

New Jersey Commissioner of Education

Final Decision

Scott Lloyd,

Petitioner,

v.

New Jersey State Board of Examiners,

Respondent.

Synopsis

Pro se petitioner challenged the decision of the State Board of Examiners (SBE) that he had not met the requirements for issuance of a Teacher of Physical Education Certificate of Eligibility (CE). The SBE contended that petitioner lacked the requisite cumulative grade point average (GPA) and the required courses in physical education in the area of individual, dual or team sports. The matter was heard via Zoom on May 14, 2021.

The ALJ found, *inter alia*, that: applicants for a certificate to teach Health and Physical Education must meet the requirements set forth in *N.J.A.C. 6A:9B-10.3(b)*; pursuant to the plain language of the regulations, an applicant must have a cumulative GPA of 2.75 and have completed courses or experiences in certain prescribed areas; petitioner herein only earned a 2.15 cumulative GPA; additionally, after reconsideration of the experience of petitioner by the SBE, he was still deficient eight credit hours in the area of individual, dual and team sports; petitioner does not dispute these facts, nor did he offer any additional experience which could be substituted; petitioner's argument that the GPA requirement is unfair is without merit. The ALJ concluded that petitioner has not demonstrated that he met the requirements of the regulations, nor that there was anything improper about the board's decision to deny his application; accordingly, the ALJ upheld the SBE's determination and dismissed the petition.

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

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.

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OAL Dkt. No. EDU 15388-19

Agency Dkt. No. 219-8/19

New Jersey Commissioner of Education
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v.

New Jersey Department of Education,
State Board of Examiners,


Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon such review, the Commissioner agrees with the Administrative Law Judge (ALJ) that the New Jersey State Board of Examiners did not act in an arbitrary, capricious, or unreasonable manner when it denied petitioner's application for a Teacher of Physical Education Certificate of Eligibility (CE). The Commissioner further concurs with the ALJ that petitioner did not meet the requirements for a CE because he failed to earn the 2.75 grade point average required by *N.J.A.C.* 6A:9B-8.3(b)(1), and he was eight credits short in the subject of individual, dual, and team sports, as set forth under *N.J.A.C.* 6A:9B-10.3.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter for the reasons expressed therein, and the petition is hereby dismissed.

IT IS SO ORDERED.¹


ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 9, 2021
Date of Mailing: July 9, 2021

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SCOTT LLOYD,

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF
EDUCATION, STATE BOARD OF EXAMINERS,**

Respondent.

OAL DKT. NO. EDU 15388-19

AGENCY DKT. NO. 219-8/19

Scott Lloyd, petitioner pro se

Michal Czarnecki, Deputy Attorney General, for respondent (Gurbir S. Grewel, Attorney General of New Jersey, attorney)

Record Closed: May 14, 2021

Decided: June 1, 2021

BEFORE **SARAH G. CROWLEY**, ALJ:

STATEMENT OF THE CASE

Petitioner Scott Lloyd (petitioner), challenges the denial of his application for a Teacher of Physical Education Certificate of Eligibility by the State Board of Examiners (the Examiners). The Examiners reply that Lloyd failed to meet the regulatory requirements for issuance of this certificate set forth in N.J.A.C. 6A:9B-8.3 and N.J.A.C. 6A:8B-10.3(a)(1). The reasons for the denial were that he lacked the requisite cumulative grade point average (GPA) requirements in the regulations and was lacking the required courses in physical education in the area of individual, dual or team sports. The Board substituted some of his experience for six credits hours, but he was still deficient eight credit hours in this area.

PROCEDURAL HISTORY

Petitioner filed a petition of appeal with the Commissioner of Education (the Commissioner) on August 14, 2019. A Motion to Dismiss, in lieu of an Answer, was filed by the Examiners, and the contested case was transmitted to the Office of Administrative Law (OAL) on October 6, 2019. The motion was converted to a summary decision motion, which was denied. After discovery was conducted, the matter was heard via zoom on May 14, 2021, and the record closed on May 16, 2021 after a post hearing submission by the petitioner.

