

New Jersey Commissioner of Education
Final Decision

Shira Lieberman,

Petitioner,

v.

New Jersey State Board of Examiners,

Respondent.

Synopsis

In October 2019, petitioner appealed the June 2016 determination of the respondent State Board of Examiners (SBE) that she had not met the requirements for issuance of a school administrator’s certificate of eligibility (CE). Petitioner contended that she had met the requirements for the school administrator CE, or their equivalent; further, petitioner brought up the issue of her application for a principal CE in 2019, which occurred subsequent to the filing of the instant petition and was denied. The SBE filed a motion to dismiss in lieu of an answer.

The ALJ found, *inter alia*, that: there are no issues of material fact in this case, and the matter is ripe for summary decision; pursuant to *N.J.A.C.* 6A:3-1.3(i), petitioner’s appeal is time-barred as it was filed well out of the 90-day time limit, and circumstances do not warrant relaxation of the rule; regarding the principal CE denial, that issue was not properly pending before the OAL and could not be addressed. Accordingly, the ALJ granted the Board’s motion for summary decision and dismissed the petition. However, because there was confusion regarding whether the principal certificate denial was “incorporated into” the existing appeal of the school administrator denial, the ALJ recommended that the petitioner should be permitted to file a petition of appeal regarding the principal certificate denial within 90 days of the date of the Initial Decision.

The Commissioner concurred with the ALJ that the petition of appeal regarding the administrator certificate denial is time-barred by *N.J.A.C.* 6A:3-1.3(i); additionally, the Commissioner agreed that the principal certificate denial was not properly pending before the OAL, as the matter transmitted to the OAL was limited to the administrator certificate denial; no petition was ever filed regarding the principal certificate denial, nor was the original petition of appeal amended to include that issue; and because the ALJ did not have jurisdiction over the principal certificate denial, she lacked the authority to order any relief regarding that denial. The Commissioner concluded that the ALJ’s recommendation that petitioner be permitted to file a petition of appeal regarding the principal certificate denial was not appropriate. Accordingly, the Initial Decision of the OAL was adopted with modification, and 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>

New Jersey Commissioner of Education

Final Decision

Shira Lieberman,

Petitioner,

v.

New Jersey Department of Education,
Office of Certification and Induction,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), and the exceptions filed by respondent pursuant to *N.J.A.C.* 1:1-18.4 have been reviewed and considered.¹

Petitioner applied for a school administrator certificate of eligibility in 2015. Her application was denied by the State Board of Examiners (Board) on June 9, 2016 (administrator certificate denial). In October 2019, petitioner filed a petition of appeal regarding the administrator certificate denial. Following transmittal of the matter to the Office of Administrative Law (OAL), petitioner applied for a principal certificate of eligibility, and the Board denied her application on May 14, 2020 (principal certificate denial). Petitioner did not file a petition of appeal regarding the principal certificate denial. The ALJ ruled that summary decision was appropriate and the petition of appeal challenging the administrator certificate denial was barred by *N.J.A.C.* 6A:3-1.3(i), because it was filed well outside of the 90-day time

¹ Petitioner did not file a reply to respondent's exceptions.

limit, and the circumstances did not warrant relaxation of the rule. The ALJ also held that the principal certificate denial was not properly pending before the OAL and could not be addressed. Notwithstanding this conclusion, the ALJ recommended that because there was confusion regarding whether the principal certificate denial was “incorporated into” the existing appeal of the school administrator denial, petitioner should be permitted to file a petition of appeal regarding the principal certificate denial within 90 days of the date of the Initial Decision.

In its exceptions, the Board argues that the OAL had no jurisdiction over the principal certificate denial and, therefore, the recommendation allowing petitioner to file a new appeal challenging that denial was improper. The Board also contends that *N.J.A.C. 6A:3-1.3(i)* should be strictly applied to bar any new petition of appeal, because it has been more than 90 days since the date of the principal certificate denial.

