it was highly successful or completed, or refer to whether petitioner was safe around children. It further noted that petitioner's recent drug screens were mostly negative and petitioner claimed to be drug-free for the past several years.

The Board found that DCF had considered the statutory factors required by 33 V.S.A. § 4916c. DCF found that petitioner continued to deny that she committed the act that led to her substantiation, despite evidence and the family division's findings that she was physically abusive toward her children. Petitioner denied ever using unprescribed drugs but the record did not support her claim. She also continued to deny that her former partner sexually abused her children when they were in her care despite court findings to the contrary. DCF credited petitioner for obtaining housing and employment, for acknowledging the effect her drug use had on her ability to parent, and for working to address her substance-abuse issues. However, it found that these positive changes were outweighed by the fact that petitioner's neglect and abuse of her children were considered severe enough to warrant termination of her parental rights. It further found that petitioner had not submitted any documentation that attested to her ability to be safe and appropriate around children.

The Board concluded that DCF acted within its discretion in denying petitioner's request because petitioner denied the factual basis of the substantiation or its seriousness and did not provide any documentation from a professional evaluator or other persons to establish that she was not a risk to the safety and wellbeing of children. The Board found that DCF's characterization of petitioner's participation in substance-abuse treatment was reasonable. It therefore affirmed the denial of petitioner's request for expungement.

On appeal, petitioner denies that she ever hit her children. She argues that she has a new letter from a doctor indicating that she is not a danger to children. She contends that no one ever took pictures of her child's bruises. She argues that she has gained control of her drug addiction and asks to be removed from the child protection registry.

In a petition for expungement from the child protection registry, petitioner bears the burden of proving that she "no longer presents a risk to the safety or well-being of children." 33 V.S.A. § 4916c(b)(1). DCF must consider seven factors set forth in 33 V.S.A. § 4916c(b)(2) in deciding whether to grant an expungement request. When reviewing DCF's decision, the Board is limited to determining whether, considering the record submitted to DCF, DCF abused its discretion in denying the petition. *Id.* § 4916c(e). The Board cannot review the merits of petitioner's substantiation in an expungement appeal. See *id.* ("The person shall be prohibited from challenging the substantiation at such hearing, and the sole issues before the Board shall be whether the Commissioner abused the Commissioner's discretion in denying the petition for expungement."). We review the Board's decision for abuse of discretion. *K.G. v. Dep't of Soc. & Rehab. Servs.*, 171 Vt. 529, 530 (2000) (mem.). An abuse of discretion may be found if the Board's ruling is based "on an erroneous view of the law or on a clearly erroneous assessment of the evidence." *In re R.H.*, 2010 VT 95, ¶ 21, 189 Vt. 15 (quotation omitted).

We see no abuse of discretion here. The Board found, and petitioner does not challenge, that DCF considered the statutory factors in deciding to deny her request. By law, the Board was

not permitted to review the merits of petitioner’s 2009 substantiation; thus, her arguments about how that substantiation was conducted are not relevant to this appeal. The Board explained that DCF had considered the statutory factors and given a reasonable explanation for its decision to deny petitioner’s request, namely, the seriousness of the conduct underlying the substantiation and the lack of any documentation to support petitioner’s claim that she no longer presented a risk to children, which it found was necessary given petitioner’s continuing denial that she ever physically abused her children. These findings are supported by the record. To the extent that petitioner argues that the Board erred in not considering a June 2024 letter from a healthcare provider that addresses her safety around children, this letter was not part of the record presented to DCF, and therefore the Board was precluded from considering it by statute. See 33 V.S.A. § 4916c(e) (stating Board’s review is limited to evidence originally presented to DCF).

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Harold E. Eaton, Jr., Associate Justice

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Nancy J. Waples, Associate Justice