

New Jersey Commissioner of Education
Final Decision

Robert C. Yaiser,

Petitioner,

v.

New Jersey State Board of Examiners,

Respondent.

Synopsis

Petitioner appealed the denial of his application for a School Administrator Certificate of Eligibility (CE) on the basis that he lacked completion of both an approved School Administrator Program and a 150-hour internship in educational leadership. The New Jersey State Board of Examiners (Board) filed a motion to dismiss in lieu of an answer to the petition.

The ALJ found, *inter alia*, that: the Board’s motion to dismiss was converted to a motion for summary decision pursuant to *N.J.A.C.* 1:1-12.5(a); there are no issues of material fact in this case and the matter is ripe for summary decision; the petitioner applied for a School Administrator CE in February 2019; to meet the requirements for this certificate, petitioner was required to complete all of five requirements delineated in *N.J.A.C.* 6A:9B-12.4; the Board determined that the petitioner’s application met and satisfied three of the above criteria, but that two of the criteria had not been met: he had not completed an approved School Administrator program pursuant to *N.J.A.C.* 6A:9B-12.4(a)(1); and he had not completed a 150-hour internship in educational leadership pursuant to *N.J.A.C.* 6A:9B-12.4(a)(3), nor had he demonstrated that he had met the equivalent with his teaching experience; petitioner acknowledged in his filings that he did not complete the required 150-hour internship in educational leadership until December 2019, a date well after his application had been filed with the Board and after the Board had met to consider petitioner’s appeal. The ALJ concluded that the Board had appropriately denied petitioner’s application for certification. Accordingly, summary decision was granted in favor of the Board, and the petition was dismissed.

The Commissioner concurred with the findings and determination of the ALJ in this matter. Accordingly, summary decision was granted in favor of the Board 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.

281-21

OAL Dkt. No. EDU 06932-20

Agency Dkt. No. 40-2/20

New Jersey Commissioner of Education
Final Decision

Robert C. Yaiser,

Petitioner,

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 and considered. The parties did not file exceptions.

Upon review, the Commissioner concurs with the Administrative Law Judge that the Board appropriately denied petitioner's application for certification.

Accordingly, the Board's motion for summary decision is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹



ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 4, 2021

Date of Mailing: November 4, 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

SUMMARY DECISION

OAL DKT. NO. EDU 06932-2020

AGENCY DKT. 40-2/20

ROBERT C. YAISER,

Petitioner,

v.

NEW JERSEY DEPARTMENT OF EDUCATION,

OFFICE OF CERTIFICATION AND INDUCTION,

Respondent.

George T. Daggett, Esq., appearing for petitioner (Law Offices of George T. Daggett, attorneys)

Jaclyn M. Frey, Deputy Attorney General, appearing for respondent (Andrew J. Bruck, Acting Attorney General of New Jersey, attorney)

Record closed: September 9, 2021

Decided: October 1, 2021

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

STATEMENT OF THE CASE

Petitioner, Robert C. Yaiser, appeals the denial of his application for a School Administrator Certificate of Eligibility (CE) by the respondent, New Jersey Department of

Education (Department), Office of Certification and Induction, Board of Examiners (Board), on the basis that he lacked completion of both an approved School Administrator Program and a 150-hour internship in educational leadership.

PROCEDURAL HISTORY

On December 13, 2019, the Board issued a determination denying the petitioner's application for a School Administrator CE. Petitioner filed a timely notice of appeal. In lieu of an answer, the Board filed a motion to dismiss with certification.

On July 30, 2020, the Department transmitted the appeal to the Office of Administrative Law, where it was filed on that date as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

On May 28, 2021, the petitioner filed a brief in opposition to the motion to dismiss with certification. On August 4, 2021, the Board filed a reply brief in support of its motion to dismiss the petition of appeal.¹ On September 9, 2021, the petitioner submitted additional documents referenced in his certification, but which had not been attached.

FACTUAL DISCUSSION

The following facts are not in dispute, and, accordingly, I **FIND**:

1. On February 21, 2019, the petitioner filed an application (with documents) to the Board for a School Administrator CE.
2. On June 15, 2019, the petitioner took the Praxis test and successfully passed.
3. On July 24, 2019, the petitioner forwarded the Verification of Program Completion (VOPC) from Seton Hall's certification officer, associate dean

¹ The Board requested that the motion to dismiss be converted to a motion for summary decision, as "no material facts are in dispute." The petitioner has not objected.

