

(d) The Board of Examiners may consider revocation or suspension of the certificate of any individual who fails to maintain the license, certificate or authorization as required in (b) above.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 26) adopted, which concluded that three teachers did not qualify for tenure status, because the time they served as teachers of bilingual/bicultural education under emergency/temporary endorsements could not count toward accrual of tenure in the position of teacher without their having subsequently obtained full certification in the same area of endorsement; thus, the Board was within its rights to terminate their employment. *Gerber v. Bd. of Educ. of New Brunswick*, OAL Dkt. Nos. EDU 06337-06, EDU 06406-06 and EDU 02191-07, 2008 N.J. AGEN LEXIS 635, Commissioner's Decision (March 14, 2008).

6A:9-5.2 Certificates—general

(a) The Board of Examiners shall issue three categories of educational certificates: Instructional, Administrative and Educational Services.

(b) The chief school administrator of the employing district board of education shall require each newly employed or reassigned teaching staff member to exhibit an appropriate certificate before the teaching staff member assumes any responsibility for the performance of regulated duties. It shall be the chief school administrator's responsibility to ensure that the certificate is valid.

(c) The chief school administrator of each district board of education shall annually report the names and teaching assignments of all teaching staff members to the county superintendent. The county superintendent shall provide to the employing district board of education and the Commissioner written notice of any instance in which a teaching staff position is occupied by a person who does not hold appropriate certification.

(d) Any contract or engagement of any teaching staff member shall cease and terminate whenever the employing district board of education receives written notice from the county superintendent, or otherwise ascertains, that such person is not, or has ceased to be, the holder of an appropriate certificate required for such employment. A teaching staff member's employment shall cease notwithstanding that the term of employment pursuant to contract or engagement has not expired.

(e) If a properly notified district board of education fails to terminate the employment of an uncertified or improperly certified teaching staff member, the Commissioner may issue an order to show cause why that teaching staff member's per diem salary should not be withheld from the district board of education's State financial aid for each day the teaching staff member remains employed. If such district board of education fails to respond or show adequate cause within 20 days from the date of mailing of the order to show cause, the Commissioner may reduce State financial aid to such district board of education by the amount of the uncertified or im-

properly certified teaching staff member's per diem contract salary. The district board may show adequate cause either by exhibiting an appropriate certificate or by terminating the contract of the uncertified or improperly certified teaching staff member.

Case Notes

Adopting Initial Decision's conclusion that Director of School Counseling Services endorsement (N.J.A.C. 6A:9-13.7), and formerly Director of Student Personnel Services endorsement, was required in order to hold a director-level position with district-wide supervisory responsibility over counseling services or guidance; since petitioner did not hold either endorsement, she did not accrue tenure status in her position as "Director of Student Services," which was an unrecognized title. Petitioner's position as Director of Student Services was not separately tenurable, and her Principal/Supervisor and School Administrator endorsements did not provide the necessary qualification (adopting with modification 2008 N.J. AGEN LEXIS 380). *Perri v. Bd. of Educ. of Belleville*, OAL Dkt. No. EDU 01395-07, 2008 N.J. AGEN LEXIS 1016, Final Decision (September 10, 2008).

Board of education was required by applicable law to eliminate its unrecognized position of "Director of Student Services." However, since the duties of the newly created supervisory position were identical to those of the abolished directorship, such duties—notwithstanding the title of the position—continued to fall substantially within the scope of the Director of School Counseling Services endorsement and could not be performed by staff without the requisite certification. Consequently, the Board either had to reform the duties of its new "Supervisor of Student Personnel Services/Guidance" position to be consistent with the lesser levels of responsibility appropriate to nonspecialized certification, or appropriately title and staff the position. *Perri v. Bd. of Educ. of Belleville*, OAL Dkt. No. EDU 01395-07, 2008 N.J. AGEN LEXIS 1016, Final Decision (September 10, 2008).

