

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

Krista J. Deckhut and Bedminster Education Association,

Petitioners,

v.

Board of Education of the Township of Bedminster, Somerset County, and Roger A. Jinks, Executive County Superintendent, Somerset County,

Respondents.

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

In this matter, petitioners allege that respondents unlawfully assigned Krista J. Deckhut, a guidance counselor with an educational services certificate, school counselor endorsement, and school social worker endorsement, to teach a class entitled "Instructional Center" for the 2023-2024 school year. They claim that teaching the class falls outside the scope of Deckhut's school counselor endorsement. She does not possess an instructional certificate.

Because none of the facts are in dispute, the parties cross-moved for summary decision. The Administrative Law Judge (ALJ) concluded that respondents were entitled to summary

decision because neither school law nor regulations prohibit a holder of an educational services certificate with a school counselor endorsement from teaching the “Instructional Center” class without an instructional certificate.

Citing the definition of educational services certificate, the ALJ found that its plain language did not prohibit instruction. Instead, *N.J.A.C. 6A:9-2.1* states that it “permits an individual to serve in a primarily non-instructional and non-administrative teaching staff role in a school district.” Initial Decision at 10. The ALJ reasoned that individuals holding educational services certificates may “serve chiefly, but not entirely, in a non-instructional teaching staff role.” *Id.* at 11.

Additionally, the ALJ examined the definition of school counselor endorsement found at *N.J.A.C. 6A:9B-14.8* and reasoned that the inclusion of the phrase “such as” in the regulation suggests that the list of functions in the definition was not exhaustive and could include instruction. *Id.* at 12. The ALJ also considered *N.J.A.C. 6A:9B-7.1*, which provides that educational services certificate holders may provide substitute instruction without an instructional certificate, and *Sayreville Education Association v. Board of Education of Sayreville*, 1983 S.L.D. 1, which he found analogous to the present matter. *Id.* at 12-15.

In their exceptions, petitioners argue that the ALJ erred as a matter of law because: (1) the instructional duties assigned to Deckhut fall outside the scope of her school counselor endorsement; (2) *Sayreville* is distinguishable because that case involved guidance counselors teaching career development classes whereas Deckhut’s teaching assignment was more akin to a “regular class” that would be taught by an instructional certificate holder; (3) reliance on *N.J.A.C. 6A:9B-7.1(c)* is misplaced because it authorizes service as a substitute teacher working

no more than 20 days per year; and (4) the holding in favor of respondents undermines tenure laws.

In response, the Board and Jinks maintain that the ALJ's decision was consistent with applicable statutes and regulations. Specifically, they assert that the instructional duties assigned to Deckhut fall within the scope of her school counselor endorsement. Additionally, they contend that the ALJ's reliance upon *Sayreville* was proper. Moreover, Jinks argues that the ALJ's consideration of *N.J.A.C. 6A:9B-7.1(c)* to support the general proposition that educational services certificate holders without an instructional certificate can perform some amount of instruction was appropriate.

Upon review, the Commissioner adopts the ALJ's Initial Decision as the final decision in this matter for the reasons stated therein. The Commissioner agrees with the ALJ that the instructional duties assigned to Deckhut fall within the scope of her school counselor endorsement. *N.J.A.C. 6A:9B-14.8* defines "school counselor endorsement" as follows:

The school counselor endorsement authorizes the holder to perform school counseling services such as study and assessment of individual students with respect to their academic status, abilities, interest, and needs; counseling in collaboration with administrators, teachers, students, and parents regarding personal, social, educational, and vocational plans and programs; and developing cooperative relationships with community agencies in assisting children and families. The certificate holder is authorized to perform the services in preschool through grade 12.

As discussed by the ALJ, the record describes the "Instructional Center" curricula for grades six through eight. For sixth-grade "Study Skills 101," the curriculum addresses Learning Styles, Study Skills, Time Management, Organization, Taking Notes, Finding Information, Studying and Taking Tests. Initial Decision at 4. For seventh-grade "Executive Functions," the curriculum

addresses, among other things, Planning, Organization, Time Management, Self-Control, Sustained Attention, Flexibility, and Perseverance. *Id.* at 4-5. For eighth-grade “Seven Essential Habits,” the curriculum addresses topics including, but not limited to, Be Proactive, Put First Things First, Think Win-Win, and High School Transition. *Id.* at 5.

