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OAL Dkt. No. EDU 14613-25
Agency Dkt. No. 219-7/25

New Jersey Commissioner of Education

Final Decision

Andria Washington,

Petitioner,

v.

New Jersey Department of Education,
Office of Student Protection,

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 of appeal was untimely pursuant to *N.J.A.C. 6A:3-1.3(i)* and that petitioner is disqualified from employment in schools under the supervision of the Department of Education.

Accordingly, the Initial Decision is adopted as the final decision in this matter. Respondent's motion to dismiss is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹



COMMISSIONER OF EDUCATION

Date of Decision: March 11, 2026
Date of Mailing: March 11, 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

SUMMARY DECISION

OAL DKT. NO. EDU 14613-25

AGENCY DKT. NO. 219-7/25

ANDRIA WASHINGTON,

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF
EDUCATION, OFFICE OF STUDENT
PROTECTION,**

Respondent.

Andria Washington, petitioner, pro se

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

Record Closed: December 19, 2025

Decided: January 8, 2026

BEFORE **TAMA B. HUGHES**, ALJ:

STATEMENT OF THE CASE

Andria Washington (petitioner) challenges the November 16, 2017, determination by the Office of Student Protection (“OSP” or “respondent”) that she was permanently disqualified from serving in any position, paid or unpaid, with any educational institution

under the supervision of the Department of Education in accordance with N.J.S.A. 18A:6-7.1.

PROCEDURAL HISTORY

Petitioner filed her Petition of Appeal with the Department of Education, Office of Controversies and Disputes (Department), on June 24, 2025. In lieu of an answer, the OSP filed a Motion to Dismiss, pursuant to N.J.A.C. 6A:3-1.10. The matter was transmitted to the Office of Administrative Law (OAL), where it was filed on August 7, 2025, as a contested case under N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -23.

An initial call was scheduled for October 6, 2025; however, it was rescheduled to November 10, 2025, due to notice issues with the parties. During the initial call, the parties were provided with a briefing schedule as it relates to the Motion to Dismiss. Upon receipt of the parties' opposition and reply briefs, the record closed on December 19, 2025.

FINDINGS OF FACT

The underlying facts in this matter appear to be undisputed and are therefore found as **FACT**:

On April 27, 1998, petitioner was found guilty of third-degree burglary, in violation of N.J.S.A. 2C:18-2, and was sentenced to sixty days in the county jail and required to pay fees and penalties.¹ (Paglino Cert., Exhibit A.)

On December 22, 2003, petitioner was found guilty of possession of a controlled dangerous substance (CDS) in violation of N.J.S.A. 2C:35-10(a)(1) and sentenced to sixty

¹ OSP provided a screenshot of a criminal history from their system, not a certified Judgement of Conviction; however, for purposes of this application, this documentation will be accepted as the petitioner does not dispute her prior convictions. Additionally, per the certification of Joseph Paglino, given the age of the petitioner's file, all documents, both physical and digital, were destroyed years ago in accordance with the agency's retention policy. (See Paglino Cert., ¶ 6.)

days in county jail, four years of probation, and 150 hours of community service, and required to pay fees and penalties in the amount of \$1,205.²

Petitioner does not dispute her 1998 and 2003 convictions.

By letter, dated November 16, 2017, petitioner was notified that based upon her convictions, she was permanently disqualified from employment in schools under the supervision of the Department of Education pursuant to N.J.S.A. 18A:6-7.1. (Paglino Cert., ¶ 7 and Exhibit A.)

Petitioner does not dispute receipt of this notification.

In April 2025, petitioner applied for a substitute teaching position in the Atlantic City School District but was denied due to her prior convictions. This appeal followed.

LEGAL ANALYSIS

For the following reasons, respondent's motion to dismiss will be treated as a motion for summary decision. While N.J.A.C. 1:1-12.1 does not specifically limit the types of motions that may be made in administrative hearings, and a motion to dismiss is not otherwise precluded under the Uniform Administrative Procedure Rules (UAPR), the more common method for resolving a case on the papers without a plenary hearing in administrative proceedings is by a motion for summary decision under N.J.A.C. 1:1-12.5.