Adopting Initial Decision's conclusion that a tenured school social worker under an educational services certification, who also possessed certification as an elementary teacher but had never served as a teacher in the school district, and whose social worker position was eliminated through a reduction in force, did not have rights over a nontenured applicant to a teaching position; neither tenure nor seniority applied across certificates, and therefore petitioner only had rights with regard to positions within the educational services certification (adopting 2008 N.J. AGEN LEXIS 70, as supplemented). *Aiello v. Bd. of Educ. of Westwood Reg'l School Dist.*, OAL Dkt. No. EDU 7986-07, 2008 N.J. AGEN LEXIS 263, Commissioner's Decision (March 20, 2008).

Where petitioner was employed effective September 1, 2001 as a permanent substitute art teacher "until completion of her teaching certificate requirements at which time she will be given a permanent contract" and she obtained the appropriate certificate in March 2002, petitioner had not obtained tenure at the time she was dismissed from employment on Feb. 25, 2005 and thus was not improperly terminated; the first six months of petitioner's employment, during which she held only a substitute teacher's certificate, did not count towards the three-year tenure requirement of N.J.S.A. 18A:28-5 (adopting with clarification 2006 N.J. AGEN LEXIS 749). *Miller v. Bd. of Educ. of West Amwell*, OAL Dkt. No. EDU 4523-05S, Commissioner's Decision (November 16, 2006).

Although N.J.A.C. 6A:9-5.2(b) admonishes school administrators not to hire uncertified teachers, the district did not act inequitably towards a teacher denied tenure credit during the two months she served as a Practical Nursing (PN) instructor under a substitute certificate, as (1) the district credited the instructor with seniority for the five months after it appointed her to the position and before she received proper certification; (2) teaching PN was for the instructor's benefit so she could gain the geriatrics experience needed under new regulations for her position as a Nursing Assistant (NA) instructor, rather than be subject to termination; and (3) the instructor chose to continue teaching PN rather than return to teaching NA for which she was adequately certificated. *Kelly v. Bd. of Educ. of Middlesex County Vocations Technical School*

Dist., OAL Dkt. No. EDU 4588-01, Commissioner's Decision (November 9, 2006), aff'd, SB No. 45-06, 2007 N.J. AGEN LEXIS 548 (N.J. State Bd. of Educ. May 2, 2007).

6A:9-5.3 Interstate contracts

In accordance with the NASDTEC Interstate Contract, the Commissioner and the Secretary may enter into contracts with other states to allow reciprocity of teachers' credentials between New Jersey and other states.

6A:9-5.4 Fees

(a) The fee schedule in (b) below shall be in addition to any tuition and fees that institutions of higher education may charge for courses and credits offered in connection with State-approved training programs.

(b) The following nonrefundable fee schedule applies:

1. For each CE and CEAS, which includes the issuance of the provisional certificate and standard certificate—\$170.00;
2. For each emergency certificate—\$95.00;
3. For each substitute credential—\$125.00;
4. For each renewal of an emergency or provisional certificate—\$70.00;
5. For each duplicate copy of or name change on a certificate—\$60.00;
6. For each evaluation of credentials to determine eligibility to take a particular State certification examination or to obtain information concerning qualifications for certification—\$70.00;
7. For each standard certificate—\$95.00;
8. For each certificate that requires a test, a one-time test score service fee—\$20.00;
9. For each letter the Office sends in response to a candidate's written request verifying test scores that are no longer available from the testing company—\$25.00;
10. An application fee for a qualifying academic certificate pursuant to N.J.S.A. 18A:6-41 shall be \$30.00. If the candidate is not eligible, \$20.00 will be refunded;
11. Upon completion of a State-approved administrator residency program, a one-time administrative fee—\$200.00;
12. Upon completion of a State-approved alternate route formal instruction program for holders of an instructional CE, a one-time administrative fee—\$100.00; and
13. For each provisional educational services certificate—\$75.00.

