

New Jersey Commissioner of Education
Final Decision

Greta-Marie Scott,

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 P-3 Standard Certificate, the standard certificate for Teacher of Preschool through Grade Three. The Board denied petitioner’s application for certification due to her failure to satisfy the P-3 endorsement requirement under N.J.A.C. 6A:9B-11.2(a)(2), which provides that “provisional teachers holding a CE [certificate of eligibility] with a P-3 endorsement shall choose to complete either 350 hours of formal instruction pursuant to N.J.A.C. 6A:9A-5.4(a)1 or 24 semester-hour credits of P-3 pedagogy at a Department-approved New Jersey college or university program.” The SBE filed a motion for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue in this case, and the matter is ripe for summary decision; petitioner conceded that she has not completed the educator preparation program required for P-3 certification pursuant to N.J.A.C. 6A:9B-11.2(a)(2), but argued that she had availed herself of the SBE’s internal appeals process under N.J.A.C. 6A:9B-4.12, which allows a candidate for certification to “provide the Board of Examiners with evidence of alternative education and/or experience that he or she believes is equivalent to the area(s) of deficiency”; petitioner provided the SBE with information about her undergraduate and graduate coursework, other teaching certificates that she holds, and her teaching experience; after review of these credentials, the SBE denied petitioner’s appeal, stating that pursuant to N.J.A.C. 6A:9B-4.12(c)(2), it is precluded from permitting a candidate to substitute education and/or experience for an approved educator preparation program, nor may it simply waive the requirement. The ALJ concluded that petitioner had failed to advance a claim upon which her request for a P-3 endorsement may be granted. Accordingly, the SBE’s motion for summary decision was granted, and the petition was dismissed.

The Commissioner concurred with the findings and determination of the ALJ herein; 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>

February 11, 2020

New Jersey Commissioner of Education

Final Decision

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Petitioner,

v.

New Jersey State Board of Examiners,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner concurs with the Administrative Law Judge that the Board of Examiners is entitled to summary decision. Accordingly, the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: January 11, 2020

Date of Mailing: January 12, 2020

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*).



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 17464-18

AGENCY DKT. NO. 178-7/18

GRETA-MARIE SCOTT,

Petitioner,

v.

NEW JERSEY STATE BOARD OF

EXAMINERS,

Respondent.

Greta-Marie Scott, petitioner, pro se

Jaclyn M. Frey, Deputy Attorney General, for respondent (Gurbir S. Grewal,
Attorney General of New Jersey, attorney)

Record Closed: November 18, 2019

Decided: January 8, 2020

BEFORE: **MARY ANN BOGAN**, ALJ

STATEMENT OF THE CASE

Petitioner Greta-Marie Scott (Scott) appeals the denial of her application for a preschool through grade three (P-3) endorsement by respondent New Jersey State Board of Examiners

(Board). The Board denied Scott's application due to her failure to satisfy the P-3 endorsement requirement under N.J.A.C. 6A:9B-11.2(a)(2), which provides that "provisional teachers holding a CE [certificate of eligibility] with a [P-3] endorsement shall choose to complete either 350 hours of formal instruction pursuant to N.J.A.C. 6A:9A-5.4(a)1 or 24 semester-hour credits of [P-3] pedagogy at a Department-approved New Jersey college or university program." The three required areas of instruction are "child development and learning," "understanding family and community," and "curriculum and assessment." N.J.A.C. 6A:9B-11.2(a)(2)(i)(ii)(iii).

Scott appealed the Board's decision to the Commissioner of Education, as permitted under N.J.A.C. 6A:9B-4.18. In response, the Board filed a motion to dismiss in lieu of answer to Scott's petition, in accordance with N.J.A.C. 6A:3-1.5(g). The matter was transmitted to the Office of Administrative Law (OAL) and received on December 6, 2018, where it was filed for determination as a contested case pursuant to N.J.S.A. 52:14 B-1 to 15 and N.J.S.A. 52:14F-1 to -13. Oral argument was heard on September 17, 2019. The record remained open for the submission of post-hearing briefs and closed on November 18, 2019.

Based upon the credible documentation submitted by the parties, and oral argument, I **FIND** the following **FACTS**:

Scott earned an undergraduate degree in special education/elementary education in 2004, Magna Cum Laude, and a master's degree in Special Education and Applied Behavior Analysis (ABA), with 1500 hours of ABA training for early childhood through adulthood, in 2008 both from East Stroudsburg University of Pennsylvania. Scott holds a Standard NJ Teacher Certificate in Elementary (K-6) regular education, Teacher of Students with Disabilities (Special Education), and Middle School Arts/Literacy (grades 5-8). Scott has been a special education teacher for fifteen years in the Belvidere School District and in 2016-2017, Scott was selected "Teacher of the Year". Scott passed the P-3 Praxis and obtained a Teacher of Preschool through Grade Three Certificate of Eligibility (CE). In February 2014, Scott established and started the

Belvidere School District's preschool ABA program. Scott applied for a P-3 Standard Certificate, and on June 29, 2018, the Board denied petitioner's application for a Teacher of Preschool through Grade Three standard certificate. (Exhibit A.)

