

184-26
OAL Dkt. No. EDU 18040-25
Agency Dkt. No. 304-9/25

New Jersey Commissioner of Education
Final Decision

David Weiner,

Petitioner,

v.

New Jersey Department of Education, State
Board of Examiners,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by petitioner pursuant to *N.J.A.C. 1:1-18.4*, and the Board's reply thereto have been reviewed and considered.¹

In this matter, petitioner challenges the denial of his application for a standard Teacher of English as a Second Language (ESL) certificate. He completed his educator preparation program at the University of Alcalà in Spain. The Board denied his application upon concluding that he had not completed a Department-approved educator preparation program at a New Jersey college or university as is required by *N.J.A.C. 6A:9B-11.6(b)*.²

¹ The Commissioner did not consider petitioner's sur-replies because such submissions are not permitted by *N.J.A.C. 1:1-18.4*.

² *N.J.A.C. 6A:9B-11.6(b)* states, in relevant part: "Provisional teachers holding a CE with an English as a second language endorsement shall complete the requirements for a standard certificate pursuant to *N.J.A.C. 6A:9B-8.7*, and shall complete, at a Department-approved New Jersey college or university, an

In response to the petition, the Board filed a motion to dismiss for failure to state a claim upon which relief could be granted. The Board asserted that the educator preparation program completion requirement cannot be waived as *N.J.A.C. 6A:9B-4.12(c)(1)*³ prohibits same. Furthermore, the Board argued that petitioner has not presented any evidence that he completed the requisite 15 semester-hour credits at a Department-approved New Jersey college or university. It explained that the supplemental information provided by petitioner was immaterial because the Board did not have discretion to substitute alternative education and/or experience for an educator preparation program completion requirement.

The Administrative Law Judge (ALJ) granted the motion to dismiss upon concluding that petitioner completed his educator preparation program at the University of Alcalà in Spain, which is not a Department-approved New Jersey college or university educator preparation program under *N.J.A.C. 6A:9B-11.6(b)*. Furthermore, the ALJ concluded that the Board cannot permit candidates to substitute alternative education and/or experience for an approved educator preparation program to satisfy certification requirements.⁴

In his exceptions, petitioner acknowledges that the ALJ “applied the strict letter of *N.J.A.C. 6A:9B-11.6(b)*.” Nonetheless, he reiterates the equitable arguments previously rejected by the Board and ALJ, including that an unnamed Department of Education (Department) employee

educator preparation program that includes a minimum of 15 credit hours of formal instruction in the topics at (b)1 through (7)”

³ *N.J.A.C. 6A:9B-4.12(c)(1)* prohibits the Board of Examiners from “waiv[ing] any test, GPA, degree completion, or approved educator preparation program completion requirements.”

⁴ As will be explained herein, the Commissioner agrees with this conclusion. However, the regulation which supports this proposition is *N.J.A.C. 6A:9B-4.12(c)(2)*, not *N.J.A.C. 6A:9B-5.3(c)*, which the ALJ presumably cited in the Initial Decision by mistake.

informed him that coursework taken outside the state would be accepted for licensure, and that the Board's procedures caused undue delays. He further contends that due to delays at the OAL, it is now impossible for him to complete an approved educator preparation program before his provisional certificate expires on July 31, 2026. Finally, while petitioner concedes that the Board cannot substitute experience for an approved educator preparation program under its regulations, he argues that the Commissioner may grant him regulatory equivalency under *N.J.A.C. 6A:5-1.1*.

In response, the Board argues that petitioner has failed to state a claim upon which relief can be granted and that the matter should be dismissed. The Board explains that pursuant to its regulations, experience cannot be substituted for an approved educator preparation program. As for petitioner's claims regarding delays before the Board and the OAL, the Board maintains that they are immaterial and have no bearing upon the ALJ's proper application of *N.J.A.C. 6A:9B-4.12(c)* to the facts at issue. Concerning petitioner's reliance on *N.J.A.C. 6A:5-1.1*, the Board points out that, by its plain language, the equivalency or waiver process contemplated in that regulation does not pertain to the Board and can only be sought by school districts.

