

DUANE MILLER, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
NEW JERSEY STATE BOARD : DECISION
OF EXAMINERS, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner challenged the denial of his application for a Supervisor Certificate by the respondent, New Jersey State Board of Examiners (SBE). The SBE determined that petitioner did not satisfy the requirement of three graduate elective credits in instructional staff supervision and/or curriculum design and development, pursuant to *N.J.A.C. 6A:9B-12.6(a)(2)(ii)(4)*. Petitioner asserted that he is qualified for certification based on alternative education and/or experience equivalent to the deficiencies indicated by the SBE.

The ALJ found, *inter alia*, that: subsequent to the Office of Certification and Induction’s rejection of his application for a Supervisor Certificate for lack of three graduate credits, petitioner appealed to the SBE with a claim that he meets the requirement based upon alternative education and/or experience; the SBE considered petitioner’s proof of completion of a three credit course through the University of Delaware entitled “Curriculum and Methods for Teaching the Gifted Child;” the SBE failed to find compelling evidence of a one-to-one correspondence between the required three credits in curriculum design and development that petitioner was missing and the University of Delaware course he sought to substitute in place of this deficiency; although petitioner eloquently voiced the frustration he experienced while going through the process of applying for certification, he conceded that the University of Delaware course did not satisfy the requirement for certification. The ALJ concluded that petitioner did not meet his burden to show that he was entitled to the certification he sought; accordingly, the Board’s denial of petitioner’s application for a Supervisor Certificate was appropriate.

Upon a comprehensive review of the record, the Commissioner concurred with the ALJ’s findings, and adopted the Initial Decision of the OAL as the final decision in this matter. 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.

November 1, 2018

OAL DKT. NO. EDU 3040-17
AGENCY DKT. NO. 8-1/17

DUANE MILLER, :
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 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
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 NEW JERSEY STATE BOARD : DECISION
 OF EXAMINERS, :
 :
 RESPONDENT. :
 _____ :

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

Upon a comprehensive review of the record, the Commissioner is in accord with the Administrative Law Judge’s conclusion – for the reasons set forth in the Initial Decision – that the petitioner did not satisfy the requirements necessary to qualify for a Supervisor Certificate. 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.¹

COMMISSIONER OF EDUCATION

Date of Decision: November 1, 2018
Date of Mailing: November 1, 2018

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

OAL DKT. NO. EDU 03040-17

AGENCY DKT. NO. 8-1/17

DUANE MILLER,

Petitioner,

v.

NEW JERSEY STATE

BOARD OF EXAMINERS,

Respondent.

Duane Miller, petitioner, pro se

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

Record Closed: August 21, 2018

Decided: September 19, 2018

BEFORE **JEFFREY R. WILSON**, ALJ:

STATEMENT OF THE CASE

The petitioner appeals the denial of his request for the issuance of a Supervisor Certificate by the respondent, New Jersey State Board of Examiners (Board) because the petitioner did not satisfy the requirement of three graduate elective credits in instructional staff supervision and/or curriculum design and development, pursuant to

N.J.A.C. 6A:9B-12.6(a)(2)(ii)(4). The petitioner asserts that he is qualified for certification based upon alternative education and/or experience equivalent to the deficiencies stated by the Board.

PROCEDURAL HISTORY

The petitioner filed an appeal of the denial of his request for the issuance of a Supervisor Certificate and requested a hearing before the Office of Administrative Law (OAL). The matter was transmitted to the OAL, where it was filed on March 3, 2017, as a contested case. N.J.S.A. 52:14B-1 to 15 and N.J.S.A. 52:14F-1 to 13.

The respondent filed a Motion for Summary Decision on March 1, 2017, and the petitioner filed his response on March 7, 2017. The respondent filed a supplemental brief on May 18, 2017. The respondent's motion was denied by Order, dated August 29, 2017.

The fair hearing was conducted on August 21, 2018, and the record closed.

FACTUAL DISCUSSION AND FINDINGS

The following facts of this case are not in dispute; therefore, I **FIND** as **FACT**:

The petitioner filed an application for Supervisor Certificate with the New Jersey Office of Certification and Induction (OCI). OCI reviewed the petitioner's application and determined that the petitioner had not completed the required three graduate level elective credits in staff supervision and / or curriculum design and development.

The petitioner appealed the OIC decision to the Board and offered evidence that he is qualified for certification based upon alternative education and / or experience equivalent to the deficiencies stated by the OIC. The Board considered the petitioner's submissions at its June 23, 2016, meeting and determined that the petitioner had not provided compelling evidence with his proffered alternative education and / or experience.

The petitioner filed the present Petition of Appeal with the Commissioner of Education seeking review of the Board's determination.