Upon review, the Commissioner concurs with the ALJ that the petition of appeal regarding the administrator certificate denial is time-barred by *N.J.A.C. 6A:3-1.3(i)*, for the reasons detailed in the Initial Decision. The Commissioner also agrees with the ALJ that the principal certificate denial was not properly pending before the OAL. The matter transmitted to the OAL was limited to the administrator certificate denial. No petition of appeal was ever filed regarding the principal certificate denial, nor was the original petition of appeal amended to include the principal certificate denial.² Because the ALJ did not have jurisdiction over the principal certificate denial, she lacked the authority to order any relief regarding that denial, and

² While the ALJ found that there was confusion regarding whether the principal certificate denial was “incorporated into” the existing appeal of the administrator certificate denial, there is no basis for this finding. The Board’s May 14, 2020 decision, which referenced the administrator certificate denial, did so only in reviewing the history of the various proceedings before the Board, and it did not in any way suggest that the matters were consolidated or should otherwise be heard together at the OAL. Moreover, petitioner has been represented throughout the proceedings by counsel, who should have been aware that a petition of appeal that comports with *N.J.A.C. 6A:3* is required to challenge any action by the Board, and that matters are not transmitted to the OAL in the absence of appropriate pleadings.

the Commissioner concludes that the recommendation that petitioner be permitted to file a petition of appeal regarding the principal certificate denial was inappropriate.³

Accordingly, the Initial Decision is adopted as the final decision in this matter, as modified herein. Respondent's motion for summary decision is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.⁴


ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 19, 2021
Date of Mailing: July 20, 2021

³ For this same reason, the Commissioner declines to rule on the timeliness of any petition of appeal regarding the principal certificate denial. The Commissioner notes that petitioner has filed such a petition of appeal, which has been assigned Agency Dkt. No. 89-6/21 and is currently under review. Any issues of timeliness that the Board wishes to raise in that matter will be addressed in the Commissioner's decision therein.

⁴ 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

SUMMARY DECISION

OAL DKT. NO. EDU 15924-19

AGENCY DKT. 272-10/19

SHIRA LIEBERMAN,

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF
EDUCATION, OFFICE OF CERTIFICATION
AND INDUCTION,**

Respondent.

Michael I. Inzelbuch, Esq., appearing for petitioner

Aimee Blenner, Deputy Attorney General, appearing for respondent (Gurbir S. Grewal, Attorney General of New Jersey, attorney)

Record Closed: October 14, 2020

Decided: April 26, 2021

BEFORE **SUSAN M. SCAROLA,** ALJ (Ret., on recall):

STATEMENT OF THE CASE

The petitioner, Shira Lieberman, appeals the 2015 denial of her application for a school administrator's Certificate of Eligibility (CE) by the respondent, the New Jersey

State Board of Examiners (Board), alleging that she has the necessary qualifications for the certificate, or has met their equivalency.

She also raises the issue of the denial of an application for a principal's CE by the Board in 2020, subsequent to the filing of this appeal.

PROCEDURAL HISTORY

On March 13, 2015, the petitioner applied for a school administrator's CE. After contacting the petitioner to obtain additional supporting documents for her application, the Board denied the application on June 9, 2016. This application consequently expired on March 6, 2017.

On October 3, 2019, the petitioner sent a demand requesting the production of documents, seeking information regarding her 2015 application. On or about October 11, 2019, the petitioner appealed. On October 31, 2019, in lieu of an answer, the Board moved to dismiss the appeal because no action for school administrator was then pending; the appeal failed to state a claim on which relief could be granted; and the appeal had been filed well out of time. The matter was transmitted to the Office of Administrative Law (OAL), where it was filed on November 12, 2019. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

The petitioner contends that after her appeal was filed, the parties agreed in December 2019 that she could apply for a principal's CE. This application was first deemed incomplete on or about February 7, 2020. After a "credentials review" committee convened on February 28, 2020, the Board denied the petitioner's application for a principal's certificate on May 14, 2020.¹

The decision of the Board issued on May 19, 2020, contains the following language in a footnote:

¹ No record of an appeal from that determination has been received, although the petitioner argues it should be included in this appeal.

[The petitioner] initially sought to appeal both the denial of a school administrator certificate as well as the principal CE, but later indicated via electronic mail that she no longer wished to have the Board consider an appeal of the denial of the school administrator certificate.

The petitioner appears to have incorporated the denial of the principal's CE into the October 2019 appeal of the denial of the school administrator CE without filing a separate appeal of that denial to the Board or without a subsequent transmittal being sent from the Board to the OAL.

