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OAL Dkt. No. EDU 18243-25
Agency Dkt. No. 284-8/25

New Jersey Commissioner of Education
Final Decision

Board of Education of the Ocean County Vocational
Technical School District, Ocean County,

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 that petitioner's employee, John Schleicher, did not meet the criteria established by *N.J.A.C. 6A:9B-8.5(c)* for a second renewal of his provisional teaching certificate.

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.¹


COMMISSIONER OF EDUCATION

Date of Decision: June 2, 2026
Date of Mailing: June 3, 2026

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

GRANTING MOTION TO DISMISS

OAL DKT. NO. EDU 18243-25

AGENCY DKT. NO. 284-8/25

**OCEAN COUNTY VOCATIONAL-TECHNICAL
SCHOOL DISTRICT BOARD OF EDUCATION,
OCEAN COUNTY,**

Petitioner,

v.

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

Respondent.

Michael Manning, Esq., for petitioner (Padula Law Group, LLC, attorneys)

Rachel B. Kristol, Deputy Attorney General, for the State Board of Examiners
(Jennifer Davenport, Attorney General of New Jersey, attorney)

Record Closed: January 29, 2026

Decided: March 13, 2026

BEFORE **NICOLE T. MINUTOLI**, ALJ:

STATEMENT OF THE CASE

Petitioner, the Ocean County Vocational Technical School District (OCVTS) Board of Education (District), appeals the June 26, 2025, denial of John Schleicher's second renewal request of his provisional teaching certificate that had first been issued in 2021, then renewed for two years in July 2023, expiring July 31, 2023. Should respondent, the New Jersey Department of Education, State Board of Examiners', (Board of Examiners) findings be overturned? No. Schleicher failed to meet the requirements for a second renewal of his provisional certificate under N.J.A.C. 6A:9B-8.5(c).

PROCEDURAL HISTORY

On June 26, 2025, the Board of Examiners denied Schleicher's second renewal request for his provisional teaching certificate. On August 25, 2025, the District filed a Petition for Appeal. The appeal was transmitted to the Office of Administrative Law (OAL), where it was filed on October 21, 2025, for hearing as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

A prehearing conference call was held on January 29, 2026. During that call, the parties advised that a motion to dismiss was filed by respondent in October 2025 and an opposition thereto was filed by petitioner in November 2025. This tribunal never received these filings and therefore requested that the parties resubmit, which they did on January 29, 2026.

DISCUSSION AND FINDINGS OF FACT

Based upon the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following **FACTS**:

After leaving a career as a small-business owner to pursue teaching, Schleicher was hired by the District in 2021 and subsequently enrolled in the Brookdale Community College Alternate Route Career and Technical Education Program to satisfy the requirements for a Certificate of Eligibility as a Teacher of Plumbing and Pipefitting.

Resp't's Br., Ex. A. On September 1, 2021, Schleicher applied for and received a two-year Provisional Teacher of Plumbing and Pipefitting Certificate, which expired on July 31, 2023. Ibid. Around that expiration date, he applied for and received a second provisional certificate, which was issued on August 1, 2023, and expired on July 31, 2025. Ibid.

On January 6, 2025, he applied for a second renewal of his provisional certificate pursuant to N.J.A.C. 6A:9B-8.5. Ibid. However, on January 7, 2025, the Board of Examiners' Office of Recruitment, Preparation, and Certification ("Office") denied his application, stating he "had exceeded the number of provisional renewals permitted under N.J.A.C. 6A:9B-8.5(c)." Ibid. On April 17, 2025, Schleicher appealed to the Board of Examiners. Ibid. In support of the appeal, he submitted (1) a narrative statement detailing "significant and unforeseen personal challenges constituting extenuating circumstances that hindered the timely completion of his certification requirements" and (2) several letters of support from District administrators attesting to his exemplary performance and the need for his continued service."¹ Ibid.

Schleicher's challenges included a significant loss of income from becoming a teacher and the cost of financing his child's college education, which he states prevented him from allocating the necessary time and resources to complete his certificate requirements. Ibid. However, on June 26, 2025, the Board of Examiners issued a decision denying the appeal. The denial was based on Schleicher's failure to meet either of the two criteria specified under N.J.A.C. 6A:9B-8.5(c), as he did not possess any of the additional certificates specified under -8.5(c)(1), and because he had received his annual summative rating from the District by July 31 of his fourth year. Ibid. Separately, the Board concluded that it had no authority to grant an extension based on extenuating circumstances. Ibid.

¹ Letters of support were submitted by (1) Karen L. Homiek, superintendent of OCVTS, (2) Dr. Michael Maschi, assistant superintendent of OCVTS, and (3) Lynn Sauer, principal of OCVTS Brick Center. See Resp't's Br., Ex. A. Notably, the letters explained just how vital Mr. Schleicher has been to OCVTS's Plumbing Program, taking the program's total enrollment from twenty students when he first started in 2021 to forty-eight students (with a waitlist) currently. Ibid. He is described as a "tremendous asset" and "exceptional educator" who has had a profound impact on his students, and whose absence "would put the future of [OCVTS's] program at serious risk," as qualified CTE plumbing instructors are very difficult to find. Ibid.