Testimony

Robert R. Higgins, Ph.D. is the Director of OIC and serves as Secretary to the State Board of Examiners. At its meeting on June 23, 2016, the Board heard the petitioner's application for the issuance of the Supervisor Certificate. The petitioner was notified of the hearing but did not attend. The Board determined that the petitioner had satisfied all requirements toward certification except for three graduate elective credits in instructional staff supervision and/or curriculum design and development. (R-1.) The Board made its decision after considering proof of the petitioner's completion of a three-credit course through the University of Delaware entitled EDUC 683 – CURRICULUM AND METHODS FOR TEACHING THE GIFTED CHILD. (P-1.) The petitioner proffered this information seeking to substitute education and experience he believed to be equivalent to the area of noted deficiency.

The University of Delaware course description provides:

Focuses on the development of appropriate activities for gifted children. Acquaints students with theoretical models to guide the development and selection of curriculum for use with gifted and talented children. Practicum experiences included.

Based upon representations of the petitioner, the Board determined that the curriculum produced by the petitioner through this course was merely modeled after those developed in other states rather than developed "from scratch" by the petitioner himself. Higgins explained that the ability to develop curricula "from scratch" is very important because that is what is expected of supervisors throughout the state. The Delaware University course only required the petitioner to analyze existing curricula. Although curriculum analyzation is an important skill, a supervisor in the state of New Jersey must be able to develop and design a curriculum "from scratch". The Board did not find compelling evidence of a one-to-one correspondence between the course proffered by the petitioner and the noted deficiency. The Board determined that the

course proffered by the petitioner focused on methodology rather than curriculum design and development.

Duane Miller, the petitioner, taught in Delaware and New Jersey Public Schools. He completed his graduate studies through the University of Delaware and the University of Phoenix. He proffered the University of Delaware course as satisfaction of the deficiency noted by the Board. Through that course, he was required to review the curricula of his then present New Jersey school district, the curricula of surrounding counties, as well as those of neighboring states of Pennsylvania and Delaware. After this review, he was required to design and develop curriculum based upon his review, and extensive research of best curriculum design practices. He conceded that the curriculum he produced through that course were based upon pre-existing curricula and not “from scratch.”

The petitioner eloquently voiced the frustration he experienced while going through the certification application process. The process was confusing and when he contacted the Board for direction and assistance, he was oftentimes met with inappropriate verbal responses leaving him feeling put off and put through the run around.

LEGAL ANALYSIS AND CONCLUSION

Pursuant to N.J.A.C. 6A:9B-3.2, the New Jersey State Board of Examiners is responsible for issuing appropriate certificates to teach or to administer, direct, or supervise, the teaching, instruction, or educational guidance of pupils in public schools operated by district boards of education.

N.J.A.C. 6A:9B-12.6(a) provides, in pertinent part, to be eligible for the standard administrative certificate with a supervisor endorsement, a candidate shall:

1. Hold a master's or higher degree from a regionally accredited college or university;
2. Successfully complete one of the following:

- i. A Commissioner-approved college curriculum that specifically prepares the candidate for the endorsement;
 - ii. Twelve graduate-level semester-hour credits, including the following:
 - (1) Three credits in general principles of instructional staff supervision in preschool through grade 12;
 - (2) Three credits in general principles of curriculum design and development for preschool through grade 12;
 - (3) Three elective credits in curriculum design and development; and
 - (4) Three elective credits in instructional staff supervision and/or curriculum design and development; or
 - iii. A Commissioner-approved training program that is implemented by a Commissioner-approved provider and specifically prepares the candidate for the endorsement; and
3. Hold a standard New Jersey instructional or educational services certificate, or its out-of-State equivalent, and complete three years of successful, full-time teaching and/or educational services experience. Teaching and/or educational services experience completed in a New Jersey school district must have been under an appropriate New Jersey certificate.

Here, the Board determined that the petitioner did not satisfy the requirement for three graduate elective credits in instructional staff supervision and/or curriculum design and development, pursuant to N.J.A.C. 6A:9B-12.6(a)(2)(ii)(4). The petitioner conceded that the University of Delaware course did not satisfy the requirement for certification.

Accordingly, I **CONCLUDE** that the petitioner has not met his burden by a preponderance of the evidence and I **CONCLUDE** that the Board's denial of the petitioner's request for the issuance of a Supervisor Certificate was appropriate.

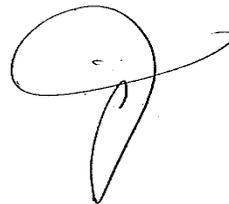
ORDER

It is hereby **ORDERED** that the Board's denial of the petitioner's request for the issuance of a Supervisor Certificate be **AFFIRMED**.

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.



September 19, 2018

DATE

JEFFREY R. WILSON, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

JRW/dm

APPENDIX

WITNESSES

For Petitioner:

Duane Miller, petitioner

For Respondent:

Robert R. Higgins, Ph.D.

EXHIBITS

For Petitioner:

P-1 List of graduate courses completed by the petitioner as submitted as part of his application for Supervisor Certificate

For Respondent:

R-1 September 16, 2016, New Jersey Department of Education, State Board of Examiners Decision