The “Instructional Center” curricula are very closely aligned with the school counselor’s responsibility to counsel students “with respect to their academic status, abilities, interest, and needs” and “regarding personal, social, educational, and vocational plans and programs.” N.J.A.C. 6A:9B-14.8. Thus, the Commissioner disagrees with petitioners’ characterization of the “Instructional Center” class as more akin to a “regular class” that would be taught by an instructional certificate holder. The fact that the counseling is offered in a group setting as opposed to an individual setting does not render it beyond the scope of the school counselor endorsement.

The Commissioner also agrees with the ALJ that *Sayreville* is instructive. There, four guidance counselors sought a declaratory judgment indicating that the board of education violated school law by assigning them to teach two courses in career education. They contended that teaching was beyond the scope of their duties as guidance counselors, while the board argued that teaching career education fell within their responsibilities as counselors.

The ALJ in *Sayreville* found that the teaching assignment fell within the scope of the counselors’ certification and matched their responsibilities closely, reasoning that the “Board’s assignment to teach career education on a group basis does not, ipso facto, transform the counselors into classroom teachers . . . . Rather, their two period per day assignment to teach that course is merely an extension of their duties, organized on a group basis, to better inform

pupils of facts incident to career development.” *Sayreville*, 1983 S.L.D. at 5-6. The Commissioner agreed with the ALJ, finding that the board “acted within its discretionary authority,” and rejecting petitioners’ “assumption that the required duties of a guidance counselor are not an integral part of the teaching-learning process.” *Id.* at 11. Even though the present matter does not exclusively concern career education, the same logic is applicable.

The Commissioner further finds that it was reasonable for the ALJ to include *N.J.A.C.* 6A:9B-7.1(c) as part of his analysis because while not dispositive, it supports the general proposition that educational services certificate holders can perform limited instruction under certain circumstances without having an instructional certificate. Finally, the Commissioner rejects petitioners’ argument that deciding this matter in favor of respondents undermines tenure laws because petitioners have not cited any legal authority to support this speculative claim.

Accordingly, the Initial Decision is adopted as the final decision in this matter, respondents’ motion for summary decision is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.<sup>1</sup>

  
COMMISSIONER OF EDUCATION

Date of Decision: June 9, 2025  
Date of Mailing: June 9, 2025

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<sup>1</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 05958-24

AGENCY DKT. NO. 54-3/24

**KRISTA J. DECKHUT AND  
BEDMINSTER EDUCATION ASSOCIATION,**

Petitioners,

v.

**BEDMINSTER TOWNSHIP BOARD OF  
EDUCATION AND ROGER A. JINKS,**

Respondents.

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**Zachary F. Ramsfelder**, Esq., for petitioners Krista J. Deckhut and Bedminster Education Association (Zazzali, P.C., attorneys)

**Nicholas Celso III**, Esq., for respondent Bedminster Township Board of Education (The Busch Law Group, LLC, attorneys)

**Kevin F. Milton**, Deputy Attorney General, for respondent Roger A. Jinks (Matthew J. Platkin, Attorney General of New Jersey, attorney)

Record closed: December 27, 2024

Decided: March 27, 2025

BEFORE **WILLIAM T. COOPER III**, ALJ:

## **STATEMENT OF THE CASE**

Petitioners Krista J. Deckhut (Deckhut) and the Bedminster Education Association (BEA) challenge Deckhut's assignment to instructional duties by respondents Township of Bedminster Board of Education (respondent BOE) and executive county superintendent Roger Jinks (respondent Jinks) claiming the assignment was improper. Further, petitioners seek an order directing respondents to refrain from assigning instructional duties to Deckhut and others holding an educational services certificate but not an instructional certificate.

The issue presented here is: did the respondents violate any school laws by assigning Deckhut, a guidance counselor with an educational services certificate with school counselor and school social worker endorsements, to teach a class entitled "Instructional Center" for the 2023–2024 school year even though she lacked an instructional certificate?