The motion to dismiss the appeal of the denial of the school administrator's CE is being considered as a motion for summary decision. The petitioner filed a response on September 8, 2020; the Board filed a reply on October 6, 2020; and the petitioner filed a sur-reply on October 14, 2020, at which time the record closed.²

FACTS

The procedural history sets forth the basic facts that are pertinent to this appeal. On March 13, 2015, the petitioner applied for a school administrator's CE. On March 27, 2015, the Board considered that the application was incomplete and requested additional information and supporting documents from the petitioner in support of her application. This included official transcripts from the university she attended and verification of program completion. The petitioner was advised that her application would be considered "incomplete" until the items were presented.³ Numerous email exchanges occurred regarding the documents provided, with the last dated June 9, 2016, with an indication that some information remained lacking and that she "should go for a credentials review" as noted in the email chain. Nothing further occurred after that and the application consequently expired on March 6, 2017.

² This Initial Decision is filed in accordance with Governor Phillip Murphy's Executive Order 127, issued April 14, 2020, created by the COVID-19 emergency, which provided that deadlines for filing of a recommended decision pursuant to N.J.S.A. 52:14B-10(c) in any non-emergent contested case were extended by the number of days of the Public Health Emergency declared in Executive Order No. 103 (2020) plus an additional 90 days.

³ The application allegedly lacked proof that the petitioner had completed a master's degree in educational leadership or that she had completed an appropriate course of graduate study, as required by N.J.A.C. 6A:9B-12.4.

Then, in October 2019, the petitioner, through counsel, sent a demand requesting the production of documents, seeking information about the 2015 application. On or about October 11, 2019, the petitioner appealed the denial of the school administrator's CE. In lieu of an answer, the Board filed a motion to dismiss, alleging that the appeal had been filed out of time. The matter was then transmitted to the OAL, where it was filed on November 12, 2019.

While the matter was pending in the OAL, settlement discussions commenced. The petitioner proposed that she be granted either a school administrator's certificate or a principal's certificate to resolve the matter. In December 2019 she filed an application for a principal's certificate with the Board that was denied on May 14, 2020. The petitioner appears to have filed no appeal of that denial, under the assumption that the appeal of the principal's certificate has been incorporated into this appeal of the school administrator's certificate denial.

LEGAL ANALYSIS

Summary decision is appropriate when "the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law." N.J.A.C. 1:1-12.5(b). Summary decision is analyzed in accordance with the principles set forth by the Supreme Court in Brill v. Guardian Life Insurance Co. of America, 142 N.J. 520 (1995). Nat'l Transfer v. N.J. Dep't of Env'tl. Prot., 347 N.J. Super. 401, 408-09 (App. Div. 2002). Determination of whether there exists a "genuine issue" of material fact that precludes summary decision requires the judge to consider whether the evidence presented, viewed in favor of the non-moving party, is sufficient to permit the fact finder to resolve the dispute in favor of the non-moving party. Brill, 142 N.J. at 540. The "judge's function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." Ibid. (citation omitted).

Here, no facts are in dispute.

Timeliness of appeal; 90-day rule

The initial issue that must be determined is whether this petition is time barred pursuant to N.J.A.C. 6A:3-1.3(i). In relevant part, this regulation reads:

The petitioner shall file a petition no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other action by the district board of education, individual party, or agency, that is the subject of the requested contested case hearing.

In the leading case of Kaprow v. Berkeley Township Board of Education, 131 N.J. 572, 582 (1993), the Supreme Court of New Jersey upheld the 90-day limitations period, as it “provides a measure of repose, an essential element in the proper and efficient administration of the school laws. It stabilizes the relationship between the teachers and the administration The limitation period gives school districts the security of knowing that administrative decisions regarding the operation of the school cannot be challenged after ninety days.” Due to these cited reasons, the 90-day rule is strictly applied.

Additionally, the Court explained that “[a]dequate notice must be sufficient to inform an individual of some fact that he or she has a right to know and that the communicating party has a duty to communicate.” Kaprow, 131 N.J. at 587 (citing Burns v. West Am. Corp., 137 N.J. Super. 442, 446 (Dist. Ct. 1975)). Adequate notice must be sufficient to further the twofold purpose of the 90-day rule: first, “to stimulate litigants to pursue a right of action within a reasonable time so that the opposing party may have a fair opportunity to defend, thus preventing the litigation of stale claims,” and, second, “‘to penalize dilatoriness and serve as a measure of repose’ by giving security and stability to human affairs.” Ibid. (citations omitted).

