

New Jersey Commissioner of Education
Final Decision

Mary C. McDermott,

Petitioner,

v.

New Jersey Department of Education, State
Board of Examiners,

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, the Commissioner concurs with the Administrative Law Judge (ALJ) that the petition should be dismissed because petitioner has failed to state a claim upon which relief may be granted. The Commissioner lacks authority to grant petitioner the relief she is seeking, which appears to be issuance of an educational services certificate with a school nurse/non-instructional endorsement.

In 2020, respondent partially granted and partially denied petitioner's application for issuance of an educational services certificate with a school nurse/non-instructional endorsement. In 2021, petitioner's appeal of that decision to the Commissioner was dismissed based upon her failure to appear at the contested hearing. *Mary McDermott v. New Jersey Department of Education, State Board of Examiners*, Commissioner Decision No. 297-21

(November 29, 2021). If petitioner has since completed the necessary coursework, she may submit a new application for certification to the State Board of Examiners pursuant to the requirements set forth at *N.J.A.C. 6A:9B-14.4*.

Accordingly, the Initial Decision is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed.¹

IT IS SO ORDERED.²



COMMISSIONER OF EDUCATION

Date of Decision: June 23, 2025

Date of Mailing: June 23, 2025

¹ To the extent that the ALJ discussed application of the arbitrary, capricious, or unreasonable standard of review to matters involving certification in the Initial Decision, the Commissioner wishes to clarify that “[a] decision by the Board denying an application for a certificate is not entitled to the arbitrary, capricious or unreasonable standard of review that is afforded to appeals filed under *N.J.A.C. 6A:4*, challenging a decision of the Board revoking or suspending a certificate.” *Nimczyk v. N.J. Dep’t of Educ., State Bd. of Exam’rs*, Commissioner Decision No. 98-22 (May 16, 2022), at 2. “[T]he appropriate standard of review . . . is whether the decision is consistent with the applicable statutory and regulatory provisions.” *Id.* at 3.

² 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

MOTION TO DISMISS

OAL DKT. NO. EDU 14038-24

AGENCY DKT. NO. 280-8/24

**IN THE MATTER OF THE PARTIAL DENIAL
OF PARTIAL LICENSURE OF TEACHING
CERTIFICATE FOR MARY C. MCDERMOTT,
NEW JERSEY DEPARTMENT OF EDUCATION,
BOARD OF EXAMINERS.**

Mary C. McDermott, petitioner, pro se

Vijayasri G. Aryama, Deputy Attorney General, for respondent, New Jersey
Department of Education, Board of Examiners (Matthew J. Platkin, Attorney
General, attorney)

Record Closed: April 8, 2025

Decided: May 22, 2025

BEFORE JOAN M. BURKE, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Mary C. McDermott (McDermott), challenges the partial denial of her application for a school nurse certificate. On September 30, 2024, the respondent, Board of Examiners (Board), filed a motion to dismiss in lieu of an answer, and the contested case was transmitted to the Office of Administrative Law (OAL), where it was filed on October 01, 2024. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

Telephone conferences were scheduled for December 2, 2024, and December 23, 2024; however, the petitioner failed to appear. A status conference was held on January 16, 2025. Respondent requested that its motion to dismiss be heard on the papers. A motion schedule was completed. The respondent resubmitted the motion papers that were previously submitted and received on October 1, 2024. The petitioner submitted a response. On March 4, 2025, the respondent submitted its reply.

FINDINGS OF FACT

The parties do not dispute many of the background facts in this case. I therefore **FIND** the following **FACTS**:

1. Petitioner McDermott submitted an application for a standard school nurse non-instructional certificate in 2019. This application was denied by the Department's Office of Certification and Induction ("OCI"). See Aryama Certification, Exhibit A, at 2.
2. The petitioner appealed the denial, and on April 15, 2020, the Board acknowledged receipt of McDermott's request for a credentials appeal. See Respondent's Brief dated September 30, 2024, at 3.
3. On April 20, 2020, the Board informed the petitioner of the procedures for its review. Id. at Exhibit B.