The standard for granting summary judgment (decision) is found in Brill v. Guardian Life Insurance Co. of America, 142 N.J. 520 (1995). In Brill, the Court looked at the precedents established in Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986); Anderson v. Liberty Lobby, 477 U.S. 242 (1986); and Celotex Corp. v. Catrett, 477 U.S. 317 (1986), wherein the Supreme Court adopted a standard that "requires the motion judge to engage in an analytical process essentially the same as that necessary to rule on a motion for a directed verdict," i.e., "whether the evidence presents

² See footnote 1.

a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law.” Brill, 142 N.J. at 533 (quoting Liberty Lobby, 477 U.S. at 251–52). The Court stated that under the new standard:

[A] determination whether there exists a “genuine issue” of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.”

[Id. at 540 (quoting Liberty Lobby, 477 U.S. at 249).]

The Brill standard contemplates that the analysis performed by the trial judge in determining whether to grant summary judgment should comprehend the evidentiary standard to be applied to the case or issue if it went to trial. “To send a case to trial, knowing that a rational jury can reach but one conclusion, is indeed ‘worthless’ and will ‘serve no useful purpose.’” Id. at 541.

In addressing whether the Brill standard has been met in this case, further guidance is found in R. 4:46-2(c):

An issue of fact is genuine only if, considering the burden of persuasion at trial, the evidence submitted by the parties on the motion, together with all legitimate inferences therefrom favoring the non-moving party, would require submission of the issue to the trier of fact.

Of note, the UAPR, including the rule governing summary decision, are designed “to achieve just results, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay.” N.J.A.C. 1:1-1.3(a). In line with these goals, “procedural rules may be relaxed or disregarded if the judge determines that adherence would result in unfairness or injustice.” N.J.A.C. 1:1-1.3(b).

After review of the moving papers, I **CONCLUDE** that under the Brill standards, this matter is appropriate for summary disposition.

With the above in mind and turning to the instant matter, respondent raised two arguments in their motion: (1) petitioner's appeal is untimely; and (2) petitioner failed to advance a cause of action, because as a matter of law, disqualification is mandated.

Timeliness

"To initiate a contested case for the Commissioner's determination of a controversy or dispute arising pursuant to the school laws, a petitioner shall prepare a petition of appeal conforming to the requirements at N.J.A.C. 6A:3-1.4 and serve such petition upon each respondent, together with any supporting papers the petitioner may include with the petition." N.J.A.C. 6A:3-1.3(a). The petition is required to be filed "no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other action by the district board of education, individual party, or agency, that is the subject of the requested contested case hearing." N.J.A.C. 6A:3-1.3(i) (emphasis added).

The ninety-day rule has been recognized as a "reasonable procedural requirement" that provides litigants with a meaningful opportunity to file a petition and promotes finality in education matters. Kaprow v. Bd. of Educ. of Berkeley Twp., 131 N.J. 572, 583 (1993). This rule has been strictly construed by the Commissioner of Education, the State Board of Education, and New Jersey courts. See Riely v. Bd. of Educ. of Hunterdon Cent. High Sch., 173 N.J. Super. 109, 113 (App. Div. 1980).

The New Jersey Supreme Court held that there is a two-pronged public policy approach regarding the ninety-day rule. First, the ninety-day rule is meant to "stimulate litigants to pursue a right of action within a reasonable time so that the opposing party may have a fair opportunity to defend, thus preventing the litigation of stale claims." Kaprow, 131 N.J. at 587 (quoting Ochs v. Fed. Ins. Co., 90 N.J. 108, 112 (1982)). Second, the ninety-day rule is intended "to penalize dilatoriness and serve as a measure of repose' by giving security and stability to human affairs." Kaprow, 131 N.J. at 587 (quoting Ochs v. Fed. Ins. Co. at 112).

Pursuant to N.J.A.C. 6A:3-1.16, any of the rules in the applicable regulations may be relaxed when “strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice.” Relaxation of the ninety-day filing requirement is reserved only for situations where the party presents a substantial constitutional issue or a matter of significant public interest beyond concern only to the parties. Portee v. Bd. of Educ. of Newark, 1994 N.J. AGEN LEXIS 1363, *12–13 (Feb. 24, 1994), aff’d, Comm’r Decision (Apr. 14, 1994).