(c) The State Board may establish in this section from time to time a fee schedule for services related to the issuance of certificates that includes, but is not limited to, fees charged by

district boards of education to provisional teachers to pay for their training. This fee schedule shall be in addition to any tuition and fees charged by institutions of higher education for courses and credits offered in connection with State-approved training programs.

Amended by R.2005 d.110, effective April 4, 2005.

See: 36 N.J.R. 5044(a), 37 N.J.R. 1060(a).

In (b), substituted "fee for a qualifying academic certificate" for "fee for an academic qualifying certificate" and amended the N.J.S.A. reference in 10.

Amended by R.2006 d.170, effective May 15, 2006.

See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

Added (b)11 and made related stylistic changes in (b)9 and (b)10.

Amended by R.2008 d.7, effective January 7, 2008.

See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

In (b)1, substituted "\$170.00" for "\$150.00"; in (b)2 and (b)7, substituted "\$95.00" for "\$75.00"; in (b)3, substituted "\$125.00" for "\$75.00"; in (b)4 and (b)6, substituted "\$70.00" for "\$50.00"; in (b)5, substituted "\$60.00" for "\$40.00"; in (b)10, deleted "and" from the end; in (b)11, substituted a semicolon for the period at the end; and added (b)12 and (b)13.

6A:9-5.5 Assignment of titles

(a) Each district board of education shall assign position titles to teaching staff members that are recognized in these rules. To this end, the office shall maintain and make available to districts a list of approved job titles with corresponding certificates authorized for those job titles.

(b) If a district board of education determines that the use of an unrecognized position title is desirable, or if a previously established unrecognized title exists, the following procedures shall apply:

1. Prior to appointing a candidate, the district board of education shall submit to the county superintendent a written request for permission to use the proposed title. Such request shall include a detailed job description.
2. The county superintendent shall exercise his or her discretion regarding approval of the request and determine the appropriate certification and title for the position.
- (c) The county superintendent shall review annually all previously approved unrecognized position titles and determine whether such titles shall be continued for the next school year.

(d) Decisions rendered by county superintendents regarding titles and certificates for unrecognized positions shall be binding upon future seniority determinations on a case-by-case basis.

Amended by R.2009 d.24, effective January 5, 2009.

See: 40 N.J.R. 4856(a), 41 N.J.R. 128(a).

In (a), inserted the last sentence.

Case Notes

Initial Decision (2006 N.J. AGEN LEXIS 344) adopted, which concluded that a former athletic director failed to show that the Board violated his tenure, seniority and/or preferred eligibility rights by its appointment of a non-tenured individual to the position of Assistant Principal for Athletics and Student Activities; contrary to petitioner's

contention, the position of Assistant Principal for Athletics and Student Activities was not an unrecognized position under N.J.A.C. 6A:9-5.5. A vacant assistant principal position existed when the Board created the new position, and petitioner failed to show that the duties of the position lacked the character necessary to require a principal endorsement. *McGriff v. Bd. of Educ. of Montclair*, OAL Dkt. No. EDU 10927-04, 2006 N.J. AGEN LEXIS 647, Commissioner's Decision (July 13, 2006).

"Position" in which tenure is acquired by virtue of service in an unrecognized position title is not limited by the unrecognized title; rather, it is well established that, pursuant to N.J.S.A. 18A:28-5, the position in which an individual achieves tenure is either one of those specifically enumerated in the statute or other employment for which a certificate is required, either Instructional, Educational Services or Administrative. In contrast, pursuant to N.J.A.C. 6A:9-5.5, seniority is limited to the unrecognized title. *Ciamillo v. Bd. of Educ. of Ridgefield*, OAL Dkt. No. EDU 1805-04; S.B. No. 38-05, 2006 N.J. AGEN LEXIS 134, State Board of Education Decision (N.J. January 4, 2006).