## **PROCEDURAL HISTORY**

On March 4, 2024, the petitioners submitted a petition to the Office of Controversies and Disputes, New Jersey Department of Education. On March 25, 2024, respondent BOE submitted an answer to the petition. On May 1, 2024, respondent Jinks submitted an answer to the petition. The matter was transmitted to the Office of Administrative Law (OAL), where it was filed as a contested case on May 2, 2024. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

On September 5, 2024, the parties submitted a joint stipulation of facts. On October 9, 2024, the petitioners filed a motion for summary decision. On November 9, 2024, respondent BOE filed an answer to petitioners' motion and cross-moved for summary decision. On December 27, 2024, respondent Jinks submitted an answer to petitioners' motion and cross-moved for summary decision.

## **DISCUSSION AND FINDINGS OF FACT**

The following information has been jointly submitted for this tribunal's consideration by petitioners and respondents:

Petitioner Deckhut has been employed by respondent BOE as a "Guidance Counselor (Grades 5–8)" since the 2007–2008 school year.

The job description for the position of "School Guidance Counselor/School Social Worker" requires a "valid New Jersey School Counselor and Valid New Jersey School Social Worker Certificate." (Ex. A; J-1.) Deckhut holds an educational services certificate with endorsements as a school counselor and school social worker issued by the State Board of Examiners and does not hold an instructional certificate.

In November 2023, after being assigned to teach a course entitled "Instructional Center (6–8)" during the 2023–2024 school year, Deckhut met with Dr. Jennifer Giordano (hereinafter Dr. Giordano), the superintendent of the BOE, to share her concerns about this assignment. Dr. Giordano contacted respondent Jinks regarding the permissibility of assigning Deckhut the subject instructional duties. Jinks responded, "it appears to me . . . that you have license to put a School Counselor in a classroom," citing items 11, 14, 15, 25, and "the catch all 26" from the school guidance counselor/school social worker job description.<sup>1</sup> (Ex. A; J-6.) These numbered performance responsibilities in the school guidance counselor/school social worker job description read as follows:

11. Provides academic, social, career (vocational guidance) and emotional counseling through both individual and group counseling sessions.

. . . .

14. Conducts appropriate group sessions to meet specific subgroup needs and provide information to students.

. . . .

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<sup>1</sup> It appears that "26" is a typo because "29" is the "catch-all provision" of the job description.



15. Contributes and participates in information dissemination to students and parents/guardians through newsletters, group guidance efforts, and special programs.

. . . .

25. Makes effective use of community resources in developing and expanding guidance services and activities and to enhance the instructional program.

. . . .

29. Performs other such related duties as may be assigned by the building or central office administration.

[Ex. A; J-2; J-3.]

Dr. Giordano sent Deckhut a follow-up memorandum informing her that she was “appropriately placed” to support fifth- and sixth-grade students “during Instructional Center periods.” (Ex. A; J-8.) On December 14, 2023, Dr. Giordano advised respondent Jinks she had been told by “Stefan” at the New Jersey Department of Education (NJDOE) that counselors without a teaching certification are authorized to teach advisory and instructional center classes at the school’s discretion. (Ex. A; J-9.) Dr. Giordano and respondent Jinks further discussed the issue with Jewel Johnson of the NJDOE’s Office of Recruitment, Preparation, and Certification. On December 19, 2023, Dr. Giordano sent respondent Jinks a letter and copies of Instructional Center curricula, seeking approval for the district’s counselors to teach the Instructional Center course. (Ex. A; J-11 through J-15.) Respondent Jinks replied on December 20, 2023, acknowledging that although “the School Counselor endorsement is an Educational Services Certificate and not an Instructional Certificate, our office can authorize your school counselors to instruct classes.” (Ex. A; J-17.)

The curricula for “Instructional Center (6–8)” attached to Dr. Giordano’s email to respondent Jinks is broken down by grade. For sixth-grade “Study Skills 101,” the curriculum includes six units: Learning Styles & Study Skills, Time Management, Organization, Notes & Information, Studying, and Taking Tests. (Ex. A; J-13.) For seventh-grade “Executive Functions,” the curriculum includes eleven units: Executive

Functioning Skills Intro, Planning, Organization, Time Management, Task Initiation, Working Memory, Metacognition, Self-Control, Sustained Attention, Flexibility, and Perseverance. (Ex. A; J-14.) Finally, for eighth-grade “The Seven Essential Habits,” the Instructional Center curriculum includes eight units: Be Proactive, Begin with the End in Mind, Put First Things First, Think Win-Win, Seek First to Understand, Synergize, Sharpen the Saw, and High School Transition. (Ex. A; J-15.)

