

LAURIE WARD, :  
PETITIONER :  
V. : COMMISSIONER OF EDUCATION  
NEW JERSEY DEPARTMENT OF : DECISION  
EDUCATION, STATE BOARD  
OF EXAMINERS, :  
RESPONDENT. :

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SYNOPSIS

In this case on remand, petitioner appealed the determination of the respondent – the State Board of Examiners (SBE) – that she had not met the requirements for issuance of a certificate of eligibility (CE) for the position of Teacher of Preschool through Grade Three. Specifically, the SBE disqualified twelve liberal arts credits out of 125 credit hours which petitioner completed at Baptist Bible College, leaving her short of the 60 liberal arts credits required for the CE she desires. Petitioner holds a Bachelor of Science degree from the college, where she majored in Bible. The parties mutually agreed to proceed without a hearing, and the SBE filed a motion for summary decision. The ALJ issued an Initial Decision in April 2015 in which she denied the SBE’s motion, reversed the SBE’s determination that petitioner had not met the requirements for the CE she had applied for, and granted summary decision in favor of petitioner. Upon review, the Commissioner remanded the matter back to the OAL, finding that he was unable to determine whether the SBE’s decision was consistent with applicable statutory and regulatory provisions since the ALJ made no findings of fact as to which course credits the SBE rejected – or which were counted – toward the 60 semester-hour liberal arts credits required under *N.J.A.C. 6A:9B-10.1(a)(3)*.

On remand, the ALJ indicated that she “made no further independent fact finding but recited the undisputed facts as conveyed by the parties,” and incorporated the legal analysis and conclusions of her April 2015 Initial Decision into her Initial Decision on remand, dated December 31, 2015.

Upon comprehensive review, the Commissioner found that the Initial Decision on remand did not address the Commissioner’s concerns set forth in his June 2015 decision, which remanded the matter to the OAL; the ALJ’s acknowledgement that she simply recited the facts as found in her April 2015 Initial Decision and conducted no further fact finding is in direct contravention of the Commissioner’s instructions; the Initial Decision on remand does not make factual findings as to which course credits were accepted by the SBE toward the 60 semester-hour credit requirement in liberal arts under *N.J.A.C. 6A:9B-10.1(a)(3)*, nor which credits were rejected by the SBE; and such factual findings are necessary for the Commissioner to determine whether the SBE acted consistently with applicable statutory and regulatory provisions when it denied the petitioner’s application for a CE. Accordingly, the Commissioner remanded the matter to the OAL for further action and development of the record consistent with the instant decision and the Commissioner’s June 2015 decision.

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.

February 16, 2016

OAL DKT. NO. EDU 15958-15  
(EDU 13688-14 ON REMAND)  
AGENCY DKT. NO. 234-8/14

LAURIE WARD, :  
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The record of this matter, the Initial Decision issued April 28, 2015 by the Office of Administrative Law (“OAL”), and the subsequent Initial Decision issued December 31, 2015 (in response to the Commissioner’s June 12, 2015 remand) have been reviewed. The exceptions filed by respondent, State Board of Examiners (“Board”) – pursuant to *N.J.A.C.* 1:1-18.4 – were also considered. For the reasons stated herein, the Commissioner is constrained to remand the matter to the OAL for further proceedings and for development of a factual record.

In this action, petitioner disputes the Board’s May 22, 2014 decision denying her application for issuance of a Teacher of Preschool through Grade Three Certificate of Eligibility. The Board denied her application because she was 12 credits short of the 60 semester-hour credits required under *N.J.A.C.* 6A:9B-10.1(a)(3).<sup>1</sup> Specifically, the Board found that certain courses petitioner took in theology and bible do not qualify as liberal arts courses because they “are not intended to provide general knowledge, rather, in depth study of a particular discipline” and “do not suffice as providing a one-to-one correspondence between the licensure deficiency, i.e., 12 liberal arts credits, and what [petitioner] proffered.” (Board Decision at 2-3).

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<sup>1</sup> *N.J.A.C.* 6A:9B-10.1(a)(3) requires that candidates seeking a Preschool through Grade Three Certificate of Eligibility “complete a liberal arts, science, dual content or interdisciplinary academic major or a minimum of 60 semester hour credits in liberal arts and/or science.” The regulation was cited as *N.J.A.C.* 6A:9-11.1(a)(3) prior to the amendments which took effect on July 7, 2014.

Petitioner appealed the Board's determination. Respondent filed a motion for summary decision, and the parties agreed to proceed without a hearing. In her April 28, 2015 decision, the Administrative Law Judge ("ALJ") denied respondent's motion, reversed the Board's determination, and granted summary decision in favor of petitioner.

Upon review, in his June 12, 2015 decision, the Commissioner found that "no findings of fact were made by the ALJ as to which course credits the Board had rejected, or which course credits the Board counted toward the 60 semester-hour liberal arts credits requirement under *N.J.A.C. 6A:9B-10.1(a)(3)*." *Ward v. Board of Examiners*, Commissioner Decision No. 198-15, decided June 12, 2015, at 2-3. The Commissioner further found that the Initial Decision lacked citations to the record and the requisite listing of exhibits admitted into evidence. *Id.* at 3. Finally, the Commissioner remanded the matter to the OAL because "[a]bsent specific factual findings as to which course credits were accepted by the Board in satisfaction of the 60 semester-hour liberal arts credits requirement under *N.J.A.C. 6A:9B-10.1(a)(3)*, which course credits were rejected by the Board, and which course descriptions were evaluated by the Board in connection with petitioner's subsequent request for a credentials review," he was unable to determine whether the Board's decision was consistent with applicable statutory and regulatory provisions. *Ibid.*

On remand, the ALJ indicated in the December 31, 2015 Initial Decision that she "made no further independent fact finding but recited the undisputed facts as conveyed by the parties." (Initial Decision at 3). The ALJ then incorporated the legal analysis and conclusions of the Initial Decision issued April 28, 2015. (*Ibid.*)

In its exceptions to the December 31, 2015 Initial Decision, respondent asserts that the matter must be remanded because it fails to address the deficiencies identified in the Commissioner's June 12, 2015 remand decision. (Respondent's Exceptions at 2-4). Specifically, respondent contends that the parties did not have the opportunity to address the issues raised in the Commissioner's remand decision because they did not receive a Notice of Hearing, pre-hearing conference notice, or a request for supplemental briefing from the ALJ. (*Id.* at 3). Instead, respondent argues, "the ALJ issued a second

Initial Decision elaborating on the facts from the parties' original moving papers, ignoring the specific issues identified in the Commissioner's decision[.]” (*Ibid.*).

Upon a comprehensive review of the record in this matter, the Commissioner agrees with respondent that the Initial Decision did not address the Commissioner's concerns set forth in the June 12, 2015 remand decision. The ALJ acknowledged that she simply recited the facts as found in her April 28, 2015 decision and conducted no further fact finding, in direct contravention of the Commissioner's instructions. Indeed, the Initial Decision does not make factual findings as to which course credits were accepted by the Board toward the 60 semester-hour credit requirement in liberal arts under *N.J.A.C. 6A:9B-10.1(a)(3)* and which credits were rejected by the Board. Such factual findings are necessary for the Commissioner to determine whether the Board acted consistently with applicable statutory and regulatory provisions when it denied petitioner's application.

Accordingly, the Commissioner hereby remands this matter to the OAL, pursuant to *N.J.A.C. 1:1-18.7*, for further action and development of the record consistent with this decision and the Commissioner's decision issued June 12, 2015.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: February 16, 2016

Date of Mailing: February 16, 2016