Adopting Initial Decision's conclusion that a tenured teacher who simultaneously served as a Subject Area Coordinator did not acquire tenure in the coordinator position; because the Subject Area Coordinator position was an unrecognized title under N.J.A.C. 6A:9-5.5, and because it did not require an additional certificate, the teacher serving in this position did not accrue tenure in a position other than that of teacher (adopting as modified 2005 N.J. AGEN LEXIS 664). *Manley v. Bd. of Educ. of Old Bridge Twp.*, OAL Dkt. No. EDU 10644-04, 2005 N.J. AGEN LEXIS 1053, Commissioner's Decision (December 19, 2005).

6A:9-5.6 Oath of allegiance required

(a) Every person who applies for a certificate for employment in any of the public schools of this State shall subscribe to the oath of allegiance and office prescribed in N.J.S.A. 41:1-3.

(b) Any person who is a citizen or subject of any country other than the United States is required to file an oath to support the Constitution of the United States while so employed.

6A:9-5.7 Citizenship requirement

(a) Except as set forth below, to be eligible for a certificate, the applicant must be a citizen of the United States.

1. Any citizen of another country who has declared his or her intention of becoming a United States citizen and who is otherwise qualified may, with the Commissioner's

5. Pass the appropriate state test of subject matter knowledge; and

6. Pass an examination in physiology, hygiene and substance abuse issues pursuant to N.J.A.C. 6A:9-5.9.

(c) Except as indicated in N.J.A.C. 6A:9-11, to be eligible for a CEAS in instructional fields, the candidate shall meet the requirements in (a) above and complete one of the following programs of teacher preparation:

1. A New Jersey college program, graduate or undergraduate, approved by the Department for the preparation of teachers pursuant to N.J.A.C. 6A:9-10;

2. A college preparation program included in the interstate certification reciprocity system of NASDTEC;

3. An out-of-State teacher education program approved by NCATE, TEAC or any other national professional education accreditation body recognized by the Council on Higher Education Accreditation approved by the Commissioner;

4. A teacher education program approved for certification by the Department in one of the states party to the NASDTEC Interstate Contract, provided the program was completed on or after January 1, 1964 and the state in which the program is located would issue the candidate a comparable endorsement; or

5. An out-of-State college teacher education program approved by the state department of education in which the program is located.

(d) The teacher preparation programs listed in (b)1 through 5 above must culminate in college supervised student teaching.

(e) A candidate who graduates on or after September 1, 2004 with a GPA that is below 2.75, but at least 2.50 when a GPA of 4.00 equals an A grade, and whose score in the appropriate State test of subject matter knowledge exceeds the passing score by 10 percent or more will meet the requirements of (a)2 and 4 above. This alternative requirement to (a)2 and 4 above should not be construed as a waiver to N.J.A.C. 6A:9-17.16.

(f) A candidate with a GPA that is 3.50 or higher, when a GPA of 4.00 equals an A grade, but whose score in the appropriate State test of subject matter knowledge falls below the passing score by no more than five percent will meet the requirements of (a)2 and 4 above. This alternative requirement to (a)2 and 4 above should not be construed as a waiver to N.J.A.C. 6A:9-17.16.

(g) A candidate who has graduated from a regionally accredited college or university that does not award grades and does not calculate GPAs shall be exempt from the requirements in (a)2 above.

1. Upon application, the candidate shall provide the Office with an original registrar's letter from the college or university bearing the college or university seal and clarifying the institution's policy regarding GPAs.

2. The candidate shall satisfy all other requirements for certification, without exception.

(h) Any student matriculated in an approved in-State or out-of-State teacher education program prior to October 31, 2009 shall not be subject to (a)4 and 5 and (b) above if he or she graduates on or before January 31, 2013.

Amended by R.2004 d.416, effective November 1, 2004.
See: 36 N.J.R. 3237(a), 36 N.J.R. 4927(b).

Added (d) and (e).

Amended by R.2005 d.110, effective April 4, 2005.
See: 36 N.J.R. 5044(a), 37 N.J.R. 1060(a).