On March 4, 2024, petitioners submitted a petition to the Commissioner of Education alleging that respondent BOE improperly assigned Deckhut instructional duties beyond the scope of her certificate as set forth at N.J.A.C. 6A:9B-14.5(a) and 6A:9B-14.8(a). Petitioners sought an order directing respondent BOE to refrain from assigning instructional duties to petitioner and others holding an educational services certificate but not an instructional certificate. Respondent BOE submitted its answer on March 25, 2024, requesting dismissal of the petition and an order that the instructional assignment was permitted. Respondent Jinks filed his answer on May 1, 2024, and the matter was thereafter transmitted to the OAL.

Petitioners filed a motion for summary decision, arguing that the local board may not assign instructional duties to employees like Ms. Deckhut who do not possess instructional certificates and whose endorsements do not explicitly authorize the performance of instructional duties.

Respondent BOE filed a cross-motion for summary decision, arguing that the regulatory definition of the educational services certificate does not preclude a holder from all instructional activity and that the assignment to lead the Instructional Center was consistent with an American School Counselor Association recommendation that guidance counselors teach social and emotional skills in the classroom. Respondent Jinks also filed a brief in opposition to petitioners’ motion for summary decision and in support of his cross-motion for summary decision, arguing that the assignment of “limited instructional duties” comports with all applicable statutes and regulations. Petitioners thereafter submitted a response to respondents’ cross-motions.

The following have been jointly stipulated by petitioners and respondents, and I  
**FIND as FACT:**

1. Deckhut commenced employment with respondent BOE on or about September 1, 2007, in the position of guidance counselor (grades 5–8), and has been continuously employed by respondent BOE since then.
2. Deckhut holds an educational services certificate with endorsements as a school counselor and school social worker issued by the State Board of Examiners. She does not hold an instructional certificate in the State of New Jersey. (J-5.)
3. The New Jersey Department of Education’s description of the scope of the school counselor endorsement is set forth at N.J.A.C. 6A:9B-14.8(a).
4. Respondent BOE is responsible for the administration and operation of the public schools in Bedminster Township, New Jersey, and is obligated to comply with the requirements under Title 18A and the regulations promulgated thereunder.
5. On November 15, 2023, Deckhut met with Dr. Giordano to share her concerns regarding the assignment of instructional duties to her, specifically, to teach a course entitled “Instructional Center (6–8)” during the 2023–2024 school year.
6. Thereafter, Dr. Giordano asked respondent Jinks about the permissibility of assigning Deckhut the subject instructional duties. (J-6; J-7.)
7. On December 1, 2023, Dr. Giordano sent Deckhut a follow-up memorandum. (J-8.)
8. On December 14, 2023, Dr. Giordano advised respondent Jinks that she had been advised by “Stefan” at the NJDOE that counselors without a

teaching certification are authorized to teach advisory and instructional center classes at the school's discretion. (J-9.)

9. On or around December 19, 2023, Dr. Giordano and respondent Jinks participated in a virtual conference with Jewel Johnson of the NJDOE's Office of Recruitment, Preparation, and Certification to further discuss the matter. (J-10.)
10. On December 19, 2023, Dr. Giordano sent respondent Jinks a letter (J-11; J-12), with accompanying documents, including the curriculum map for "Instructional Center (6-8)" (J-13; J-14; J-15).
11. On December 20, 2023, respondent Jinks sent Dr. Giordano a reply letter. (J-16; J-17.)

## **DISCUSSION AND CONCLUSIONS OF LAW**

### **Summary Decision**

The petitioners and the respondents each seek 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.