Finally, Kaprow held that an attempt to resolve the claims through negotiations is irrelevant and does not toll the running of the limitations period. Id. at 588 (citing Riely v. Hunterdon Central Bd. of Educ., 173 N.J. Super. 109, 413 (App. Div. 1980)). The 90-day rule is triggered “once notice of the final order, ruling or other action is given, and not

when the injury is felt by the petitioner.” See Ciamillo v. Ridgefield Bd. of Educ., EDU 1805-04, Initial Decision (July 15, 2005) (citing Nissman v. Long Beach Island Bd. of Educ., 272 N.J. Super. 373, 379–81 (App. Div. 1994), adopted, Acting Comm’r (August 31, 2005), aff’d, State Bd. (January 4, 2006), <http://njlaw.rutgers.edu/collections/oal/>).

This matter relates only to petitioner’s application for a school administrator’s certificate, even though petitioner’s arguments also pertain to the principal’s certificate applied for in December 2019. The petitioner’s application had become dormant and she took no action to activate it. Accordingly, the application was considered denied. No appeal was timely filed.

In 2019, years after the 90-day time period had expired, she sent a demand for production of documents filed in this appeal. The petitioner argues that as part of an agreement, she filed for a principal’s certificate in December 2019, and that due to its denial, the 90-day limitation is inapplicable. It is well-settled law that the dispute must be resolved through litigation; other avenues such as negotiation do not toll the 90-day rule. Taylor v. Hardyston Bd. of Educ., EDU 1049-05, Initial Decision (September 13, 2005) (citing Wise v. Trenton Bd. of Educ., 2000 N.J. AGEN LEXIS 462), adopted, Comm’r (October 27, 2005), <http://njlaw.rutgers.edu/collections/oal/> (where the ALJ held that the petitioner’s attempt to change his employment contract by asking the board to change some terms did not toll the 90-day rule); see also Pacio v. Lakeland Reg’l High Sch. Dist. Bd. of Educ., 1989 S.L.D. 2060, 2069 (where the Commissioner clarified that requests to a board for reconsideration of its final decision did not toll the 90-day rule); Kaprow, 131 N.J. at 588 (where the Court held that an attempt to resolve a dispute through negotiation with the board was irrelevant, as it did not negate the fact of receipt of adequate notice and did not toll the running of the time limit). Similarly, filing an untimely appeal and then a separate application for a different certificate after the appeal had been filed cannot act to toll the 90-day time limitation.

The petitioner does not dispute that she had adequate notice that her application for a school administrator’s certificate had been denied. Rather, she argues that her claim was not time-barred because the claim implicated an instance in which the 90-day rule should be relaxed.

Relaxation of 90-day rule

If the 90-day rule is triggered, it should be waived only due to a recognized exception such as public interest. N.J.A.C. 6A:3-1.16 provides that when rules such as the 90-day rule “do not reflect a specific statutory requirement or an underlying rule of the OAL, they may be relaxed or dispensed with by the Commissioner, in the Commissioner’s discretion, in any case where a strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice.”

However, the 90-day rule is strictly construed and applied almost without exception. In Riely v. Hunterdon Central High School Board of Education, 173 N.J. Super. 109, 113 (App. Div. 1980), the court noted that a teacher who proceeded to arbitration was not thereby relieved from compliance with the 90-day filing requirement. Generally, the 90-day rule is mandatory and begins to run on the date that notice is received of the action taken. Millford Bd. of Educ. v. Dep’t of Educ., EDU 738-05, Initial Decision (March 3, 2005), adopted, Deputy Comm’r (June 2, 2005), <http://njlaw.rutgers.edu/collections/oal/>; see also Wynne v. Tillery, 96 N.J.A.R.2d (EDU) 995; Portee v. Newark Bd. of Educ., 94 N.J.A.R.2d (EDU) 381.