The Legislature has authorized the Board to issue teaching certificates to successful applicants. *N.J.S.A. 18A:6-38. Morison v. Willingboro Bd. of Educ.*, 478 *N.J. Super.* 229, 236 (App. Div.), *certif. denied*, 258 *N.J.* 143 (2024). "[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. State Bd. of Exam'rs*, Commissioner Decision No. 98-22

at 2 (May 16, 2022). Instead, “the appropriate standard of review . . . is whether the [Board’s] decision is consistent with the applicable statutory and regulatory provisions.” *Id.* at 3.

Upon review, the Commissioner holds that the Board’s decision is consistent with applicable statutory and regulatory provisions. It is undisputed that petitioner completed his educator preparation program at the University of Alcalà in Spain, which is not a Department-approved New Jersey college or university educator preparation program under *N.J.A.C. 6A:9B-11.6(b)*. However commendable petitioner’s education and teaching experience gained under his provisional certificate may be, the ALJ correctly concluded that the regulations prohibit the Board from permitting candidates to substitute alternative education and/or experience for an approved educator preparation program to satisfy certification requirements. *See N.J.A.C. 6A:9B-4.12(c)(2)* (explaining that the Board of Examiners shall not “[p]ermit a candidate to substitute education and/or experience for any test, GPA, degree, or approved educator preparation program completion requirements”).

Moreover, petitioner’s arguments concerning alleged misinformation received from an unnamed Department employee and undue delays throughout the application and appeal process do not overcome the undisputed deficiency in petitioner’s application. Petitioner was on notice of the requirements for a standard certificate, which are clearly stated in the regulations. He was also aware that his provisional certificate had an expiration date and would not allow him to teach indefinitely. *See generally N.J.A.C. 6A:9B-8.5(c)* (explaining that two-year provisional certificates may be renewed twice for a maximum provisional period of six years).

Finally, petitioner’s reliance on *N.J.A.C. 6A:5-1.1* to support his request for equitable relief is misplaced. The stated purpose of Chapter 5 “is to provide regulatory flexibility for school

districts” to meet Title 6A requirements. *N.J.A.C. 6A:5-1.1(a)*. The entities covered by the chapter are school districts, not individuals. *N.J.A.C. 6A:5-1.1(b)*. Furthermore, when seeking relief under Chapter 5, school districts must complete an application signed by the chief school administrator and approved by the district board of education. *N.J.A.C. 6A:5-1.4; N.J.A.C. 6A:5-1.5*. Thus, it is clear from the plain language of Chapter 5 that the regulations cited by petitioner are not applicable to the present matter, and that the Commissioner cannot grant petitioner the requested relief pursuant to *N.J.A.C. 6A:5-1.1*.

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

IT IS SO ORDERED.⁵


COMMISSIONER OF EDUCATION

Date of Decision: May 29, 2026
Date of Mailing: May 29, 2026

⁵ 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 18040-25

AGENCY DKT. NO. 304-9/25

DAVID WEINER,

Petitioner,

v.

NEW JERSEY DEPARTMENT OF EDUCATION,

STATE BOARD OF EXAMINERS,

Respondent.

David Weiner, petitioner, pro se

David L. Kalisky, Deputy Attorney General, for respondent (Jennifer Davenport,
Attorney General of New Jersey, attorney)

Record Closed: February 2, 2026

Decided: March 24, 2026

BEFORE **ALLISON FRIEDMAN**, ALJ:

STATEMENT OF THE CASE

David Weiner completed an educator preparation program that was not approved by the New Jersey State Board of Education while he held a provisional certificate to become a certified English as a second language (ESL) teacher. Has Weiner met the requirements to earn a certificate in ESL? No. Provisional teachers holding a certificate

of eligibility with an ESL endorsement shall complete, at a Department-approved New Jersey college or university, an educator preparation program. N.J.A.C. 6A:9B-11.6(b).