ANALYSIS, DISCUSSION, AND CONCLUSIONS OF LAW

A motion to dismiss filed per N.J.A.C. 6A:3-1.5(g) is the functional equivalent of a motion to dismiss for failure to state a claim filed in civil court per R. 4:6-2(e). Graves v. State-Operated Sch. Dist. of Newark, 2017 N.J. Super. Unpub. LEXIS 2417 (App. Div. Sept. 26, 2017). The court stated the standard for the granting of same:

When reviewing a Rule 4:6-2(e) motion, a court must determine the adequacy of the pleading and decide whether a cause of action is “suggested” by the facts. Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989) (quoting Velantzas v. Colgate-Palmolive Co., 109 N.J. 189, 192 (1988)). The court must “search[] the complaint in depth and with liberality to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim, opportunity being given to amend if necessary.” Ibid. (quoting Di Cristofaro v. Laurel Grove Mem’l Park, 43 N.J. Super. 244, 252 (App. Div. 1957)).

[Id. at *7.]

Having read the briefs and certifications and having reviewed the exhibits, I **CONCLUDE** that no cause of action exists and the matter is ripe for the motion to dismiss.

The New Jersey regulation governing renewal of a provisional teacher certificate, N.J.A.C. 6A:9B-8.5, provides that a school district “may recommend a provisional teacher for renewal of the teacher’s two-year provisional certificate if the candidate has not yet completed the requirements for the standard certificate within the first two years of employment.” N.J.A.C. 6A:9B-8.5(a). To be eligible for the first renewal of a provisional certificate, the candidate must meet the following requirements:

Except as indicated at N.J.A.C. 6A:9B-8.8, 10, and 11, a candidate shall meet the following requirements to be eligible for one renewal of a provisional certificate:

1. Hold a CE or CEAS in the endorsement area required for the teaching assignment;

2. Be employed or accept an offer of employment in a position that requires an instructional certificate;
3. Complete a district mentoring program;
4. Be enrolled in or have completed a CE educator preparation program, if the candidate has a CE; and
5. Be recommended for renewal by the candidate's principal pursuant to N.J.A.C. 6A:9B-8.6.

[N.J.A.C. 6A:9B-8.5(b).]

To qualify for a **second renewal** of a provisional teacher certificate, the candidate, in addition to satisfying the requirements of subsection -8.5(b) above, must fulfill **one of the following two criteria**:

1. Hold[] a CE with a teacher of students with disabilities endorsement, or a CE with a bilingual/bicultural endorsement, and a CE with an endorsement appropriate to the subject or grade level to be taught; or hold[] a CE with an English as a second language endorsement. The duration of the CE educator preparation program and required coursework for the endorsement(s) also extends beyond the four-year provisional period; or
2. [N]ot receive from the school district, by July 31 of the fourth year, the annual summative rating as required for a standard certificate, pursuant to N.J.A.C. 6A:9B-8.4.

[N.J.A.C. 6A:9B-8.5(c).]

In deciding whether a candidate qualifies for a particular certificate, the Board “shall not . . . [w]aive any test, GPA, degree completion, or approved educator preparation program completion requirements.” N.J.A.C. 6A:9B-4.12(c)(1).

In an appeal of a decision by the Board of Examiners, “the appropriate standard of review . . . is whether the decision is consistent with the applicable statutory and

regulatory provisions.” Nimczyk v. New Jersey Dep’t of Educ., State Bd. of Exam’rs, 2022 N.J. AGEN LEXIS 197 at *3 (May 18, 2022).

Though not directly on point, Cash, Jr. v. New Jersey Department of Education, State Board of Examiners, EDU 01325-23, initial decision (July 18, 2023), adopted, Comm’r (Aug. 22, 2023), www.nj.gov/education/legal/, provides strong support for the Board and Commissioner’s lack of discretion to make exceptions to the certification requirements promulgated under N.J.A.C. 6A:9B-8 (though admittedly the versions of the regulations in Cash have since been slightly changed and recodified). There, Cash had applied for a second renewal of his provisional teaching certificate but was denied by the Board because he did not satisfy any one of the three alternate criteria promulgated under N.J.A.C. 6A:9B-8.5(b)(4) (similar to the alternate two criteria under -8.5(c) in the present case).

Most notably, in affirming the Board’s dismissal of the appeal, the administrative law judge (ALJ) stated:

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.

[Cash, EDU 01325-23, initial decision at 5.]

While the ALJ took judicial notice of the growing need for otherwise qualified teaching applicants, “in order to insure [sic] that the very best of these individuals who do not go through the regular four year [sic] teaching programs are qualified, the State has created a strict series of requirements that all such candidates must complete.” Thus, “despite seemingly stellar qualifications, no such waiver exists that would enable the District and the Department to bypass the one key component [Cash] failed to complete” within the prescribed four years. Id. at 6. These findings and conclusions were fully adopted in the Commissioner’s final decision.