“[T]he authority to relax or waive the rule is rarely invoked and is generally unsuccessful unless strict adherence would be inappropriate, unnecessary or where injustice would occur.” Coles v. Bayonne Bd. of Educ., EDU 10535-06, Order on Emergent Relief (November 2, 2006), <http://njlaw.rutgers.edu/collections/oal/>, adopted, Comm’r (December 8, 2006), <https://www.nj.gov/education/legal/decisions/>, aff’d, State Board (April 4, 2007), <http://njlaw.rutgers.edu/collections/oal/> (citing DeMaio v. New Providence Bd. of Educ., 96 N.J.A.R.2d (EDU) 449, 453). Further, three circumstances that may be exempt from the 90-day rule include: 1) those involving important and novel constitutional questions, 2) informal or ex parte determinations of legal questions by administrative officials, and 3) important public, rather than private, interests which require adjudication or clarification. Brunetti v. Borough of New Milford, 68 N.J. 576, 586 (1975).

Extraordinary relief to relax this rule is granted sparingly. “It will be relaxed only where there is some compelling reason for the same, such as the presence of substantial constitutional or other issue of fundamental public interest beyond that of concern only to the parties themselves.” Portee, 94 N.J.A.R.2d (EDU) at 384 (quoting Bogart v. E. Orange Bd. of Educ., EDU 6245-82, Initial Decision (January 26, 1983), adopted, Comm’r (March 14, 1983)); see also Graves v. State-Operated Sch. Dist. of Newark, EDU 10677-14, Initial Decision (April 28, 2015), <http://njlaw.rutgers.edu/collections/oal/>, adopted, Comm’r (June 15, 2015), <https://www.nj.gov/education/legal/decisions/>.

In addition to a substantial constitutional issue or a matter of significant public interest, “[t]he 90-day time limitation has been relaxed to resolve a dispute or delay attributable to the Board of Education” Kaechele v. N. Valley Reg’l High Sch. Dist. Bd. of Educ., EDU 12811-14, Initial Decision (August 13, 2015), <http://njlaw.rutgers.edu/collections/oal/> (citing Bland-Carter v. State-Operated Sch. Dist. of Newark, EDU 1505-00, Initial Decision (June 15, 2000), adopted, Comm’r (September 14, 2000)), adopted, Comm’r (September 28, 2015), <https://www.nj.gov/education/legal/decisions/>.

Obviously, every time an otherwise meritorious claim is time barred, for whatever reason, there is, in a general sense, an “injustice.” . . . The point to be made is that there will always be an arguably harsh result when the 90-day rule is applied. But the cases which have interpreted and applied the rule teach that this is no reason not to use it. Indeed, if the rule was relaxed simply because the result would be harsh if applied, then the rule might as well be ignored in its entirety on nearly every occasion.

[McCrea v. Upper Saddle River Bd. of Educ., 96 N.J.A.R.2d (EDU) 817 (quoting Bogart, EDU 6245-82, Initial Decision).]

Here, the petitioner argues that “during the pendency of this action she re-applied and was rejected [for a principal’s certificate] in May 2020, rendering the 90-day limitations period inapplicable.” The petitioner argues that using the 90-day rule was arbitrary and capricious, and denied her the right of appeal. But Bogart clearly set the standard that the 90-day rule will be relaxed only for a compelling reason that is beyond that of concern only to the parties themselves.

The petitioner had adequate notice of the decision on her school administrator CE on June 9, 2016. She could have pursued her pending action or appealed the denial of the certificate that was then available to her for 90 days. The petitioner's demand for the production of documents and her appeal filed in October 2019 did not render the 90-day limitation period inapplicable.

Further, the petitioner has not asserted compelling reasons, such as the presence of a substantial constitutional or other issue of fundamental public interest beyond that of concern only to the parties, nor did she demonstrate that strict adherence to the time limitation would possibly result in an injustice. See Portee, 94 N.J.A.R.2d (EDU) at 384. There is no explanation for the years-long delay to the appeal. Petitioner argues that "to require [her] to refile yet another application for certification, just to be denied again, and only for her to file this exact appeal, would be a waste of judicial resources and would be futile as was demonstrated" However, this is not a recognized or compelling reason to relax the time requirements.

The petitioner contends that discretion can be used to relax the 90-day time requirements; however, that discretion is not used haphazardly, but only in certain compelling instances. The facts of this matter do not warrant that discretion to relax the time requirements.