In (a)3, added the second sentence in the introductory paragraph and added i.

Amended by R.2006 d.170, effective May 15, 2006.
See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

Made two stylistic changes in (a)2; deleted "who graduates on or after September 1, 2004"; and added (f) and (g).

Amended by R.2008 d.7, effective January 7, 2008.
See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

In (a)2, inserted the last sentence; and in (a)3, inserted "a major in the subject area or".

Amended by R.2009 d.24, effective January 5, 2009.
See: 40 N.J.R. 4856(a), 41 N.J.R. 128(a).

In the introductory paragraph of (a), inserted "and (b) below"; in (a)2, substituted "in any year" for the second occurrence of "2004" and "of that same year" for the fourth and last occurrences of "2004", and deleted the third occurrence of "2004"; in (a)3, substituted "Until October 30, 2009, for" for "For"; added new (a)4; recodified former (a)4 and (a)5 as (a)6 and (a)7; added new (b); recodified former (b) through (f) as (c) through (g); deleted former (g); and added (h).

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 118) adopted, which concluded that petitioner, an acknowledged recipient of a bona fide bachelor's degree, failed to demonstrate any entitlement to receive credit for or approval of certification as a Teacher of the Handicapped by a preponderance of the credible evidence, where his undergraduate GPA was deficient by the standards in place at the time of his initial application as well as at the time of the review of his completed course of study. Moreover, petitioner failed to take the appropriate matriculated course work at a single college as part of an approved post-baccalaureate program but instead attended four separate college-level institutions in order to meet this obligation, resulting in no realistic way that the board of examiners could collate the course selections at each of the individual schools and factor in an appropriate GPA. *Maslin v. N.J. Dep't of Educ., Office of State Bd. of Examiners, OAL Dkt. No. EDU 2689-06, Commissioner's Decision (April 8, 2008).*

6A:9-8.2 Requirements for the provisional certificate

(a) Except as indicated in N.J.A.C. 6A:9-11, to be eligible for a provisional certificate, a candidate shall:

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

2. Obtain and accept an offer of employment in a position that requires instructional certification; and

3. Be registered in a State-approved district training program upon employment and in accordance with N.J.A.C. 6A:9-8.3.

(b) The effective date of provisional certificate issuance is the date on which the holder of a CE or CEAS begins employment with the district board of education in a certificated position in accordance with N.J.S.A. 18A:26-2 and 18A:27-4a.

Amended by R.2008 d.7, effective January 7, 2008.
See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

In (a)1, deleted "and" from the end; in (a)2, substituted "; and" for the period at the end; and added (a)3 and (b).

6A:9-8.3 Requirements for State-approved district training programs

(a) Each district board of education shall be authorized to employ a holder of a CE or CEAS after its mentoring plan has been approved pursuant to N.J.A.C. 6A:9-8.4(d)3.

(b) Each State-approved district training program shall provide essential knowledge and skills through the following training:

1. On-going mentoring of the provisional teacher shall take place over a period of 30 weeks or proportionally longer if the provisional teacher holds a part-time teaching position in accordance with the local mentor plan pursuant to N.J.A.C. 6A:9-8.4 and in accordance with the Professional Standards for Teachers.

2. The building principal or an appropriately certified school administrative designee shall observe and formally evaluate the provisional teacher in accordance with N.J.A.C. 6A:9-8.6 and 8.7.

3. Except for (b)4 and 5 below, a minimum of 200 hours of formal instruction in professional education aligned with the Professional Standards for Teachers shall be completed by the provisional teacher concurrently with the requirements of (b)1 and 2 above. This requirement shall not apply to provisional teachers who hold a CEAS pursuant to N.J.A.C. 6A:9-8.1(c).