Among the many cases that address the ninety-day rule, there are a few cases that are particularly relevant to the instant matter. In T.R. ex rel. E.R. v. Bridgewater-Raritan Board of Education, 2013 N.J. AGEN LEXIS 523 (July 22, 2013), the petitioners filed their original papers with the Department on November 27, 2012, two days before the ninety-day deadline. On November 29, 2012, the last day that petitioners could timely file an appeal, the petitioners were notified that their petition was deficient, but that “[i]f the necessary [filings] are timely submitted, November 27, 2012 will be deemed the filing date of the appeal.” Id. at *7. The petitioners submitted the additional information on December 6, 2012, and the Commissioner deemed that the appeal was timely filed.

In E.G.M. ex rel. J.M. v. Board of Education of the Township of Mahwah, 2013 N.J. AGEN LEXIS 77 (Apr. 9, 2013), the ALJ refused to relax the ninety-day rule on a motion for summary decision where the petitioner took three months to cure the deficiencies identified by the Department. In that matter, the petitioner filed a letter purporting to be an appeal with the Department on October 1, 2012. On October 4, 2012, the petitioner was advised that filing papers were deficient, but that “[i]f the necessary filings are timely submitted, October 1, 2012 will be deemed the filing date of the appeal.” Id. at *7–8. The petitioners submitted the additional information on January 8, 2013.

In the case of De Mario v. Board of Examiners, 2012 N.J. AGEN LEXIS 192 (Apr. 17, 2012), adopted, 2012 N.J. AGEN LEXIS 606 (May 11, 2012), the Commissioner upheld the ALJ’s determination that the petition was not timely filed. On March 1, 2010, the petitioner filed a letter purporting to be an appeal. On March 4, 2010, the Department sent the petitioner a letter advising petitioner that the filing was deficient but that “[i]f the

necessary filings are timely submitted, March 2, 2010 will be deemed the filing date of the appeal.” De Mario, 2012 N.J. AGEN LEXIS 192, at *6. The petitioner submitted the additional information on June 7, 2010, three months after receiving the letter from the Department.

With the above in mind and in review of petitioner’s opposition, petitioner expressed her remorse for the crimes that she committed over twenty years ago, and spoke about the progress towards her recovery and achievements that she has made since that time—all of which are significant. Unfortunately, what petitioner failed to address or provide was good cause or a compelling reason as to why the ninety-day deadline should be relaxed for well over seven years.

Accordingly, I **CONCLUDE** that petitioner’s appeal is out of time.

Failure to Advance a Cause of Action/Disqualification as a Matter of Law

The controlling statute in this matter is N.J.S.A. 18A:6-7.1, which states in relevant part:

N.J.S.A. 18A:6-7.1. Criminal record check in public school employment, volunteer service

A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 shall not employ for pay or contract for the paid services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils unless the employer has first determined consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. . . .

An individual, except as provided in subsection g. of this section, shall be permanently disqualified from employment or service under this act if the individual's criminal history record check reveals a record of conviction for any crime of the first or second degree; or . . .

b. An offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.; or

c.

(1) A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder; or

(2) A crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below: . . . Burglary N.J.S.2C:18-2 . . .

d. For the purposes of this section, a conviction exists if the individual has at any time been convicted under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

[emphasis added.]

Petitioner does not dispute her convictions of possession of CDS and burglary. Nor does she dispute that her convictions fall under the purview of N.J.S.A. 18A:6-7.1. What she does contend is that her convictions took place over twenty years ago and since then she has come a long way and would like to give back to the community by substitute teaching in the local school system.

While petitioner's arrest and convictions are well over twenty years old, the statute does not, for lack of a better term, have a sunset provision which provides for the lifting of the disqualification after a set period of time. If anything, it is quite the opposite as evidenced by the plain language of N.J.S.A. 18A:6-7.1, which states that an individual "shall" be permanently disqualified from employment or services and "a conviction exists if the individual has at any time been convicted under the laws of this State" See N.J.S.A. 18A:6-7.1.

Accordingly, I **CONCLUDE** that petitioner's petition fails to advance a cause of action.

For all the foregoing reasons, I **CONCLUDE** that petitioner's petition is not only time barred but fails to advance a cause of action and should be **DISMISSED**.

ORDER

It is hereby **ORDERED** that OSP's Motion for Summary Decision is hereby **GRANTED**, and petitioner's appeal is **DISMISSED**.

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

This recommended decision may be adopted, modified, or rejected by the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting 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 **ACTING 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.

January 8, 2026 _____

DATE



TAMA B. HUGHES, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

TBH/dc/gd