

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF : STATE BOARD OF EXAMINERS
CORA AUSTIN : ORDER OF REVOCATION
_____ : DOCKET NO: 0304-176

At its meeting of June 10, 2004, the State Board of Examiners reviewed a decision forwarded by the Office of Administrative Law (OAL) that had denied an appeal filed by Cora Austin challenging the rating she had received as a provisional teacher. In the Matter of the Application of Cora Austin for Certification, OAL Docket No. EDE 11772-03 (May 18, 2004.) Austin currently holds a Teacher of Elementary School Certificate of Eligibility.

The State-Operated School District of the City of Jersey City (hereafter district) employed Austin as an elementary school teacher in the Alternate Route/Provisional Teacher Program during the 2002-03 school year. At the end of that provisional year, the district rated her performance as “insufficient.” Pursuant to N.J.A.C. 6:11-5.5(b)2 then in effect, an “insufficient” rating meant that the candidate would not receive a standard certificate, but would be allowed to serve as a provisional teacher for a second year.

In June 2003, Austin filed an appeal with the Office of Licensure and Credentials pursuant to N.J.A.C. 6:11-3.2 to challenge the “insufficient” rating. According to her rights under the regulation, Austin requested a hearing before an Administrative Law Judge (ALJ) at the OAL. On July 16, 2003 the Office sent a letter to the district for a response to Austin’s filing. The district responded on August 11, 2003. There was a problem with the transmission of the response, however, and the Board of Examiners’ letter to Austin was resent on October 23, 2003. Austin responded on October 27, 2003 and requested a hearing. The matter was filed with the OAL on December 24, 2003.

ALJ Carol Cohen heard testimony in the case on March 31 and April 28, 2004. After receiving post-hearing submissions, the record closed and the ALJ issued an Initial Decision on May 18, 2004.

In that decision, ALJ Cohen found that Austin had started out her provisional year receiving a satisfactory evaluation but that her subsequent evaluations were not as good. The ALJ also noted that Austin had a tension-filled relationship with the inclusion teacher in her classroom. (Initial Decision, slip op. at 20-22.) In addition to her evaluations as a provisional teacher, Austin was evaluated as a non-tenured teacher. On all of these evaluations, she had many areas that were marked “needs improvement.” The ALJ also recounted the assistance that the school district provided Austin from many sources, including a mentor teacher, another teacher who was enlisted to act as her advisor, the Supervisor of Special Education and teachers from the Beacon group, an organization of teachers who are familiar with the needs of special education students. (Initial Decision, slip op. at 24-25.)

After considering all the testimony, ALJ Cohen found that the district’s evaluation of Austin was not arbitrary and capricious. Rather, she concluded that the district tried to help Austin improve her performance. Moreover, the ALJ noted that none of Austin’s evaluators gave her a “disapproved” rating, which would have precluded her from teaching again. All of her evaluators agreed that with more experience and guidance Austin might make a good teacher. (Initial Decision, slip op. at 27-29.)

The Judge also found that Austin’s insufficient rating was not the result of retaliation by the principal for complaints Austin had made. ALJ Cohen held that Austin had not even proven that the principal had any knowledge of her complaint letter and that

even if he had, Austin had not shown evidence of retaliation. (Initial Decision, slip op. at 29-30.)

Finally, Judge Cohen also concluded that while the district did provide Austin with help from several sources, what she needed “was someone to coordinate all these efforts.” (Initial Decision, slip op. at 30.) Ultimately, this was immaterial to the issue of whether Austin should have received an “approved” rating. The ALJ concluded that Austin had not proved that she had “gained sufficient knowledge and expertise in the field of teaching to be certified.” (Initial Decision, slip op. at 30-31.) Consequently, ALJ Cohen concluded that Austin failed to prove that she was entitled to receive an “approved” rating. The judge therefore ordered that Austin’s appeal should be denied. (Initial Decision, slip op. at 31.)

At its meeting of June 10, 2004, the State Board of Examiners reviewed the ALJ’s Initial Decision. The Board must now determine whether to adopt, modify or dismiss the Initial Decision in this matter. After a thorough review of the record, the Board of Examiners affirms the ALJ’s conclusion that Austin has not proven that she is entitled to an “approved” rating for her 2002-03 provisional teaching year. Therefore, the Board agrees with the ALJ that Austin’s appeal of her “insufficient” rating should be denied. Accordingly, it is therefore ORDERED that the Initial Decision in this matter is hereby adopted.

Joan E. Brady, Secretary
State Board of Examiners

Date of Mailing: JULY 1, 2004

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.