4. For provisional teachers who are holders of a career and technical education CE, a minimum of 200 hours of formal instruction in a State-approved career and technical education professional education program that is aligned with the Professional Standards for Teachers and that includes the essential knowledge and skills regarding the delivery of career and technical education programs shall be completed concurrently with the requirements of (b)1 and 2 above. This requirement shall not apply to provisional teachers who hold a CEAS pursuant to N.J.A.C. 6A:9-8.1(b). The effective date of this requirement shall be February 1, 2010.

5. For provisional teachers who are holders of an elementary school (K-5) endorsement, a minimum of 290 hours of formal instruction over no more than two years in

a State-approved program of formal instruction that is aligned with the Professional Standards for Teachers shall be completed. This instruction must include in the first calendar year of a teacher's employment a minimum of 45 hours of study in the teaching of language arts/literacy at the K-5 level and a minimum of 45 hours of study in teaching mathematics at the K-5 level. The effective date of this requirement shall be October 31, 2009. Provisional teachers holding an elementary school (K-5) certificate of eligibility may be exempted from completing 45 hours of study in the teaching of language arts/literacy at the K-5 level as well as from completing 45 hours of study in the teaching of mathematics at the K-5 level if:

i. For each area of study, they have completed 45 hours of study in that area within the three years prior to receiving their certificate of eligibility as documented by a Department-approved alternate route regional training center or through equivalent coursework on the transcript of a regionally accredited four-year college or university; or

ii. For each area of study, they document the equivalent of at least one-year of successful experience as a full-time teacher during which the subject area is regularly taught, among the other subjects for which a K-5 teacher would be responsible. This experience must take place within the three years prior to receiving their certificate of eligibility and documented by submitting a completed, original form provided by the Office.

(c) Districts or consortia of districts, in conjunction with a college or university, shall provide formal instruction to the provisional teachers they employ pursuant to (b)4 above. The district or consortium shall submit a written plan for the Department's approval. In the event that joint sponsorship with a college or university cannot be achieved, the Department may authorize the district or consortium to provide the formal instruction independently or in joint sponsorship with a non-collegiate entity. The district or consortium's written plan shall include documentation of its efforts to secure college or university participation.

(d) Districts unable to provide formal instruction to provisional teachers in their employ shall provide access to formal instruction through a network of Department-authorized providers.

Amended by R.2006 d.170, effective May 15, 2006.
See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

Rewrote the first, second and last sentences in (b)1.
Amended by R.2008 d.7, effective January 7, 2008.
See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

In (a), substituted "holder of a CE or CEAS" for "provisional teacher"; in (b)1, inserted "or 90 hours", substituted "in preparation for" for "shall take place prior to the time at which", "to take" for "takes" and "professional support and instruction" for "pre-professional support, instruction and clinical experiences and study"; in (b)2, inserted "or proportionally longer if the provisional teacher holds a part-time teaching position"; in (b)3, substituted "administrative designee" for "administrator"; in (b)4, substituted "A minimum of" for "Approximately" and updated the N.J.A.C. reference; in (d), substituted "providers" for "regional training centers"; and deleted (e).

Amended by R.2009 d.24, effective January 5, 2009.

See: 40 N.J.R. 4856(a), 41 N.J.R. 128(a).

Deleted former (b)1; recodified former (b)2 through (b)4 as (b)1 through (b)3; in (b)3, substituted "Except for (b)4 and 5 below, a" for "A" and updated the N.J.A.C. reference; and added (b)4 and (b)5.

Administrative correction.

See: 42 N.J.R. 936(a).

6A:9-8.4 Requirements for local mentor plan

(a) All novice teachers are required to participate in a mentoring program that takes place over a period of 30 weeks for provisional teachers holding a CEAS and 34 weeks for provisional teachers holding a CE. Provisional teachers shall participate for a proportionally longer period of time if in a part-time teaching position. The mentoring program shall be implemented by the mentor teacher, supervised by the school

vii. Course syllabi and program curriculum;

4. The following documentation shall be reviewed by the State Program Approval Council and be used for the periodic review and approval for continuation of all prep-

aration programs in conjunction with the institution's national accreditation:

i. Data on candidates' performance on program based assessments at program completion;