Dr. Joseph Martinelli, to the Department confirming that on December 19, 2018, he had completed Seton Hall's State-approved educator-preparation program for a P-12 school administrator.

4. The VOPC also indicated that the petitioner "needs to complete admin [sic] internship," referring to the required 150-hour School Administrator internship, the completion of which would have apparently resulted in completion of an approved School Administrator program at Seton Hall University.

5. At some point, the petitioner was advised that his application was deficient, and his application for a School Administrator CE would be denied. He thereafter filed an appeal pursuant to N.J.A.C. 6A:9B-4.12.

6. In his appeal to the Board, the petitioner requested that it consider his adjunct teaching experience from Fairleigh Dickenson University, Pennsylvania State University, Seton Hall University, Ocean County College, and Montclair State University as demonstrating alternative education and/or experience equivalent to the required program in School Administration and the related 150-hour educational-leadership internship he admittedly had not completed.

7. On or about November 1, 2019, the State Board of Examiners considered the petitioner's appeal for issuance of a School Administrator CE pursuant to the requirements of N.J.A.C. 6A:9B-12.4.²

8. After reviewing the petitioner's request for consideration of his alternate education and experience as the equivalent of completion of an approved program in School Administration or the equivalent of a 150-hour School Administrator (Superintendent) internship, the Board concluded that the petitioner's alternate education and accumulated teaching experience as adjunct faculty were not equivalent to what was required by the governing regulation.

² The petitioner certified that the hearing was on December 11, 2019, not November 1, 2019. The Board lists the hearing as having occurred on November 1, 2019.

9. The Board denied the application for the CE because the petitioner had not completed two requirements: first, he did not complete an approved School Administrator program pursuant to N.J.A.C. 6A:9B-12.4(a)(1); and second, he did not complete a 150-hour internship in educational leadership pursuant to N.J.A.C. 6A:9B-12.4(a)(3).

10. The petitioner later submitted a transcript from Caldwell University indicating that he was enrolled in the internship for school administrators during the fall of the 2019–2020 academic year and that he completed the course with a 4.0 grade-point average.

LEGAL ANALYSIS AND CONCLUSION

The issue presented is whether the Board properly denied the petitioner’s application for a School Administrator CE on the basis that he failed to demonstrate that he had completed both an approved program in School Administration and the required 150-hour internship in educational leadership, or that he had presented proof of equivalent training or experience.

This matter commenced as a motion to dismiss in lieu of an answer pursuant to N.J.A.C. 6A:3-1.5(g), but has been converted to a motion for summary decision pursuant to N.J.A.C. 1:1-12.5(a).

I. Standards for Summary Decision

Under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, “[a] party may move for summary decision upon all or any of the substantive issues in a contested case.” N.J.A.C. 1:1-12.5(a). Such motion “shall be served with briefs and with or without supporting affidavits” and “[t]he decision sought may be rendered if 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). When the motion “is made and supported, an adverse party in order to prevail must by responding affidavit set forth

specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” Ibid.

II. Standards for a School Administrator Certificate of Eligibility

N.J.A.C. 6A:9B-5.3 provides for the issuance of educational certificates:

(a) The Board of Examiners shall issue three categories of educational certificates: Instructional, Administrative, and Educational Services.

(b) The Board of Examiners shall issue the appropriate certificate upon the candidate’s completion of all certification requirements in effect at the time the Office receives the application. Requirements include, but are not limited to, coursework, degree, tests, fees, GPA, and all certificate rules pursuant to N.J.A.C. 6A:9B-8 through 13. An application shall be deemed filed with the Office when it and all required supporting documentation has been received.

1. The certificate holder shall maintain possession of the original certificate.

(c) If the candidate is not eligible for the certificate sought, the Office shall issue a written evaluation that identifies the deficiency(ies) for certification.

Here, the petitioner applied for a School Administrator CE in February 2019.

N.J.A.C. 6A:9B-12.4 provides the standards for the Board to use in considering an application for a School Administrator CE:

(a) To be eligible for the school administrator CE, the candidate shall:

1. Complete one of the following:

i. Hold a master’s or higher degree in educational leadership, curriculum and instruction, or one of the recognized fields of leadership or management from a regionally accredited college or university;

ii. Hold a master's degree from a regionally accredited college or university and complete a post-master's program resulting in a CEAS in educational administration and supervision;

iii. Hold a master's degree from a regionally accredited college or university and complete a post-master's program in a coherent sequence of 30 semester-hour credits as they appear on the institution's transcript. The study must be completed at one institution in fields outlined in (a)1i above;

iv. Hold a master's degree from a regionally accredited college or university and complete a Commissioner-approved certification program in educational leadership offered by a Commissioner-approved provider pursuant to N.J.A.C. 6A:9B-12.5(k)2 and (l)2; or

v. Hold a master's degree in educational leadership from a nationally accredited program at an out-of-State college or university;

