

New Jersey Commissioner of Education**Final Decision**

John Cash, Jr.,

Petitioner,

v.

New Jersey Department of Education,
State Board of Examiners,

Respondent.

Synopsis

Pro-se petitioner appealed the determination of the respondent New Jersey State Board of Examiners (SBE) denying his request for a second extension of time to satisfy the requirements of New Jersey's Alternate Route teacher certification program. Specifically, petitioner sought an additional two-year extension of his provisional certificate for a Computer Science endorsement after discovering that he had been incorrectly advised that the employing district would waive the remaining academic requirements associated with obtaining certification through the Alternate Route program. Petitioner's extension request was denied when the SBE determined that a second renewal exceeded the four-year program limit allowed by law; further, the SBE emphasized that the responsibility for, and awareness of, the requirements for program completion lie with the applicant, including the obligation to verify information provided by the employing school district. The respondent filed a motion for summary decision, seeking dismissal of the petition.

The ALJ found, *inter alia*, that: there are no issues of material fact in this case and the matter is ripe for summary decision; the regulation governing provisional certificate renewals, *N.J.A.C. 6A:9B-8.5*, provides that a school principal may recommend renewal of a provisional teacher's two-year provisional certificate for an additional two years if the candidate has not completed the requirements for standard certification within the first two years of employment; pursuant to *N.J.A.C. 6A:9B-8.5(c)* there are limited and specific circumstances under which a renewal can be extended beyond the maximum of four years for program completion; however, none of those limited circumstances apply in the instant case; petitioner admitted that though he completed the majority of the requirements, he has not completed all of the academic coursework associated with the Alternate Route program because he relied upon incorrect information from a representative of the school district who counseled him that the district would waive the remaining academic requirements. The ALJ concluded that, unfortunately, the governing regulations do not permit discretionary consideration of the specific circumstances of this matter to allow a waiver beyond the four-year program limit. Accordingly, the ALJ granted the SBE's motion for summary decision and dismissed the petition.

Upon review, the Commissioner concurred with the findings and conclusions of the ALJ and adopted the Initial Decision 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.

254-23
OAL Dkt. No. EDU 01325-23
Agency Dkt. No. 363-12/22

New Jersey Commissioner of Education
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Respondent.

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

Upon review, and for the reasons thoroughly expressed in the Initial Decision, the Commissioner adopts the findings and conclusions of the Administrative Law Judge (ALJ). The Commissioner concurs with the ALJ that petitioner is ineligible for a second renewal of his Teacher of Computer Science Technology provisional certificate under *N.J.A.C. 6A:9B-8.5(c)* because he has failed to satisfy the regulatory requirements for same.

Accordingly, respondent's motion for summary decision is granted and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹


ANGELINA ALLEN McMILLAN, J.D.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: August 22, 2023
Date of Mailing: August 23, 2023

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 01325-23

AGENCY DKT. NO. 363-12/22

JOHN CASH, JR.,

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF
EDUCATION, STATE BOARD OF
EXAMINERS,**

Respondent.

John Cash, Jr., pro se petitioner

David Kalisky, Deputy Attorney General, for respondent (Matthew J. Platkin,
Attorney General of New Jersey, attorney)

Record Closed: June 30, 2023

Decided: July 18, 2023

BEFORE **ANDREW M. BARON,** ALJ:

STATEMENT OF THE CASE

John Cash, Jr. ("Cash or petitioner"), appeals a determination by the Board of Examiners, Recruitment Unit of the Department of Education, denying his request for an additional extension to meet the requirements of the alternate teaching program.

PROCEDURAL HISTORY

John Cash appeals from a determination by the Department of Education denying his request for an additional extension of time to satisfy the requirements of the alternate route teaching provisional certificate program.

UNDISPUTED FACTS AN DISCUSSION

Faced with a growing shortage of public-school teachers, several years ago the New Jersey Department of Education created an Alternate Route Program for individuals with business and other experience who were seeking a career in teaching.

With the onset of the pandemic in March 2020, even more teachers decided to retire which increased the shortage of available teachers for districts to draw upon.

In response to the continued thinning ranks of experienced teachers. The Legislature and Governor Murphy enacted the New Teacher Certification Pilot Program, which allows certain school districts the flexibility to award teaching certificates to newly trained teachers, in lieu of the traditional Praxis and other traditional requirements prior to receiving a teacher's license.

Pursuant to this process, the Department of Education informed Cash that before receiving a provisional certification, CE candidates must be hired by a school in the same area required for the teaching position.

Among other things, such individuals seeking an alternate certification are required to complete a minimum 50 hours of pre-professional experience in an authorized educator preparation program, as well as 400 hours of continuing education, in order to be eligible for a standard certificate in the same endorsement area.

Prior to receiving a certificate, such candidates must also pass a commissioner approved basic skills assessment test, enroll in their school's mentoring program for a

minimum of thirty weeks, and obtain at least two evaluations with ratings of effective or highly effective.

In August 2018, the Englewood School District, which to some extent is an urban district, enrolled petitioner in the Alternate CTE program for a Computer Science endorsement, with classes at Brookdale Community College starting in September 2018. (In 1992, Mr. Cash previously obtained an alternate certificate to teach social studies through the State of Maryland).

Having completed several but not all of the requirements, in 2020 Cash applied for a renewal of his provisional CTE which was originally issued in August 2018. The District granted his request, having received an overall rating as effective.