The standard governing agency determinations under N.J.A.C. 1:1-12.5 is "substantially the same as that governing a motion under Rule 4:46-2 for summary

judgment in civil litigation.” L.A. v. Bd. of Educ. of Trenton, 221 N.J. 192, 203 (2015) (citing Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 121–22 (App. Div. 1995) (citations omitted), certif. denied, 145 N.J. 372 (1996)). “In other words, a court must ascertain ‘whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party.’” Id. at 204 (quoting Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995)); see also Contini, 286 N.J. Super. at 121–22.

Here, it is not the facts that are in dispute, as the parties agree to them. Deckhut has been employed by respondent BOE as a guidance counselor (grades 5–8) since the 2007–2008 school year. Deckhut holds an educational services certificate with endorsements as a school counselor and school social worker but does not hold an instructional certificate. Bedminster, with the approval of respondent Jinks, assigned Deckhut instructional duties teaching a course entitled “Instructional Center” for the 2023–2024 school year. The local school board and its chief administrative officer, with respect to the assignment of duties to employees, are controlled by the plain meaning of the certification and endorsement regulations promulgated by the State Board of Education.

Therefore, I **CONCLUDE** that the matter is ripe for summary decision.

The issue presented here is: did respondent Bedminster Township Board of Education violate any school laws by assigning petitioner Krista Deckhut, a guidance counselor with an educational services certificate with school counselor and school social worker endorsements, to teach a class entitled “Instructional Center” for the 2023–2024 school year even though she lacked an instructional certificate?

## **I. New Jersey’s Certification Laws**

The New Jersey State Board of Examiners and the State Board of Education have established a certificate system requiring that any person employed as a teaching staff member by a district board of education holds a valid and appropriate certificate. N.J.S.A.

18A:26-2; N.J.A.C. 6A:9B-5.1. The State Board has noted that “the certification process is critical to assuring the provision of a thorough and efficient education.” Passaic Educ. Ass’n v. Bd. of Educ. of Passaic, EDU 12133-99, Comm’r (Aug. 16, 2001), <https://njlaw.rutgers.edu/collections/oal/final/edu12133-99.pdf> (citing Guttenberg Educ. Ass’n v. Leo F. Klagholz, Comm’r of Educ., SB 11-98, St. Bd. (March 3, 1999), <https://www.nj.gov/education/legal/sboe/1999/mar/sb11-98.pdf>).

There are three distinct types of certificates: instructional, educational services, and administrative. N.J.A.C. 6A:9B-5.3(a). Relevant to this case, an “instructional certificate” is a certificate that “permits an individual to serve as a teacher in a classroom setting.” N.J.A.C. 6A:9-2.1. And an “educational services certificate” refers to “the certificate category that permits an individual to serve in a primarily non-instructional and non-administrative teaching staff role in a school district.” Ibid. An educator may hold more than one type of certificate. Nelson v. Old Bridge Twp. Bd. of Educ., 148 N.J. 358, 363 (1997).

Employment in a specific assignment requires that an educator hold the appropriate endorsement. N.J.A.C. 6A:9B-2.1. The Department of Education maintains a list of approved job titles with their corresponding required certificates and endorsements. N.J.A.C. 6A:9B-5.5. A school board may ask the executive county superintendent if a teaching staff member has the appropriate certification for a particular assignment. Ibid.

Generally, local school boards have managerial discretion when making teaching assignments “unless competent evidence is presented that the exercise of their authority in establishing the requirements was ‘anomalous, arbitrary, or irrational.’” Dennergy v. Passaic Cnty. Reg’l High Sch. Dist. #1 Bd. of Educ., 131 N.J. 626, 638 (1993). The district superintendent, as the chief school administrator, must require teaching staff members to produce an appropriate certificate before assuming their duties. N.J.A.C. 6A:9B-5.4; N.J.A.C. 6A:9-2.1. While the county superintendent has responsibility “in the first instance for determining the appropriate certification,” the Commissioner of Education retains the ultimate authority to decide school law disputes and to determine certification requirements. Smith v. Bd. of Educ. of Orange, 2012 N.J. AGEN LEXIS 658, Comm’r

(Feb. 1, 2012); Yucht v. Milltown Bd. of Educ., 2000 N.J. AGEN LEXIS 1426, St. Bd. (July 5, 2000); see also N.J.A.C. 6A:9B-5.5.