The Board of Examiners asserts that its motion should be granted because its decision to deny Schleicher's second provisional certificate renewal was consistent with N.J.A.C. 6A:9B-8.5(c). Schleicher satisfies neither of the two requirements under N.J.A.C. 6A:9B-8.5(c); had he satisfied them, the Board of Examiners would have issued a second renewal of his provisional certificate.

The District's argument hinges on extenuating circumstances that the Board of Examiners allegedly failed to consider. However, the regulations simply do not give the Board of Examiners discretion to consider such information and make exceptions to the requirements.

Here, the plain language of the regulation at issue is clear: for a candidate to qualify for a second renewal, the candidate must satisfy either one of the two alternative criteria listed at N.J.A.C. 6A:9B-8.5(c). Namely, the candidate must either hold one of the additional specified certificates or have not received an annual summative evaluation from their district by July 31 of their fourth year. N.J.A.C. 6A:9B-8.5(c)(1), (2). The regulation includes no provision granting the Board of Examiners discretion to consider extenuating circumstances as grounds for waiving certain certification requirements. In fact, N.J.A.C. 6A:9B-4.12(c)(1) explicitly prohibits the Board of Examiners from waiving certification requirements.

There is nothing in the record to suggest that Schleicher either (1) holds one of the additional teaching certificates under -8.5(c)(1), or (2) that he did not receive an annual summative evaluation before July 31 of his fourth year. Thus, he is simply not eligible for a second renewal of his provisional teacher certificate under N.J.A.C. 6A:9B-8.5(c).

Second, the Cash decision strongly supports the notion that the Board of Examiners lacks the discretion the District contends it has here. There, the ALJ explained that neither the OAL nor the Commissioner of Education has discretion to consider the totality of the circumstances and extend or renew a certificate, even in an instance where the candidate otherwise has "stellar qualifications." As stated in that case, the Board

created strict certification requirements for a reason: to ensure that teachers are well qualified.

There is little doubt that Schleicher has been a very important addition to the plumbing program offered at OCVTS. This is made abundantly clear by the letters of support submitted on his behalf by three OCVTS administrators. However, as in Cash, these stellar qualifications alone cannot override his failure to meet the criteria for a second renewal of his provisional plumbing and pipefitting teacher certificate.

Lastly, the District's reliance on the reasoning in companion cases both known as Muench v. New Jersey Department of Education, State Board of Examiners (henceforth Muench I and Muench II), is not convincing. In Muench I, 2006 N.J. AGEN LEXIS 651 (Apr. 12, 2006), Muench was a provisional teacher who was disqualified after receiving two "insufficient" ratings and who then appealed the merits of those ratings under N.J.A.C. 6A:9-17.18(a). The Commissioner agreed that the Board's dismissal of the appeal was untimely, but separately noted that the Board had failed to address Muench's invocation of the merits question under subsection -17.18(d). Muench I, 2006 N.J. AGEN LEXIS 651 at**10–11. Thus, the matter was remanded to the Board to address this issue. Id. at *12.

In Muench II, 2007 N.J. AGEN LEXIS 96 (Jan. 9, 2007), the Board again dismissed the appeal, this time based on a strict procedural reading of the regulation, namely that subsections (a) and (d) were mutually exclusive and that by having first filed an (untimely) appeal under (a), Muench was permanently barred from ever seeking relief under (d). However, while the Commissioner concurred with the Board's technical interpretation of the regulation, the decision to dismiss was nonetheless reversed. Muench II, 2007 N.J. AGEN LEXIS 96 at *11. Specifically, the Commissioner explained that, because the first appeal was dismissed on procedural grounds, the merits of the issue were never heard. Then, by subsequently deciding to also bar Muench from a hearing under the second provision, the Board "placed form over substance to an extent that rendered it unreasonable under the circumstances, and thus, susceptible to reversal on review." Ibid.

Essentially, Muench II stands for the proposition that the Board of Examiners should not “place form over substance” in such a way that would render an application decision unreasonable. Muench II, 2007 N.J. AGEN LEXIS 96 at *11. Here, the Board of Examiners reviewed Schleicher’s application, applied the straightforward language of N.J.A.C. 6A:9B-8.5(c), and determined that he did not meet either of the alternate criteria required for a second extension of the provisional teacher certificate. If he had, it would have issued a second renewal.

Given the above, I **CONCLUDE** that Schleicher is ineligible for a second extension of his provisional certificate. I **CONCLUDE** that no factors have been presented to demonstrate that the Board of Examiners acted in an arbitrary, capricious, or unreasonable manner in denying Schleicher’s second extension.

ORDER

Based on the foregoing, it is hereby **ORDERED** that respondent’s motion to dismiss be and is hereby **GRANTED** and;

It is further **ORDERED** that petitioner’s appeal be and is hereby **DISMISSED**.

I hereby **FILE** my 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**, which 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 13, 2026 _____

DATE



NICOLE T. MINUTOLI, ALJ

Date Received at Agency:

Date Mailed to Parties:

NTM/tc

APPENDIX

Exhibits

For petitioner:

Opposition to Respondent's Motion to Dismiss

For respondent:

Motion to Dismiss