4. Attached to the April 20, 2020, notification was the credentials review summary, where “OCI indicated that McDermott’s application was deficient under N.J.A.C. 6A:9B-14.4 because she still needed to complete six credits in school nursing, and required courses in health assessment, special education or learning disabilities, guidance and counseling, and school law (including aspects of school nursing).” See Respondent’s Brief dated September 30, 2024, at 4.
5. The Board emailed McDermott on August 18, 2020, informing her that it had not received the completed paperwork that was necessary for disputing an evaluation verdict. Id. at Exhibit C.
6. In an email response on August 18, 2020, the petitioner responded as follows:

Is it possible to forego/cancel this and continue earning credits toward the requirements. I was under the impression Thomas Edison had sent all of the completed coursework when in fact, they had not. Ms. Tracy’s determination therefore was, in fact correct at the time. I was short six credits so earned three for legal course requirement and am enrolled with Rutgers September 1st for their Basic Health Assessment course, bringing me one credit over the required16. I must earn my certification by April in order to keep my employment. As a widow and sole breadwinner, this certification is the culmination of over forty years of school work, loss, triumph and perseverance.

[Ibid.]

7. On August 26, 2020, McDermott requested a credentials review. The Board sent her the appeal materials it had previously sent on April 20, 2020. Ibid.
8. On October 29, 2020, the Board reviewed McDermott’s application for a standard school nurse non-instructional certificate. In its review, the Board determined there was no correlation between McDermott’s proffered coursework, the required coursework she had not yet completed, and her

nursing experience. The Board found that McDermott's nursing experience satisfied the health assessment portion of recertification, but it required her to complete six credits in school nursing, special education, and school law for nursing courses. See Respondent's Brief dated September 30, 2024, at Exhibit D.

9. On January 22, 2021, the Board partially granted and partially denied McDermott a standard school nurse non-instructional certificate. Ibid.
10. McDermott appealed the January 22, 2021, decision. The matter was transmitted to the OAL and scheduled for a September 30, 2021, hearing. See Respondent's Brief dated September 30, 2024, Exhibit E; see also OAL Dkt. No. EDU 03722-21.
11. Petitioner failed to appear at the hearing, and the OAL returned the matter to the Commissioner. Ibid.
12. On November 29, 2021, the Commissioner issued a final decision dismissing the matter with prejudice. Id. at Exhibit G.
13. On August 27, 2024, McDermott filed a petition with the Office of Controversies and Disputes. The petition requested a standard non-instructional school nurse certificate and was signed on March 3, 2024. See Petition.
14. The relief that petitioner requested states: "Standard non-instructional school nurse certificate: Reissued after 14 years of public & private school nursing experience & required coursework over & above the state requirements. Renewal/reissue request of School Nurse Certificate issued by State in 2002. All renewal fees have been paid in full!" Ibid.
15. On March 4, 2025, the record closed. On April 1, 2025, I reopened the record to obtain a better understanding of the remedy that the petitioner

seeks. A status conference was held on April 8, 2025. At that time, the petitioner informed the tribunal that she seeks “the Attorney general to publish the steps on the website to renew a school nurse certificate once it has been issued.”

DISCUSSION AND CONCLUSIONS OF LAW

The issue in this matter is whether the Board’s denial is supported by the evidence and is not arbitrary, capricious, or contrary to the law. If not, the Commissioner may reject the Board’s determination. N.J.A.C. 6A:4-4.1; N.J.A.C. 6A:9B-14.5(b)(6); N.J.A.C. 6A:9B-4.12(b). An additional issue is whether the matter is time-barred.

N.J.A.C. 6A:3-1.10 states:

At any time prior to transmittal of the pleadings to the OAL, in the Commissioner’s discretion or upon motion to dismiss filed in lieu of answer, the Commissioner may dismiss the petition on the grounds that the petitioner has advanced no cause of action even if the petitioner’s factual allegations are accepted as true or for lack of jurisdiction, failure to prosecute, or other good reason.