## **II. The Scope of an Educational Services Certificate and Endorsements**

The parties in this case dispute whether the school board was prohibited from assigning Deckhut, who only holds an educational services certificate, to teach the “Instructional Center” course without an instructional certificate. The parties each rely on the definition of “educational services certificate” and other regulatory language in support of their respective positions.

Again, an educational services certificate is defined as “the certificate category that permits an individual to serve in a primarily non-instructional and non-administrative teaching staff role in a school district.” N.J.A.C. 6A:9-2.1. By its terms, this definition does not directly address whether a holder of only this certificate may teach a class. Of course, the rules of construction applicable to interpreting statutes also apply to administrative regulations. Dep’t of Health v. Tegnazian, 205 N.J. Super. 160, 174 (App. Div. 1985). Generally, New Jersey courts “do not support interpretations that render statutory language as surplusage or meaningless.” Burgos v. State, 222 N.J. 175, 203 (2015). Thus, courts must “presume that every word in a statute has meaning and is not mere surplusage.” Cast Art Indus., LLC v. KPMG LLP, 209 N.J. 208, 222 (2012).

In this regard, the parties contest the meaning and importance of the word “primarily” as used in the definition of an educational services certificate. Petitioners argue that the creation of the educational services certificate as distinct from an instructional certificate “necessarily gives rise to an inference that the duties [that] the holder of the former may perform are different, and critically, do not include the provision of classroom instruction.” (Pet’rs’ Br. at 5.) On the other hand, respondent Board argues that the canon of surplusage requires that the word “primarily” in the definition of an educational services certificate is purposeful and may not be ignored.

The plain meaning of “primarily” is “for the most part” or “chiefly.” Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/primarily> (last visited Jan. 21,

2025). And an antonym of “primarily” is “entirely.” <https://www.merriam-webster.com/thesaurus/primarily>. Thus, an educational services certificate permits its holder to serve chiefly, but not entirely, in a non-instructional teaching staff role. In other words, the regulatory definition does not expressly prohibit instruction under an educational services certificate.

This makes sense because there are some educational services certificate endorsements that expressly include instruction within the holder’s functions.<sup>2</sup> As petitioners point out, the duties of a holder of an educational services certificate with the school library media specialist endorsement include, among other things: “delivery of instruction in information literacy skills” and “delivery of instruction in the evaluation, selection, organization, distribution, creation, and utilization of school library media.” N.J.A.C. 6A:9B-14.14. Similarly, under N.J.A.C. 6A:9B-14.3, the holder of an educational services certificate and a school nurse endorsement is authorized “to perform nursing services and to teach in areas related to health.” See also N.J.A.C. 6A:9B-14.22 (“The bilingual language paraprofessional credential may be utilized for individuals who provide bilingual instructional support services.”).

Petitioners argue that these endorsement regulations suggest that the Board of Examiners knows how to expressly authorize educational services certificate holders to instruct when it means to in specific circumstances. Thus, according to petitioners, an educational services certificate does not authorize its holder to perform instructional duties unless an endorsement explicitly provides otherwise. At the same time, however, one could argue that the Board of Examiners also knows how to specifically designate an educational services holder as “non-instructional” when it does not intend for a holder to deliver instruction at all. For example, in addition to N.J.A.C. 6A:9B-14.3, there is another school nurse endorsement for “school nurse/non-instructional,” which, by its own terms, “authorizes the holder to perform nursing services” but “does not authorize the holder to teach in areas related to health.” N.J.A.C. 6A:9B-14.4.

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<sup>2</sup> “Endorsement” is “an authorization allowing a certificate holder to teach one or more specific subject areas or to serve in one or more specific teaching staff roles.” N.J.A.C. 6A:9-2.1.



The regulations governing the endorsements held by Deckhut—school counselor and school social worker—do not specifically address whether instruction is permitted. The school counselor endorsement authorizes a holder “to perform school counseling services *such as* study and assessment of individual students with respect to their academic status, abilities, interest, and needs; counseling . . . ; and developing cooperative relationships with community agencies in assisting children and families.” N.J.A.C. 6A:9B-14.8 (emphasis added). That this list of functions begins with the words “such as” suggests that the list of school counselor functions is non-exhaustive and could potentially include other duties, such as instruction, especially in contrast to other educational services endorsements, which do not list functions beginning with “such as.” See, e.g., N.J.A.C. 6A:9B-14.13.

