

**New Jersey Commissioner of Education**  
**Final Decision**

Nermin Messiha,

Petitioner,

v.

New Jersey State Board of Examiners,

Respondent.

**Synopsis**

*Pro-se* petitioner appealed the determination of the respondent – the State Board of Examiners (SBE) – that she had not met the requirements for issuance of a Teacher of Biological Services Certificate of Eligibility (CE). The SBE denied petitioner’s application because she did not complete the Praxis II General Sciences: Content Knowledge test, as required by *N.J.A.C. 6A:9B-8.3(a)(4)*. Additionally, as her application for the CE was not completed until after September 1, 2015, petitioner was also required to pass the basic skills assessment in accordance with *N.J.A.C. 6A:9B-8.3(a)(5)*, which she failed to do. The SBE filed a motion for summary decision, which was opposed by petitioner.

The ALJ found, *inter alia*, that: there are no issues of material fact in this case, and the matter is ripe for summary decision; petitioner did not complete the required Praxis II General Sciences test prior to her application for the CE; and petitioner’s failure to understand that this test was required does not release her from the obligation of passing the test to achieve certification. The ALJ concluded that petitioner has not met the requirements for the CE she seeks. Accordingly, summary decision was granted in favor of the SBE, and the petition was dismissed.

The Commissioner concurred with the findings and determination of the ALJ herein; additionally, the Commissioner noted, *inter alia*, that petitioner failed to complete the required basic skills assessment pursuant to *N.J.A.C. 6A:9B-8.3(a)(5)*. Accordingly, the Initial Decision of the OAL was adopted 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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April 16, 2021

## New Jersey Commissioner of Education

### Final Decision

Nermin Messiha,

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.<sup>1</sup> 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 Biological Services Certificate of Eligibility (CE). The Commissioner further concurs with the ALJ that petitioner did not meet the requirements for a CE because she failed to complete the Praxis II General Sciences: Content Knowledge test, as required by *N.J.A.C. 6A:9B-8.3(a)(4)*. Additionally, as her application was not completed until after September 1, 2015, petitioner was also required to pass the basic skills assessment in accordance with *N.J.A.C. 6A:9B-8.3(a)(5)*, which she did not do.<sup>2</sup>

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<sup>1</sup> To the extent the Initial Decision indicates that respondent's motion for summary decision was filed as to "Count Two of the complaint," the Commissioner notes that the motion for summary decision was filed as to the entire petition.

<sup>2</sup> Subsequent to petitioner's application, she took the basic skills test on May 28, 2016, and passed the reading portion. Petitioner has not passed the writing and math portions of the Praxis I.

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

IT IS SO ORDERED.<sup>3</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 16, 2021  
Date of Mailing: April 16, 2021

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<sup>3</sup> 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 08616-20

AGENCY DKT. NO. 160/7 20

**NERMIN MESSIAH.,**

Petitioner,

v.

**NJ DEPARTMENT OF EDUCATION**

**STATE BOARD OF EXAMINERS,**

Respondent.

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**Nermin Messiah, pro se**

**David Kalisky, Deputy Attorney General, for Respondent, (Gurbir Grewald,  
Attorney General of New Jersey)**

Record Closed: March 3, 2021

Decided: March 8, 2021

**BEFORE: KIMBERLY A. MOSS, ALJ:**

This matter having been opened to the Court by respondent, David Kalisky, Deputy Attorney General on a motion for summary decision which was received by the Office of Administrative Law (OAL) on February 24, 2021. Petitioner filed opposition to the motion on March 3, 2021.

By way of background, respondent alleges that petitioner did not comply with the requirements for obtaining a teaching certificate. Petitioner alleges that she complied with the requirements that were in effect at the time of her application.

The matter was transferred to the Office of Administrative Law for adjudication of the remaining counts, where it was filed as a contested matter on September 10, 2020.

### **FACTUAL DISCUSSION**

Petitioner completed a web-based application with the Department of Teachers Certification Information System (TCIS) and paid the online application fee on August 17, 2015, for a Certificate of Eligibility in Biological Science. Her application was registered with TCIS and given a tracking number of 680838. Applicants who registered with TCIS in August 2015 would have had access to the most up-to-date and publicly available edition of "Appendix D" of the Department's "Technical Manual," which was last updated in June of 2015. Petitioner states that she was not sent an email attachment that included Appendix D of the Technical Manual. At that time Appendix D of the Technical Manual was at the web address [www.state.nj.us/education/educators/license/1112.pdf](http://www.state.nj.us/education/educators/license/1112.pdf).

