

14-19

Askiaa Nash, :
Petitioner, :
V. : Commissioner of Education
New Jersey State Board of Examiners : Decision
Respondent. :
_____ :

Synopsis

In December 2016, the New Jersey State Board of Examiners (Board) denied the petitioner's application for a Standard Educational Services Certificate of Eligibility with an Associate School Library Media Specialist (ASLMS) endorsement. Petitioner's application was denied because he had not completed the coherent college program outlined under *N.J.A.C* 6A:9B-14.15(e)(2), and had not completed a year-long school-based residency program in a school library media center, as required under *N.J.A.C* 6A:9B-14.15(e)(3). Petitioner argued that the Board should have awarded him the certificate he sought because he completed the required coursework under the prior regulations and was incarcerated when the regulations governing the issuance of the ASLMS endorsement changed. The Board contended that even if petitioner had applied for the ASLMS endorsement when he completed course requirements, he still would not have been eligible for the endorsement under the prior regulations because he did not possess a standard New Jersey teacher's certificate at the time.

The ALJ found, *inter alia*, that: the petitioner received an Alternate Route Provisional Teacher Certificate of Eligibility in 1993, and was hired by the Newark Public Schools as an education media specialist under emergency certificates from September 1993 to September 2000; petitioner completed coursework for his college degree from Montclair State University by August 1995, but never applied for his standard New Jersey teacher's certificate; in January 2001, petitioner was tried and sentenced to twenty-two years in prison, which sentence was overturned in 2013 and his record expunged; subsequently, in 2016, petitioner applied for a Standard Educational Services Certificate of Eligibility with an ASLM endorsement, having previously never applied for this certificate; petitioner's argument that he should have been awarded the Standard Certificate with an ASLMS because he had completed the required college courses under the regulations in effect prior to his incarceration, and therefore the requirement should be waived, is without merit. The ALJ concluded that petitioner is ineligible for a Standard Educational Services Certificate of Eligibility with an ASLMS under both *N.J.A.C* 6A:9B-14.15(e)(2) and *N.J.A.C* 6A:9B-14.15(e)(3), and accordingly dismissed the matter.

Upon review, the Commissioner concurred with the ALJ's findings and conclusion; accordingly, the Initial Decision of the OAL was adopted 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.

January 14, 2019

OAL Dkt. No. EDU 01135-18
Agency Dkt. No. 271-11/17

Askiaa Nash,	:	
Petitioner,	:	
V.	:	Commissioner of Education
New Jersey State Board of Examiners	:	Decision
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.¹

Upon review, the Commissioner agrees with the Administrative Law Judge that petitioner does not meet the regulatory requirements for a Standard Educational Services Certificate of Eligibility with an Associate School Library Media Specialist endorsement. As such, respondent did not act in an arbitrary, capricious, or unreasonable manner when it denied petitioner's application.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter – for the reasons thoroughly expressed therein – and the petition is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: January 14, 2015

Date of Mailing: January 15, 2015

¹ The Commissioner was not provided with a copy of the transcript of the October 10, 2018 hearing at the OAL.

² 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 01135-18

AGENCY DKT. NO. 271-11/17

ASKIAA NASH,

Petitioner,

v.

NEW JERSEY BOARD OF EXAMINERS,

Respondent.

Askiaa Nash, petitioner, pro se

Geoffrey N. Stark, Deputy Attorney General, for respondent (Gurbir S. Grewal,
Attorney General of New Jersey, attorney)

Record Closed: November 13, 2018

Decided: November 29, 2018

BEFORE **BARRY E. MOSCOWITZ**, ALJ:

STATEMENT OF THE CASE

On December 15, 2016, the State Board of Examiners denied Askiaa Nash's application for a Standard Educational Services Certificate of Eligibility with an Associate School Library Media Specialist (ASLMS) Endorsement. Nash argues that the prior regulations apply and that their certification requirements should be waived. If

the prior regulations are applied, can the certification requirements be waived? No. Under N.J.A.C. 6A:5-1.3(a)(1)(i), certification requirements cannot be waived.