The school social worker endorsement regulation is less instructive. N.J.A.C. 6A:9B-14.5 simply informs that a “school social worker endorsement authorizes the holder to serve as a school social worker in public schools.” This regulation provides no list of specific functions of the endorsement holder.

Then there are the regulations involving substitute-teacher qualifications, which suggest that educational services certificate holders could perform some amount of substitute instruction without an instructional certificate. N.J.A.C. 6A:9B-7.1(c) provides that holders of an educational services certificate and others are not required to obtain a substitute credential before serving as a substitute teacher. Respondent Jinks argues that this regulation empowers all educational services certificate holders to engage in some form of instruction. According to the rule proposal for this regulation, this rule “reflect[s] the Department’s policy that the most qualified teachers available should be instructing students whenever possible while acknowledging placing substitute credential holders in the classroom is necessary at times.” 47 N.J.R. 1730(a) (July 20, 2015).

Like the endorsement regulations above, the ability of educational services certificate holders to serve as substitute teachers without an instructional certificate demonstrates that it was anticipated that educational services certificate holders could perform some amount of instruction as necessary, suggesting that the assignment here was appropriate.

In sum, the regulatory language and history of the relevant provisions do not expressly prohibit or permit instruction by educational services certificate holders, and there are only a few endorsements under that certificate that specifically permit or prohibit instruction. That educational services certificate holders' duties must be "*primarily* non-instructional," N.J.A.C. 6A:9-2.1 (emphasis added), suggests that some number of instructional duties, less than the majority of a person's duties, may be permitted. The non-exhaustive list of school counselor endorsement holder functions suggests that the position was drafted with some flexibility of duties in mind. Additionally, the fact that other educational services endorsements expressly permit instruction and that educational services certificate holders may substitute teach without an additional credential suggests that educational services certificate holders can be expected to perform some amount of instruction. Finally, the fact that at least one endorsement explicitly prohibits instruction suggests that the Board of Examiners can be expected to prohibit instruction when it means to do so.

### III. Relevant Case Law

Since the relevant regulations do not resolve the issue in dispute, it is necessary to turn to case law to see if any court or tribunal has addressed whether a teaching staff member who does not hold an instructional certificate may, nonetheless, teach a class if asked to do so by her employer.

In Sayreville Education Association v. Board of Education of Sayreville, 1983 S.L.D. 1, the Commissioner of Education affirmed a school board's authority to assign four guidance counselors, who held only a "pupil personnel services certificate," a precursor of the "educational services certificate," to teach two classes in career education.

In an initial decision adopted by the Commissioner, an administrative law judge (ALJ) determined that "the guidance counselors [were] assigned by the Board under its statutorily based managerial authority to instruct classes in career development" and that the assignments were consistent with the laws governing certifications. Id. at 7. In

concluding that the “assignment to teach that course is merely an extension of their duties, organized on a group basis, to better inform pupils of facts incident to career development,” the ALJ considered several factors: the certification requirements for the course, the scope of the guidance counselors’ pupil personnel services certificates, the course description, and the guidance counselors’ job description. Id. at 3–6.

First, there was “no specific certification required to teach the career development course”; instead, “[t]he only requirement [was] an appropriate New Jersey teacher certificate.” Id. at 3. Second, the relevant education regulation “specifie[d] that study in theory and procedures in individual and group guidance is a requisite to certification as a guidance counselor” and “its inclusion in the rule as a required area of study can only be interpreted to indicate that the State Board of Examiners and the State Board of Education, in promulgating this rule, considered group guidance to be an appropriate activity to which a guidance counselor could be assigned properly within the scope of the pupil personnel services certificate.” Id. at 5. Finally, the course description “match[ed] closely the major responsibilities of counselors” with respect to helping students with “career decision making.” Id. at 6.

In light of these considerations, the school board appropriately assigned the guidance counselors to teach the career education classes even though they did not have an instructional certificate. As the Commissioner explained, “upon examination and consideration of the course description for Career Education and the job descriptions under which petitioners are employed, [the Commissioner] finds and determines that the Board acted within its discretionary authority to assign petitioners these duties” and that petitioners’ arguments to the contrary “lack[ed] merit, absent specific statutory or regulatory language” that forbade the school board’s action. Id. at 11.