PROCEDURAL HISTORY

On June 26, 2025, the New Jersey State Board of Examiners (Board) denied Weiner's application for the standard ESL certificate. On September 11, 2025, Weiner appealed the denial. On October 15, 2025, the Board of Controversies and Disputes transmitted the case to the Office of Administrative Law (OAL) as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the Act establishing the OAL, N.J.S.A. 52:14F-1 to -13, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6. Included with the transmittal was Weiner's response to a motion to dismiss by respondent however had not been included in the transmittal, along with exhibits. On January 7, 2026, respondent sent a copy of the motion to dismiss that had not been included with the transmittal to the OAL. On January 15, 2026, respondent filed a response to Weiner's opposition to the motion to dismiss. On February 2, 2026, Weiner sent additional exhibits to support his case.

DISCUSSION AND FINDINGS OF FACT

Weiner currently works as a teacher for Clark Public School District and holds a provisional certificate as a teacher of ESL. On April 23, 2025, he requested a standard certificate for teacher of English as a second language. R-4. Weiner completed his educator-preparation program at the University of Alcalá in Spain. P-1. In total, Weiner took thirty credits and graduated from the University of Alcalá with a master's degree in bilingual and multicultural education. On December 2, 2019, these credits were submitted to World Education Services (WES) to perform an evaluation and authentication report. Ibid. WES concluded that the master's degree is the equivalent degree "from a regionally accredited institution". Ibid. The parties do not dispute that Alcalá University's coursework is not approved by the Board.

However, Weiner provided additional exhibits to support his position that his extra work should substitute for the lack of approved coursework. Weiner provided four

successful observations of him teaching ESL. These observations were all positive. P-2. Weiner also provided curriculum from other educational conferences he attended and obtained other educational certificates. P-3,4,5.

Given my discussion of the facts, I **FIND** that the University of Alcala is not a New Jersey State Board of Education approved educator preparation program.

DISCUSSION AND CONCLUSIONS OF LAW

If the complaint is liberally searched in depth to determine if a cause of action can be gleaned, even from an obscure statement, and whether discovery could provide additional information to support a basis for relief, and no basis for relief can be established, dismissal of the complaint is appropriate. Banco Popular N. Am. v. Gandi, 184 N.J. 161 (2005). To receive a teaching certification in ESL from the New Jersey Board of Education an applicant must complete a New Jersey approved educator program. N.J.A.C. 6A:9B-8.7(a)(4)(ii). Additionally, the Board shall not permit a candidate to substitute education and/or experience for any test, degree or approved educator preparation program. N.J.A.C. 6A:9B-5.3(c).

Here respondent filed a motion to dismiss relying on exhibits Weiner introduced at the hearing before the Board. Specifically, respondent relies on Weiner's personal narrative, the WES evaluation report, and the transcript from Weber State University P-1. Those exhibits support the finding of fact that the educator program completed by Weiner is not approved by the New Jersey Board of Education. There are no other facts to be learned through discovery practice that if viewed in a liberal light would change that fact.

Accordingly, I **CONCLUDE** that given the controlling law the complaint does not state a claim for which relief can be sought.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that Wiener's 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**. Exceptions may be filed by email to **ControversiesDisputesFilings@doe.nj.gov** or by mail to **Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**. A copy of any exceptions must be sent to the judge and to the other parties.

March 24, 2026 _____

DATE



ALLISON FRIEDMAN, ALJ

Date Received at Agency:

March 24, 2026 _____

Date E-Mailed to Parties:

AF/ml

APPENDIX

Exhibits

For petitioner

- P-1 WES Credit equivalency report and transcripts. (submitted February 2, 2026)
- P-2 Mini Observations
- P-3 Learning about Literacy Certificate (submitted February 2, 2026)
- P-4 2026 NJAMILE Annual Conference session (submitted January 27, 2026)
- P-5 NJCTL program information (submitted January 27, 2026)

For respondent

- R-1 Copy of the Board's Credentials Review Summary Form
- R-2 Copy of the Board's decision in In re the Application of David Weiner, dated June 26, 2025
- R-3 Copy of Weiner's narrative statement
- R-4 Exhibits submitted by Weiner in his application for ESL credential