FACTUAL DISCUSSION AND FINDINGS

Scott Lloyd represented himself in the proceeding. He testified that he thought the cumulative grade point average requirements in the regulations were unfair. Many of his classes towards his degree in Chiropractic care were taken on a pass fail and he did not have a choice in that. Petitioner conceded that he did not have the requisite 2.75 cumulative GPA required under N.J.A.C. 6A:9B-8.3(b)(1). Lloyd's cumulative GPA is 2.15. Petitioner did not argue that his pass-fail courses were entitled to some grade point average above the 2.15. He did not argue that any particular alternative experience should have been credited with more than the six hours that were provided in the area of required coursework.

Rani Singh works for the Office of Credential and Induction with the State Board of Examiners. She testified that she reviewed the application of the petitioner for a Certificate of Eligibility to teach Health and Physical Education. She discussed the requirements of the certificate that are set forth in N.J.A.C. 6A:9B-10.3. Petitioner was deficient in credits in certain subject matter areas in addition to not having the requisite GPA. Fourteen semester hours are required in individual, dual or team sports. After reviewing petitioner's transcripts and work experience, the Board did give him an additional six hours for his work as a surfing instructor and a strength and conditioning coach towards the requirements in Individual, Dual or Team Sports. However, he was still short eight credit hours in this area.

Ms. Singh set forth the requirements in N.J.A.C. 6A: 9B-8.39(b)(1). She testified that a candidate who graduated before September 1, 2016 shall have a cumulative GPA of at least

2.75 in a baccalaureate degree program. The petitioner graduated a 1996 from an accredited college but only earned a cumulative GPA of only 2.15. She also discussed the other requirements and testified that the regulations do not permit any substitution of professional background or relaxing or waving the GPA requirements. Accordingly, the application was denied for the failure to meet the GPA requirements as well as being six credits short in the area of individual, dual or team sports.

The above facts are not in dispute and are **FOUND** as **FACT**.

LEGAL ANALYSIS AND CONCLUSIONS

An applicant for a certificate to teach Health and Physical Education must meet the requirements set for in N.J.A.C. 6A:9B-10.3(b). Pursuant to the plain language of these regulations an applicant must have a cumulative GPA of 2.75 and have received course or experiences in certain areas. The petitioner had only a 2.15 cumulative GPA. In addition, after reconsideration of the experience of petitioner he was still deficient eight credit hours in the area of individual, dual and team sports. The petitioner does not dispute these facts. He does not offer any additional experience which he submits should be substituted. He argues that the GPA requirements are unfair. The petitioner has not demonstrated that he met the requirements of the regulations, or that there was anything improper about the board's decision.

The decision by the Board in this matter was consistent with the applicable statutory and regulatory provisions. The petitioner has the burden of demonstrating by a preponderance of the credible evidence that he is entitled to the certification he seeks. Farrar v. State Bd. of Exam'rs, EDU 13763-08, Initial Decision (April 27, 2010), aff'd, Comm'r (July 26, 2010), <<http://njlaw.rutgers.edu/collections/oal/>>. Moreover, an administrative **agency's interpretation of its own regulations** is entitled to substantial weight. Allen v. PFRS, 233 N.J. Super. 197, 207 (App. Div. 1989). The petitioner failed to meet this burden.

I, therefore, **CONCLUDE** that the Examiners' decision was consistent with applicable law and thus, must be upheld.

ORDER

Based on the foregoing, it is hereby **ORDERED** that the Board of Examiners' Denial of the Certificates in **AFFIRMED** and the petition of appeal is **DISMISSED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 1, 2021 _____

DATE



SARAH G. CROWLEY, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

SGC/nd

APPENDIX

WITNESSES

For Petitioner:

Scott Lloyd

For Respondent:

Rani Singh

EXHIBITS

For Petitioner:

P-1 Letter from the petitioner

For Respondent:

- R-1 Letter from the Board to the petitioner, dated July 1, 2019
- R-2 Letter from the Board to the petitioner, dated May 3, 2019
- R-3 College Transcript of petitioner, University of Western States
- R-4 College Transcript of petitioner, University of Western States
- R-5 College Transcript, Ocean County Community College
- R-6 Credential Review Summary
- R-7 Evaluation of Credentials
- R-8 Letter to petitioner from the Board, dated March 5, 2019
- R-9 Letter from petitioner to the Board, dated April 8, 2019
- R-10 Letter to petitioner from the Board, dated February 20, 2019
- R-11 Recommendation letter from Samantha Hendrickson, Excelsior College
March 12, 2019
- R-12 Letter to Board from petitioner, dated January 23, 2019