Applying the method from Sayreville here, there is similarly a close match between the curriculum of the Instructional Center course that petitioner was assigned to teach and the duties from her job description and the requirements for her endorsement. Petitioner’s job description includes duties such as “providing academic, social, career (vocational guidance) and emotional counseling through both individual and group counseling sessions”; “information dissemination”; and providing group counseling to

meet “specific subgroup needs.” The objectives of the Instructional Center—which focuses on providing students, in a group setting, with time-management and executive-functioning skills, along with information about habits needed to succeed in school and life, and preparing them for the transition to high school—closely match these responsibilities.

Additionally, under N.J.A.C. 6A:9B-14.8, an individual can qualify for the school counselor endorsement by taking a minimum of forty-eight graduate semester-hour credits, which must include six credits in psychology, specifically including the “psychology of learning.” Almost all the units that Deckhut would be expected to teach according to the various Instructional Center curricula fall within this category. Instructional Center for Grade Six, which is the specific grade Deckhut was assigned to teach according to Dr. Giordano’s December 1, 2023, letter, only involves topics that fall squarely within the field of psychology of learning, including: learning styles, study skills, time management, organization, note-taking, studying, and taking tests. Thus, although Deckhut lacks an instructional certificate, the requirements for this endorsement mandate specific subject-area knowledge for the exact topic of the course at issue, although none of the endorsement requirements make any specific reference to instruction.<sup>3</sup> As in Sayreville, the close relationship between Deckhut’s duties and the requirements for a school counselor endorsement, especially credits in the “psychology of learning” and the subject matter of the assigned course, means that the assignment to teach in this case was appropriate.

## **Conclusion**

While the educational services certificate regulation itself is silent as to whether instruction is a permissible duty, the fact that a holder’s duties are “primarily non-instructional” suggests that at least some amount of instruction by these certificate holders was contemplated. Additionally, the facts that other endorsements for this

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<sup>3</sup> One way to qualify for this endorsement is through completion of a Department-approved graduate program in school counseling. A survey of every Department-approved graduate program in the state revealed that only one program, Rutgers, requires any course referencing instruction. Even in this program, however, a course in instruction was an elective. Rutgers, Ed.M. Program in School Counseling, <https://gse.rutgers.edu/program/school-counseling/> (last visited March 27, 2025).

certificate explicitly permit instruction without an instructional certificate and that educational services certificate holders may teach as a substitute teacher without a credential or instructional certificate both support that some amount of instruction is appropriate under an educational services certificate. Finally, in a strikingly similar case, Sayreville, 1983 S.L.D. 1, the Commissioner held that a school board had the discretion to require guidance counselors to teach a course that was closely aligned with their job description and their pupil personnel services certificate. Following the method of comparison set forth in Sayreville, the same close relationship justifying the assignment of instructional duties exists here: the subject matter of the course Deckhut was assigned to teach falls well within the guidance counselor duties listed in the job description and the requirements for a school counselor endorsement—specifically, subject matter knowledge of the psychology of learning. In this regard, there are no genuine issues of material fact, and respondents are entitled to prevail as a matter of law. I **CONCLUDE** that the assignment to teach the course in this case did not exceed the school board's discretion.

### **ORDER**

It is **ORDERED** that the cross-motion for summary decision of respondents Bedminster Township Board of Education and Roger A. Jinks is **GRANTED**, and the cross-motion for summary decision of petitioners Krista J. Deckhut and the Bedminster Education Association is **DENIED**.

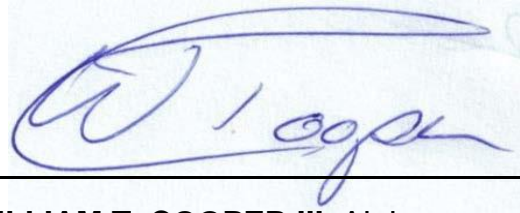
I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

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 on 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.

March 27, 2025

DATE



**WILLIAM T. COOPER III, ALJ**

Date Received at Agency

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Date Mailed to Parties:

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