N.J.A.C. 6A:3-1.10 is similar to New Jersey Court Rule 4:6-2(e). The inquiry in a motion to dismiss is “limited to examining the legal sufficiency of the facts alleged on the face of the complaint.” Printing Mart-Morristown v. Sharp Elec. Corp., 116 N.J. 739, 746 (1989). Herein, the petition of appeal equates to the complaint.

A careful review of the petition of appeal does not reveal a claim upon which relief may be granted. Nothing contained therein adds to what the Board considered.

Here, petitioner “carries the burden of demonstrating by a preponderance of the credible evidence that she is entitled to the endorsement she seeks.” McQuilken v. N.J. St. Bd. of Exam’rs, OAL Dkt. No. EDU 08375-11, Initial Decision (Dec. 13, 2011), adopted Comm’r (January 27, 2012). <http://njlaw.rutgers.edu/collections/oal>. In evaluating determinations by the Board of Examiners, “the Commissioner shall ascertain whether

the decision is supported by sufficient credible evidence in the record and shall not disturb the decision unless the appellant has demonstrated the State Board of Examiners . . . acted in a manner that was arbitrary, capricious, or contrary to law.” N.J.A.C. 6A:4-4.1. The Department of Education intended the standard of review for Commissioner determinations under Chapter Six to be “appellate in nature.” 40 N.J.R. 4606(a).

The arbitrary, capricious, or unreasonable standard consists of three inquiries:

- (1) whether the agency action violates the enabling act’s express or implied legislative policies;
- (2) whether there is substantial evidence in the record to support the findings upon which the agency based application of legislative policies; and
- (3) whether, in applying the legislative policies to the facts, the agency clearly erred by reaching a conclusion that could not reasonably have been made upon a showing of the relevant factors.

[Public Serv. Elec. and Gas Co. v. New Jersey Dep’t. of Env’tl. Protect., 101 N.J. 95, 103 (1985).]

However, “where there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration even though it may be believed that an erroneous conclusion has been reached.” Bayshore Sewerage Co. v. Dep’t of Env’tl. Protect., 122 N.J. Super. 184, 199 (App. Div. 1973) (internal citations omitted). Significantly, a “court should not substitute its judgment for that of an administrative or legislative body if there is substantial evidence to support the ruling.” Id. at 200.

The Board argues:

In both her petition and her emails, McDermott fails to offer “a statement of the specific allegation(s) and essential facts supporting them that have given rise to a dispute under the school laws.” N.J.A.C. 6A:3-1.4(a). Rather, McDermott’s three emails are riddled with personal attacks against Attorney General Platkin, even though he is not a party and has no direct knowledge or involvement in this matter. Aryama Cert., Exhibit 1, at 1-4; Exhibit 2, at 2-3. They also contain conclusory allegations of completed course credits and prior work experience, but they lack specific factual support regarding which specific courses were taken and how those courses and particular work experiences satisfy the requirements of N.J.A.C. 6A:9B-14.4(c). See Scheidt v. DRS Techs., Inc., 424 N.J. Super. 188, 193 (App. Div. 2012) (requiring petitioner to present “the essential facts supporting . . . [the] cause of action” alleged, without relying on “conclusory allegations” lacking factual support).

Notably, there are multiple inconsistencies in McDermott’s allegations. In her January 24, 2025 email, she alleges that her nursing work experience, her twelve credits from Thomas Edison, and her twelve credits from Rutgers School of Nursing and Rutgers University should have been considered. Aryama Cert., Exhibit 1, at 3-4. By her January 27, 2025 email, however, McDermott alleges she completed a total of 31 credits from Rutgers School of Nursing alone, and that a bachelor’s degree and unspecified “applicable courses from Rutgers University,” as well as “applicable AA/RN courses from Brookdale University” should also have been considered. Id. at 1. In both emails, she only references her alleged fourteen-year career as a school nurse, but in her January 28, 2025 email, she alleges for the first time that her alleged “25 years as an RN” should have been considered too. Compare Aryama Cert., Exhibit 1, at 1, 3 with Exhibit 2, at 2.