2. Complete a minimum of 30 graduate credits, either within the master's program or in addition to it, in the following quality components of preparation to promote student learning as set forth in the Professional Standards for School Leaders in N.J.A.C. 6A:9-3.4;^[3]

3. Complete a 150-hour internship in educational leadership aligned to the Professional Standards for School Leaders in N.J.A.C. 6A:9-3.4 and in accordance with the roles and responsibilities as a school administrator, independent of other course requirements. This internship either must appear on a transcript from a four-year regionally accredited college or university or must be certified by a Commissioner-approved program for preparing school administrators;

4. Pass a State-approved examination of knowledge acquired through study of the topics listed in (a)2 above, aligned with the Professional Standards for School Leaders, and most directly related to the functions of superintendents as defined in N.J.A.C. 6A:9B-12.3(a); and

³ N.J.A.C. 6A:9-3.4 provides: "[s]chool leader preparation, district induction, [and professional development programs shall align their learning opportunities with the Professional Standards for Educational Leaders 2015, developed by the National Policy Board for Educational Administration (NPBEA), incorporated herein by reference, available at <http://www.npbea.org/wp/wp-content/uploads/2014/11/ProfessionalStandardsforEducationalLeaders2015forNPBEAFINAL-2.pdf>."

5. Complete five years of successful educational experience in a school district, nonpublic school, or a regionally accredited college or university.

This section applies to all candidates who matriculated and enrolled in a Commissioner-approved educational-leadership preparation program on or after September 1, 2008. The petitioner was required to complete all five of the above requirements to be considered eligible for the School Administrator CE.

Here, the Board determined that the petitioner's application met and satisfied three of the above criteria, but that two of the criteria had not been met: he had not completed an approved School Administrator program pursuant to N.J.A.C. 6A:9B-12.4(a)(1); and he had not completed a 150-hour internship in educational leadership pursuant to N.J.A.C. 6A:9B-12.4(a)(3), nor had he demonstrated that he had met the equivalent with his teaching experience. The petitioner appealed pursuant to N.J.A.C. 6A:9B-4.12(a) and (b), alleging that he had evidence of alternative education and/or experience that he believed was equivalent to the areas of deficiency.

The petitioner contends that the Board failed to exercise its discretion when it declined to accept information provided by him that he had alternative education and/or experience that corrected the deficiencies in his application. The Board considered the information provided by the petitioner as well as the July 23, 2019, VOPC from Seton Hall University, which clearly indicated that the petitioner had failed to complete the required internship at the University and was not yet eligible for certification of the completion of the educator-preparation program. His application was deficient in that regard at the time it was submitted to the Board in February.

Indeed, in his own certification the petitioner acknowledged that he did not complete the required 150-hour internship in educational leadership until December 2019, a date well after his application had been filed with the Board and after the Board had met to consider his appeal.

N.J.A.C. 6A:9B-4.12(c) provides the limitations on actions the Board can take when reviewing any supplemental evidence of equivalent training and/or experience:

- (c) The Board of Examiners shall not:
 - 1. Waive any test, GPA, degree completion, or approved educator preparation program completion requirements;
 - 2. Permit a candidate to substitute education and/or experience for any test, GPA, degree, or approved educator preparation program completion requirements

Here, no material facts are in dispute. The internship was mandatory, and it is undisputed that it had not been completed by the time the petitioner applied for his School Administrator CE in February 2019, or even by the time the Board considered his appeal in November or early December 2019. Accordingly, the application for the School Administrator CE was incomplete and the petitioner had failed to demonstrate that he was eligible for the CE. The Board acted appropriately in determining that the petitioner had not qualified for its issuance. Accordingly, the Board's motion for summary decision shall be granted and the petition shall be dismissed.

ORDER

I hereby **ORDER** that the respondent's motion for summary decision is **GRANTED**. The petition is hereby **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.

October 1, 2021

DATE



SUSAN M. SCAROLA, ALJ

(Ret., on recall)

Date Received at Agency:

October 1, 2021 (emailed)

Date Mailed to Parties:

SMS/mel

APPENDIX

WITNESSES

For petitioner:

None

For respondent:

None

EXHIBITS

For petitioner:

Reply Brief

For respondent:

Brief and Reply