

FRED MANDELBAUM, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
NEW JERSEY STATE BOARD OF EXAMINERS, : DECISION
RESPONDENT. :

SYNOPSIS

Petitioner challenged the determination of the State Board of Examiners (Board) to deny his application for a Certificate of Eligibility (CE) as a Teacher of Mathematics. The Board contended that petitioner failed to meet minimum grade point average (GPA) requirements, and that a waiver of these requirements is not permitted under *N.J.A.C. 6A:9-17.16*. The respondent filed a motion for summary decision.

The ALJ found, *inter alia*, that: there are no material facts in dispute, and the matter is ripe for summary decision; the applicable regulatory framework in this matter leaves no discretion to waive the strict GPA requirements, as *N.J.A.C. 6A:9-17.16(b)* states unequivocally that “under no circumstances may the Board of Examiners waive any test, GPA or degree requirements for certification”; *N.J.A.C. 6A:9-17.16(a)* further provides, in pertinent part, that “[t]he Board of Examiners shall not permit an applicant to substitute education and/or experience for a passing score on any State required test or required GPA...”. Accordingly, the ALJ concluded that the decision of the Board must be upheld.

The Commissioner concurred with the ALJ, and adopted the Initial Decision of the OAL as the final decision in this matter. The petition was dismissed.

<p>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.</p>

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions – filed on September 6, 2011 in response to an Initial Decision which was mailed to the parties on August 15, 2011 – were untimely pursuant to *N.J.A.C.* 1:1-18.4.¹ As such, these and respondent’s reply exceptions were not considered herein.

Upon full review and consideration, the Commissioner concurs with the Administrative Law Judge (ALJ) that summary decision with respect to the denial of certification to petitioner is appropriately granted to the State Board of Examiners. Such is the case because it is uncontested that petitioner did not meet the eligibility requirements for a Certificate of Eligibility as a Teacher of Mathematics set forth in *N.J.A.C.* 6A:9-8.1(a)2, which requires that a candidate shall “[a]chieve a cumulative GPA of at least 2.50 when a GPA of 4.0 equals an A grade for students graduating before September 1, 2004 in a baccalaureate degree program, higher degree program or a state-approved post-baccalaureate certification program...” Moreover, pursuant to *N.J.A.C.* 6A:9-17.16(b), “under no circumstance” is the Board permitted to waive this requirement.

¹ It is noted that at no time prior to the expiration of the regulatory timeline for the submission of exceptions did petitioner request an extension of time within which to file.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 23, 2011

Date of Mailing: September 23, 2011

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36 (*N.J.S.A.* 18A:6-9.1)