[See Respondent’s March 4, 2025, Reply Brief at 4–5.]

The Board further argues:

Based on McDermott’s allegations that her work experience and coursework were not properly considered, it appears McDermott is trying to appeal the January 2021 Decision, in which the Board conducted a credentials review to determine

whether her alternate education or experience satisfied the requirements for a standard school nurse non-instructional certificate. However, McDermott voluntarily declined her chance to do so over three years ago.

[Id. at 6–7.]

McDermott posits that she has met certain qualifications but has not submitted any support for her position. If it is that she is challenging the partial denial of her application for a school nurse certificate, the Commissioner has issued a Final Decision in the matter, which was docketed as EDU 03722-21. The Commissioner held that “Petitioner did not file an explanation for the failure to appear, notwithstanding the opportunity to do so. Accordingly, this matter is no longer deemed to be a contested case before the Commissioner and is hereby dismissed with prejudice.” See Respondent’s Brief dated September 30, 2024, at Exhibit G.

Furthermore, if McDermott is appealing the Final Decision, she had ninety days from the date of receipt of the notice of a final order, ruling, or other action by the individual or agency that is the subject of the requested contested case hearing (ninety-day rule). N.J.A.C. 6A:3-1.3(i). The Commissioner may relax certain rules regarding controversies and disputes if “strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice.” N.J.A.C. 6A:3-1.16.

The Board argues that McDermott had the opportunity to appeal the Final Decision over three years ago. I agree. The Commissioner issued his Final Decision on November 29, 2021. Petitioner filed her Petition of Appeal on August 27, 2024, approximately 1,003 days later. I therefore **CONCLUDE** that the Commissioner entered a “Final Decision” in the matter of McDermott v. New Jersey Department of Education, OAL Docket No. EDU 03722-21 on November 29, 2021, dismissing the case with prejudice. The petitioner failed to file an appeal of this decision within ninety days. Therefore, the petition is time-barred.

Moreover, McDermott bears a substantial evidentiary burden to establish a case sufficient to set aside a decision by the Board of Examiners. A decision by the Board of

Examiners will not be disturbed unless petitioner “has demonstrated the State Board of Examiners . . . acted in a manner that was arbitrary, capricious, or contrary to law.” N.J.A.C. 6A:4-4.1(a). It is not within the province of this forum to substitute its judgment for that of the Board of Examiners. Rather, the pertinent inquiry is to “ascertain whether the decision is supported by sufficient credible evidence in the record[.]” N.J.A.C. 6A:4-4.1(a). Judged against this standard of review and based on a consideration of the documentary evidence presented, I **CONCLUDE** that petitioner has failed to shoulder her burden of proof and that the Board of Examiners’ decision is supported by sufficient credible evidence.

Petitioner has also informed the tribunal that she seeks the “Attorney General to put in place steps on the website to renew a school nursing certificate once it has been issued.” I **CONCLUDE** that this is not a matter for this tribunal to determine, and therefore it will not be addressed.

ORDER

It is hereby **ORDERED** that the Board of Examiners’ Motion to Dismiss is **GRANTED** and the petition of appeal is **DISMISSED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

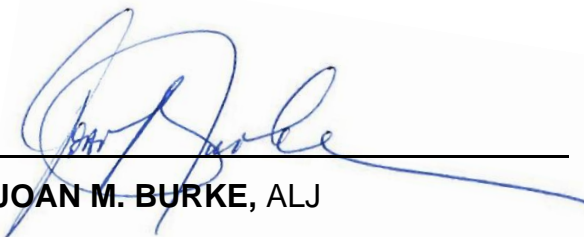
This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five 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.

May 22, 2025

DATE



JOAN M. BURKE, ALJ

Date Received at Agency:

Date Mailed to Parties:

JMB/sg/sb/jm

APPENDIX

Exhibits

For Respondent:

Brief in support of Motion to Dismiss with Exhibits A–I

Reply Brief, March 4, 2025, with Exhibits 1–2

For Petitioner:

Pro se Petition of Appeal

P-1 Petitioner’s Response