

New Jersey Commissioner of Education

Final Decision

Stephanie Florio,

Petitioner,

v.

New Jersey State Board of Examiners,

Respondent.

Synopsis

Pro-se petitioner appealed the determination of the respondent New Jersey State Board of Examiners (SBE) that she had not met the requirements for issuance of a Reading Specialist Certificate because she failed to complete the required three credit hours in a supervised practicum in reading. Petitioner argued that her alternative education and experience satisfied a one-to-one-correspondence to the missing credits, in accordance with *N.J.A.C. 6A:9B-4.12(b)*. The SBE did not accept petitioner’s alternative education and experience, finding that petitioner did not establish a compelling one-to-one correspondence with the Reading Specialist certification requirements. Petitioner thereafter filed the within appeal.

The ALJ found, *inter alia*, that: the issue in this case is whether petitioner satisfied her burden of demonstrating, by a preponderance of the evidence, that the SBE acted in a manner that was arbitrary, capricious, or contrary to law when it determined not to accept petitioner’s alternative education to satisfy the remaining requirements that petitioner needed to receive a Reading Specialist Certificate; *N.J.A.C. 6A:9B-14.13* sets forth the requirements for issuance of this certificate; the SBE determined that petitioner did not satisfy the requirements for certification because she lacks three credit hour credits in a supervised practicum in reading and her alternative education and experience was not deemed equivalent to satisfy that deficiency; and petitioner failed to establish that the SBE’s decision to deny her application for a Reading Specialist Certificate was arbitrary, capricious or unreasonable. Accordingly, the ALJ affirmed the SBE’s decision and dismissed the petition.

Upon review, the Commissioner found, *inter alia*, that: the ALJ mistakenly applied the wrong standard of review in the Initial Decision, stating that the SBE’s decision will not be overturned unless the petitioner proves that the SBE acted in a manner that was arbitrary, capricious or contrary to law; the appropriate standard of review here is whether the SBE’s decision was consistent with the applicable statutory and regulatory provisions of *N.J.A.C. 6A:3*; applying the appropriate standard of review, the Commissioner found that the record does not contain sufficient information to determine whether the Board’s denial of petitioner’s application was consistent with the applicable statutory and regulatory provisions; petitioner has raised material issues of fact that preclude dismissal at this stage, as a full record must be developed and considered pursuant to the appropriate standard of review before a decision can be made as to whether the Board’s decision should be affirmed or reversed. Accordingly, the Initial Decision of the OAL was rejected and the matter remanded for further proceedings consistent with this decision.

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.