Scott concedes that she has not completed an educator preparation program pursuant to N.J.A.C. 6A:9B-11.2(a)(2). However, Scott availed herself of the Board's internal appeals process under N.J.A.C. 6A:9B-4.12, which allows a certification candidate to "provide the Board of Examiners with evidence of alternative education and/or experience that he or she believes is equivalent to the area(s) of deficiency." N.J.A.C. 6A:9B-4.12(b). As part of that appeal, Scott provided the Board with information about her undergraduate and graduate coursework, other teaching certificates she holds, and her teaching experience. Board's Brief, Ex. C.

In accordance with N.J.A.C. 6A:9B-4.12(d), the Board reviewed the information provided by Scott, and thereafter issued a written decision denying her appeal. In its decision, the Board stated that Scott "has been denied certification because she has not shown evidence of completion of an approved [P-3] program of study culminating in student teaching or through an approved New Jersey Department of Education alternate route program of [P-3] pedagogy," as required by N.J.A.C. 6A:9B-11.2(a)(2). Board's Brief, Ex. A. The Board stressed that "[t]he three distinct areas of study required by [N.J.A.C. 6A:9B-11.2(a)(2)] are considered unique and critical elements of the knowledge and skills necessary for [P-3] instruction." Ibid. The Board carefully considered and recognized both Scott's undergraduate and graduate coursework and the fact that Scott "has extensive experience as an educator and, more recently since February 2014, as a teacher of an autistic support program and preschool disability program both for ages three through seven," but concluded that Scott did not provide a one-to-one correspondence between her deficiency, i.e. evidence of successful completion of a P-3 program of study and her education and experience for issuance of a standard P-3 certificate" and concluded that "[t]he Board . . . is precluded from permitting a candidate to substitute education and/or experience for an approved educator preparation program nor may it simply waive the requirement," pursuant to N.J.A.C. 6A:9B-4.12(c)(2). Ibid.

LEGAL ANALYSIS AND CONCLUSION

While the Uniform Administrative Procedure Rules (UAPR) governing motions, N.J.A.C. 1:1-12.1 to -12.7, do not specifically limit the types of motions that may be made in administrative hearings or otherwise preclude a “motion to dismiss,” the more common method for resolving a case on the papers without a plenary hearing is by a motion for summary decision pursuant to N.J.A.C. 1:1-12.5.

Under N.J.A.C. 1:1-12.5, “[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). However, a motion for summary decision shall be denied if, by responding affidavit, an adverse party “set[s] forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” *Ibid.*

Summary judgment is analyzed in accordance with the principles established by the Supreme Court in Brill v. Guardian Life Ins. Co., 142 N.J. 520, 540 (1995):

[A] determination whether there exists a “genuine issue” of material fact that precludes summary judgment 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 factfinder to resolve the alleged disputed issue in favor of the non-moving party. The “judge’s function is not . . . to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.”

[Citation omitted.]

See also Nat'l Transfer, Inc. v. N.J. Dep't of Env'tl. Prot., 347 N.J. Super. 401, 408–09 (App. Div. 2002).

The Board argues that dismissal is appropriate because Scott has failed to state a claim upon which relief may be granted. In particular, the Board asserts that Scott has no cause of action because she concedes that she has not completed an educator preparation program pursuant to N.J.A.C. 6A:9B-11.2(a)(2), and despite her other education and experience, N.J.A.C. 6A:9B-4.12(b)(2) prohibits the Board from “[p]ermit[ing] a candidate to substitute education and/or experience for any test, GPA, degree, or approved educator preparation program completion requirements.” (Emphasis added).

Although the Board (and I) recognized both Scott’s undergraduate and graduate coursework and her extensive experience as an educator, Scott has not completed an educator preparation program required by N.J.A.C. 6A:9B-11.2(a), and for that reason, this omission – her failure to complete such a program – is a deficiency that cannot be remedied by evidence of alternative education or experience pursuant to N.J.A.C. 6A:9B-4.12(c)(2). On that basis, unless and until Scott completes an educator preparation program under N.J.A.C. 6A:9B-11.2(a)(2), the Board cannot issue her a P-3 endorsement. Accordingly, I am constrained to **CONCLUDE** that Scott has failed to advance a claim upon which her request for a P-3 endorsement may be granted.

Therefore, having considered the parties’ submissions, I **CONCLUDE** that the Board’s motion for summary decision should be **GRANTED**.

ORDER

I hereby **ORDER** that respondent’s motion for summary decision is **GRANTED** and petitioner’s appeal is **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.

January 8, 2020 _____

DATE



MARY ANN BOGAN, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

MAB/cb