Other requirements for obtaining a certificate of eligibility include submitting an official college transcript, a notarized oath of allegiance with the requested information filled out and taking the Praxis II in the subject assessment and specialty area test. If the application was completed after September 1, 2015, the applicant must pass the Praxis core academic skills for educators : Reading, Writing and Math, or score in the top one third on the SAT, ACT or GRE for the year that the test was taken.

Respondent states they received petitioners' transcripts on September 8, 2015. Petitioner states that she provided her transcripts to the department on two prior occasions. Petitioner admits that she did not submit a notarized authorization of allegiance until September 3, 2015. She denies that it did not have the name of the endorsement.

Respondent states that prior to September 1, 2015, petitioner would have to pass two Praxis II tests- Biology content knowledge and General Science content knowledge. Petitioner passed the Praxis II Biology test. Petitioner states that she was not informed that she had to take and pass the Praxis II general science test. Petitioner did not take the Praxis II General Science test. Petitioner passed the Praxis II subject assessment test prior to September 1, 2015.

### **LEGAL ANALYSIS AND CONCLUSION**

Respondent seeks to summarily decision on Count Two of the complaint. The rules governing motions for summary decision in an OAL matter are embodied N.J.A.C. 1:1-12.5. These provisions mirror the language of Rule 4:46-2 and the New Jersey Supreme Court's decision in Judson v. Peoples Bank and Trust Company of Westfield, 17 N.J. 67 (1954). Under N.J.A.C. 1:1-12.5(b), the determination to grant summary judgment should be based on the papers presented as well as any affidavits, which may have been filed with the application. In order for the adverse, i.e., the non-moving party to prevail in such an application, responding affidavits must be submitted showing that there is indeed a genuine issue of fact, which can only be determined in an evidentiary proceeding. The Court in Brill v. Guardian Life Insurance Company of America, 142 N.J. 520, 523 (1995), set the standard to be applied when deciding a motion for summary judgment. Therein the Court stated:

The determination whether there exists a genuine issue with respect to a material fact challenged requires the Motion Judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party . . . are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party.

There is no genuine issue of material fact in this matter.

N.J.A.C. 6A: 9B-8.3(a) 4 provides:

(a) Except as indicated in N.J.A.C. 6A:9B-8.8, 10, and 11, the candidate shall meet the following criteria to be eligible for a CE in instructional

areas: 4. including, but not limited to, passing the appropriate State test(s) of subject matter knowledge and completing the required subject-area course requirements;

This regulation was last amended on May 15, 2006, nine years prior to petitioner's application.

Petitioner did complete the general science test before September 1, 2015. Petitioner believed that she would receive appendix D of the Technical Manual by email, but the manual was on the website. Petitioner not knowing that she had to take the general science test does not change that fact that it was required for her to pass that test to achieve the certification. Petitioner has not, as of now, taken the Praxis II General Science test.

N.J.A.C. 6A:9B-5.3(b) provides:

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.

In the Summer of 2015, the required supporting documentation for a CE application consisted of several items, including, but not limited to the following:(1) the candidate's online web application; (2) the candidate's online application fee; (3) the candidate's completed and notarized Oath of Allegiance form; and (4) the candidate's official college transcripts. Petitioner admits that she did not provide the notarized oath of allegiance prior to September 1, 2015.

I **CONCLUDE** petitioner did not complete the requirements for a Certificate of Eligibility in Biological Science.

**ORDER**

Based on the foregoing, it is **ORDERED** that Respondent's motion for summary decision be and is hereby **GRANTED**. Petitioner did not comply with the requirements for obtaining a teaching certificate therefore her motion must be **DENIED**.

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, P.O. 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.

March 8, 2021



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DATE

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**KIMBERLY A. MOSS, ALJ**

Date Received at Agency:

March 8, 2021

Date Mailed to Parties:

March 8, 2021

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## **DOCUMENTS RELIED ON**

- Respondent's motion for summary decision and exhibits
- Petitioner's opposition to motion for summary decision and exhibits