PROCEDURAL HISTORY

On November 1, 2016, Nash applied to the State Board of Examiners for a Standard Educational Services Certificate of Eligibility with an ASLMS Endorsement under N.J.A.C. 6A:9B-14.15(e).

On December 15, 2016, the Board denied the application because Nash had not completed “a coherent college program at a regionally accredited college or university that includes a minimum of nine semester-hour credits in educational theory, curriculum design and integration, teaching methodology, student/learning development, and behavior management” under N.J.A.C. 6A:9B-14.15(e)(2), and he had not completed “a year-long school-based residency program in a school library media center” under N.J.A.C. 6A:9B-14.15(e)(3).

On October 23, 2017, Nash appealed the determination.

On January 22, 2018, the Department of Education transmitted the case to the Office of Administrative Law as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the Office of Administrative Law, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

FINDINGS OF FACT

Based on the testimony the parties provided, and my assessment of its credibility, together with the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following as **FACT**:

In 1993, Nash applied for and received an Alternate Route Provisional Teacher Certificate of Eligibility.

On September 1, 1993, Nash was hired by the Newark Public Schools as an education media specialist. He was issued emergency certificates from September 1993 to September 2000. By August 1, 1995, Nash had completed his coursework at Montclair State University.

Nash, however, never applied for his standard New Jersey teacher's certificate.

Meanwhile, on January 1, 2001, Nash was tried and sentenced to twenty-two years in prison. On January 23, 2013, his conviction was overturned. On May 1, 2013, his record was expunged.

In 2016, Nash applied for but was denied a Standard Educational Services Certificate of Eligibility with an ASLMS Endorsement.

Parenthetically, Nash had never applied for a Standard Educational Services Certificate of Eligibility with an ASLMS Endorsement before 2016.

CONCLUSIONS OF LAW

Nash argues that the Board should have awarded him the Standard Educational Services Certificate of Eligibility with an ASLMS Endorsement because he completed the required courses at Montclair under the prior regulations and was incarcerated when the regulations governing the issuance of the ASLMS endorsement changed.

The Board argues that even if Nash had applied for an ASLMS endorsement when he completed the required courses at Montclair, he still would have been ineligible for the endorsement under the prior regulations because he did not possess a standard New Jersey teacher's certificate at the time.

At that time, the regulations governing the ASLMS endorsement required (1) a bachelor's degree from an accredited college, (2) a standard New Jersey teacher's certificate, and (3) successful completion of a college curriculum approved by the New

Jersey Department of Education for issuing the endorsement or a minimum of eighteen semester-hour credits of undergraduate or graduate study in educational media. See N.J.A.C. 6:11-11.18.

As the parties stipulated at the hearing, Nash had a bachelor's degree from an accredited college, and had successfully completed a minimum of eighteen semester-hour credits of undergraduate or graduate study in educational media, but he did not have a standard New Jersey teacher's certificate.

Nash argues that this requirement should be waived. Such waiver, however, is unavailable. As the Board notes, the regulation governing waiver expressly states that certification requirements cannot be waived. See N.J.A.C. 6A:5-1.3(a)(1)(i).

Given this brief discussion, I **CONCLUDE** that Nash is ineligible for a Standard Educational Services Certificate of Eligibility with an ASLMS endorsement under both N.J.A.C. 6A:9B-14.15(e) and N.J.A.C. 6:11-11.18.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that this case be **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.

November 29, 2018 _____
DATE



BARRY E. MOSCOWITZ, ALJ

Date Received at Agency: November 29, 2018 _____

Date Mailed to Parties: _____
dr

APPENDIX

Witnesses

For Petitioner:

Askiaa Nash

For Respondent:

Robert Higgins

Documents

For Petitioner:

- P-1 Board Decision, dated December 15, 2016
- P-2 Not in Evidence
- P-3 Excerpt from Course Catalog, undated

For Respondent:

- R-1 Printout from Teacher Certification Information System, undated
- R-2 Prior regulations, dated September 17, 1996
- R-3 Transcript from Bloomfield College, undated
- R-4 Transcript from Montclair State University, undated
- R-5 Current regulations, undated