

JESSICA WALDER, :  
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 PETITIONER, :  
 :  
 V. : COMMISSIONER OF EDUCATION  
 :  
 NEW JERSEY DEPARTMENT OF : DECISION  
 EDUCATION, STATE BOARD OF :  
 EXAMINERS, :  
 :  
 RESPONDENT. :  
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SYNOPSIS

Petitioner challenged the denial by the State Board of Examiners (Board) of her application for a Teacher of Elementary School Certificate of Eligibility with Advanced Standing (CEAS). The Board contended that petitioner failed to meet the regulatory requirements for issuance of this certificate pursuant to *N.J.A.C.* 6A:9-8. Specifically, petitioner did not have 20 of the 60 credit hours of “liberal arts” that are required under *N.J.A.C.* 6A:9-8.1(b)(3). The Board filed a motion to dismiss in lieu of an answer.

The ALJ found, *inter alia*, that: petitioner bears the burden of demonstrating by a preponderance of the credible evidence that she is entitled to the certification she seeks; it is uncontroverted that petitioner earned less than the requisite number of liberal arts credits needed for issuance of the certification she seeks; the petitioner has not met her burden of demonstrating that the Board’s decision was arbitrary, capricious or unreasonable; and the regulatory scheme makes it plain that course work in education/pedagogy, and in the liberal arts, are prerequisites to the certificate sought by the petitioner. The ALJ concluded that the Board’s decision relative to the petitioner’s application for certification was reasonable, is consistent with the regulatory scheme, and must be upheld. Accordingly, the ALJ granted the Examiners’ motion to dismiss the petition.

Upon a comprehensive review, the Commissioner concurred with the ALJ’s determination that the Board complied with governing regulatory provisions in finding that the petitioner lacked sufficient credits in liberal arts and/or sciences for the issuance of a CEAS. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, with the modification that the appropriate standard of review in the instant matter is whether the Board’s decision was consistent with applicable statutory and regulatory provisions.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

December 29, 2014

OAL DKT. NO. EDU 8530-14  
AGENCY DKT. NO. 124-5/14

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The record of this matter and the Initial Decision of the Office of Administrative Law (“OAL”) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C.* 1:1-18.4 by the petitioner, Jessica Walder, and the Board of Examiner’s (Board) reply thereto. In this matter, the petitioner is appealing the Board’s March 5, 2014 decision (March 2014 decision) finding that she is not eligible to receive a Teacher of Elementary K-5 Certificate of Eligibility with Advanced Standing (CEAS) because she does not have 20 of the 60 hours of “liberal arts” credits that are required under *N.J.A.C.* 6A:9-8.1(b)(3). The Administrative Law Judge (ALJ) determined that the Board’s decision denying the petitioner’s CEAS application was reasonable and consistent with the applicable regulatory provisions. As a result, the ALJ granted the Board’s motion to dismiss the petition of appeal.

In her exceptions the petitioner argues that the ALJ erroneously granted the Board’s motion to dismiss without giving her the benefit of all inferences. In order to give her such benefit, the ALJ was required to discount the Board’s statement in its March 2014 decision that is has established a policy and practice of not recognizing education-related classes as

“liberal arts” courses. The petitioner further maintains that she should have been afforded an opportunity to present further evidence and witness testimony related to the Board’s decision-making process and the nature of the courses that she has taken. Despite the petitioner’s argument that the substance of the course that she took qualified as “liberal arts” courses, the Board wrongfully excluded education-related classes without consideration of the substance of the curriculum and the students enrolled therein. Therefore, the petitioner requests that the Commissioner grant her a CEAS based upon the totality of her academic and work experiences or, in the alternative, grant her request for a full hearing where she will have the opportunity to establish the factual merits as to any issue in dispute.

In reply, the Board urges the adoption of the Initial Decision as the final decision in this matter. The Board stresses that in order to receive a CEAS, a candidate must either complete a dual degree in liberal arts or complete 60 semester hours of liberal arts and/or science courses. *N.J.A.C. 6A:9-8.1(b)(3)*. In this case, the petitioner does not have a degree in liberal arts and the coursework that she has completed does not amount to 60 semester hours of liberal arts and/or science courses. Specifically, the Board contends that the required liberal arts coursework may not include the professional or vocational courses for teacher preparation that the petitioner completed. The Board argues that its interpretation of *N.J.A.C. 6A:9-8.1(b)(3)* is further supported by the fact that a “liberal arts major” is defined as “[a]ny college major such as philosophy, history, literature, sociology or world language that is intended primarily to provide general knowledge and to develop an individual’s general intellectual capacities to reason and evaluate, as opposed to professional or vocational skills.” *N.J.A.C. 6A:9-2.1*. Finally, the Board argues that allowing the petitioner to count education-related coursework as liberal arts courses

will undermine the purpose of the regulations and provide her with an inequitable advantage as compared to other applicants for certification in New Jersey.

As a threshold matter, when there is a challenge to a finding by the Board of Examiners denying a request for the issuance of a certificate, the Commissioner is not legally mandated to give deference to his staff but instead determines if the finding was legally appropriate.<sup>1</sup> It is important to recognize that a decision by the Board denying the issuance of a certificate is not akin to the appellate review of a final agency decision that is entitled to an arbitrary, capricious or unreasonable standard of review. Moreover, where the Department of Education has limited the scope of review of a subordinate office or division, it has done so by regulation, i.e. appeals filed under *N.J.A.C. 6A:4* challenging a decision of the State Board of Examiners revoking/suspending a certificate or a decision of the School Ethics Commission. *See, Board of Trustees of the Passaic County Elks Cerebral Palsy Center v. New Jersey Dept of Educ., Office of Accountability and Compliance*, Commissioner's Decision No. 334-14, dated August 14, 2014. Therefore, the appropriate standard of review of the Board's March 2014 decision is whether the decision is consistent with the applicable statutory and regulatory provisions.<sup>2</sup>

Upon a review of the record, the Commissioner is in accord with the ALJ's determination – for the reasons stated in the Initial Decision – that the Board's decision finding that the petitioner lacks sufficient credits in liberal arts and/or science for the issuance of a CEAS is consistent with the governing regulatory provisions. Despite the petitioner's argument to the

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<sup>1</sup> Prior decisions of the Commissioner have utilized the arbitrary, capricious or unreasonable terminology to indicate that a finding of a subordinate office was appropriate; but those decisions did not establish that the Commissioner was legally required to give deference to staff decisions that are the subject of contested cases before the agency head.

<sup>2</sup> In the Initial Decision, the ALJ erroneously stated that the proper standard of review was whether the Board's March 2014 was arbitrary, capricious or unreasonable.

contrary, a hearing in this matter was not required because there are no issues of fact in dispute. The 20 hours of special education/education courses that the petitioner is seeking to utilize to meet the 60 hours in liberal arts course work is not in dispute; rather the dispute is limited to a legal determination as to whether the course work constitutes “liberal arts” semester hours for the purposes of satisfying the requirements for a CEAS in accordance with *N.J.A.C. 6A:9-8.1(b)(3)*. The petitioner failed to show evidence of 60 liberal arts semester-hour credits for the issuance of a CEAS, and the Board’s decision rejecting her attempt to substitute 20 semester hours of special education/education course work is consistent with the applicable regulatory provisions governing the issuance of certificates.

Accordingly the Initial Decision is adopted as the final decision in this matter, as modified with respect to the appropriate standard of review. The petition of appeal is hereby dismissed.

IT IS SO ORDERED.<sup>3</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 29, 2014

Date of Mailing: December 29, 2014

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<sup>3</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*.