For reasons unknown, and what ultimately became the genesis of this appeal, Cash says the District told him with all of his prior experience, he would not have to complete all of the academic requirements and classes associated with the program at Brookdale, essentially waiving that requirement.

Knowing that his first extension would expire in August 2022, Cash applied for a second renewal, which was ultimately disapproved by the Board on September 16, 2022, due to the Board's determination that a second renewal exceeded the limits allowed by law. Moreover, despite Cash's explanation that he relied on a District representative who told him he did not have to complete the classes at Brookdale, the Board and the Department of Education correctly emphasize that the responsibility and awareness of completing all the requirement is on the applicant, regardless of what one individual incorrectly tells them, and he could have verified the information he allegedly received with the Department itself, who would have given him the correct information.

Cash argues he essentially completed most of the program requirements in good faith, and that the "misunderstanding" about his prior academic experience in Maryland should not serve as a barrier to his continued employment in Englewood under the New Teacher Pilot Certification Program, which was a policy directive aimed at filling several open teaching positions which escalated due to retirements of experienced teachers.

He further indicates that as an African American teacher in a highly diverse district, he is the very model the State and certain districts were looking for when this program came into being. During his four years in Englewood, there is no dispute Mr. Cash was rated as an “effective” teacher, and he completed the thirty plus hours of mentoring, as well as the fifty hours of pre-professional experience. He did some of the class requirements at Brookdale but did not do the rest as a result of improper advice he received from a district official. With the second renewal denied, Cash indicates it would be a hardship for him to essentially start over in a new district, in a new subject area, since he would be barred from continuing with the same subject in the same district under State regulations.

Under these circumstances, Cash argues that he is entitled to a waiver as he has substantially complied with the rest of the requirements.

LEGAL ARGUMENT

The State filed a Motion to Dismiss the Appeal, couched in terms of a Motion for Summary Disposition, essentially arguing there are no disputed material facts, since petitioner admitted he did not complete the classroom portion of the alternate teaching program in the required amount of time. A motion for summary disposition may be granted if there is no genuine issue of material fact and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5. Under that rule, “a party may move for summary decision upon all or any of the substantive issues in a contested case. Further, “the decision sought may be rendered if there is no genuine issue as to any material fact challenged, and the movant is entitled to relief as a matter of law.”

By analogy, the State suggests it is the equivalent of R. 4:46-2 regarding summary judgment and avoids unnecessary evidentiary hearings when there are no disputed issues of material fact. Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106 (App. Div. 1995). See also: Brill v. Guardian Life Insurance Company of America, 142 N.J. 520 (1995), wherein the New Jersey Supreme Court established that the key question is whether the evidence is so one-sided that one party must prevail as a matter of law.

The regulation governing provisional certificate renewals, N.J.A.C.6A:9B-8.5 provides:

The principal may recommend a provisional teacher for renewal of his or her two-year provisional certificate if the candidate has not yet completed the requirements for the standard certificate within the first two years of employment pursuant to N.J.A.C. 6A; 9B:-8.4.

See also: N.J.A.C. 6A:9B-8.5 (b)(4) which speaks to limited circumstances that a renewal can be extended beyond the maximum four years in limited circumstances:

The two-year provisional certificate may only be renewed once for a maximum provisional period of four years, or may be renewed twice for a maximum provisional period of six years, if the candidate fulfills one or more of the following in addition to the regular requirements:

1. The candidate holds a CE as a teacher of students with disabilities endorsement, or a CE with Bilingual/bicultural endorsement, or a CE with an English as a second language endorsement.
2. The candidate was issued the provisional certificate after February 1 of the first school year when the candidate was employed; or
3. The candidate does not receive the annual cumulative rating as required for standard certification by July 31st of the candidate's fourth year.

Unfortunately, **I CONCLUDE** that none of these limited exceptions to the maximum four-year period apply to Cash, who completed several other aspects of the program in good faith and was dedicated to the students in Englewood during his time there. Other than the three circumstances outlined above which do not apply to Cash, neither I nor the Commissioner have the discretion to consider the totality of the circumstances to extend/renew his status.

(Judicial notice is taken of the growing need for otherwise qualified teaching applicants who come from other fields to offset the growing shortage of teachers in this State). Nonetheless, in order to insure that the very best of these individuals who do not go through the regular four year teaching programs are qualified, the State has created a strict series of requirements that all such candidates must complete.

Having completed the majority of the requirements, with the exception of the classroom hours at Brookdale, petitioner cannot be faulted for seeking a waiver from the remaining requirements. Unfortunately, **I FURTHER CONCLUDE** that despite seemingly stellar qualifications, no such waiver exists that would enable the District and the Department to bypass the one key component he failed to complete within the four years. **I THEREFORE CONCLUDE** that the State's Motion to Dismiss the Appeal, presented in the form of a Motion for Summary Disposition must be **GRANTED**.

ORDER

It is hereby **ORDERED** that the determination that petitioner is not eligible for a second renewal of is **Affirmed**, and with all of the facts having already been presented by both parties and no further hearing being necessary, it is further **ORDERED**, that the State's Motion to Dismiss, presented in the form of a Motion for Summary Disposition is **Granted**. With no material facts in dispute, and petitioner having essentially admitted he did not complete all the requirements, despite having four years to do so **I THEREFORE ORDER**, that the matter is hereby decided in its entirety on the merits in favor of Respondent.

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.

July 18, 2023

DATE



ANDREW M. BARON, ALJ

Date Received at Agency:

July 18, 2023

Date E-Mailed to Parties:

July 18, 2023

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