Appeal of denial of principal's certificate

The petitioner contends that because she has been denied the principal's certificate while this appeal was pending, a relaxation of the 90-day rule should be permitted. But that argument is not compelling.

N.J.A.C. 1:1-3.1 provides that actions are commenced in the state agencies:

- (a) A contested case shall be commenced in the State agency with appropriate subject matter jurisdiction. A contested case may be commenced by the agency itself or by

an individual or entity as provided in the rules and regulations of the agency.

(b) A request for a contested case hearing may not be filed with the Office of Administrative Law by the individual or entity requesting the hearing, except as set forth in N.J.A.C. 1:4B-3.1.

The procedural rule is clear: although the application for a principal's certificate was denied while this appeal of the school administrator's certificate was pending in the OAL, no appeal of that denial was filed directly with the agency and no appeal of that denial was transmitted to the OAL for determination. No individual can file an appeal directly with the OAL.

The petitioner contends that the principal's certificate issue is ripe for determination. While that issue may be ripe, the matter is not in the OAL for determination. Thus, the issue of the denial of the principal's certificate is not properly pending within the OAL and cannot be addressed.

Withdrawal of appeal of denial of school administrator's certificate

The determination of the Board in the decision regarding the appeal of the denial of the principal's certificate noted:

[The petitioner] initially sought to appeal both the denial of a school administrator certificate as well as the principal CE, but later indicated via electronic mail that she no longer wished to have the Board consider an appeal of the denial of the school administrator certificate.

N.J.A.C. 1:1-19.2 provides for the withdrawals of matters pending in the OAL:

(a) A party may withdraw a request for a hearing or a defense raised by notifying the judge and all parties. Upon receipt of such notification, the judge shall discontinue all proceedings and return the case file to the Clerk. If the judge deems it advisable to state the circumstances of the withdrawal on the record, the judge may enter an initial

decision memorializing the withdrawal and returning the matter to the transmitting agency for appropriate disposition.

(b) When a party withdraws, the Clerk shall return the matter to the agency which transmitted the case to the Office of Administrative Law for appropriate disposition.

(c) After the Clerk has returned the matter, a party shall address to the transmitting agency head any motion to reopen a withdrawn case.

Here, it appears that while the petitioner may have indicated that she wished to withdraw her appeal of the denial of the school administrator's certificate, she failed to notify the judge or the OAL. Had this desire to withdraw that appeal been conveyed sooner, the matter would have been dismissed earlier and returned to the agency.

However, due to the misunderstanding and confusion as to whether the denial of the application for a school principal's certificate was incorporated into this appeal of the denial of the school administrator's certificate, given the footnote in the decision of the Board on May 19, 2020, in which the Board acknowledged that it was aware that the petitioner wished to appeal the denial of the principal's certificate, I recommend that if the petitioner still wishes to appeal the Board's denial of a principal's certificate, she be permitted to formally file her appeal within 90 days of this initial decision, or it will be deemed abandoned.

CONCLUSION

In conclusion, the Board's motion for summary decision of the denial of the school administrator's certificate is granted. The appeal was filed well out of time and no compelling reasons were provided to justify why the 90-day rule to file an appeal of an adverse determination should be relaxed.

However, due to the misunderstanding and uncertainty as to whether the denial of the application for a school principal's certificate was incorporated by the Board, without a formal transmittal, into this appeal of the denial of the school administrator's certificate, I recommend that if the petitioner wishes to pursue that matter, she be permitted to file

an appeal of the denial of the principal's certificate within 90 days of this initial decision, or it will be deemed abandoned.

ORDER

I **ORDER** that the Board's motion for summary decision regarding the denial of the school administrator's certificate of eligibility is **GRANTED**. The appeal is **DISMISSED**.

I further **ORDER** that the petitioner be permitted to formally file an appeal of the denial of the principal's certificate within 90 days of this initial decision, or it will be deemed abandoned.

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.

April 26, 2021

DATE



SUSAN M. SCAROLA, ALJ

(Ret., on recall)

Date Received at Agency:

Date Mailed to Parties:

SMS/cb

APPENDIX

WITNESSES

For petitioner:

None

For respondent:

None

EXHIBITS

For petitioner:

Brief and reply

For respondent:

Brief and sur-reply