- ii. Numbers of educator candidates prepared in critical shortage areas and from diverse backgrounds;
- iii. Placement and retention rates;
- iv. Data on candidates' performance at the end of the provisional period;
- v. Praxis scores and pass rates;
- vi. Follow-up survey of graduates and employers; and
- vii. Where relevant, P-12 student achievement data;

5. Accreditation by a national accrediting body recognized by the Council on Higher Education Accreditation and approved by the Commissioner; and

6. Compliance with requirements in (b) below.

(c) Higher education institutions who prepare educators shall be required to have programs approved as follows:

1. All new or revised educator programs must secure initial approval from the Department of Education prior to implementation;

2. All educator programs must undergo a periodic program review every seven years at least six months prior to the national accreditation process;

3. All programs must obtain accreditation through the National Council for the Accreditation of Teacher Education, the Teacher Education Accreditation Council or any other national professional education accreditation body recognized by the Council on Higher Education Accreditation and approved by the Commissioner.

i. No later than January 2, 2009, institutions of higher education preparing professional educators shall have acquired national accreditation;

ii. Following the accreditation visitation, but no later than July 1, 2009, institutions of higher education preparing professional educators shall provide proof of their national accreditation recognition status to the Department;

iii. Institutions of higher education preparing professional educators that fail to obtain national accreditation shall forfeit State approval to offer professional educator preparation programs leading to certification; and

iv. The State shall withdraw approval for any institution of higher education preparing professional educators that fails to meet the conditions in (c)3ii and iii above.

(d) Formal admission to teacher preparation programs shall be reviewed by colleges and universities at the beginning of the junior year and shall be granted only to those students who have:

1. Maintained a cumulative GPA of at least 2.50 when a grade point of 4.00 equals an A grade for the first two years of college. Institutions may require higher minimum GPAs for entry into teacher preparation programs;

2. Achieved acceptable levels of proficiency in the use of the English language, both oral and written, and mathematics. Students with deficiencies in these areas upon admission to college shall be required to demonstrate proficiency through an oral or written assessment by the beginning of the junior year; and

3. Demonstrated aptitude for the profession of teaching through successful completion of an appropriate practical experience in an elementary or secondary school.

(e) The college or university faculty shall evaluate each student at the end of the semester prior to student teaching. The faculty evaluation shall be based on a comprehensive assessment of relevant indicators that include:

1. A cumulative GPA of at least 2.50 when a grade point of 4.00 equals an A grade; and

2. Acceptable levels of teaching proficiency in junior field experience as indicated by the evaluation reports of college and school faculty. Such evaluations shall be communicated to the student and shall be included in the student's permanent file.

(f) Colleges and universities shall assure that only students who have met the requirements in (d) above be assigned to student teaching.

(g) Colleges and universities shall recommend for certification to the Department only those students who have completed the State approved certification program and have:

1. For students who graduate prior to September 1, 2004, achieved an overall cumulative GPA of at least 2.50 when a grade point of 4.00 equals an A grade; for students graduating on or after September 1, 2004, achieved an overall cumulative GPA of at least 2.75 when a grade point of 4.00 equals an A grade; and

2. Demonstrated continued competence, aptitude, motivation and potential for outstanding success in teaching as indicated by assessments of student teaching performance by college/university and school supervisors. Such assessments shall be communicated to the student and shall be a part of the student's file.

(h) All requirements are to be applied equitably and in a non-discriminatory manner to all students, including transfer students. All admissions and retention processes are to be consistent with State and institutional affirmative action policies and goals.

(i) Colleges and universities shall develop appropriate procedures for placing on probation and dismissing from the program students who fall below minimum requirements

before graduation, and shall incorporate into these procedures methods for appeals by students.

(j) Colleges and universities shall make recommendations for issuance of a CEAS for students completing an approved teacher preparation program.

(k) Colleges and universities must inform the Department when a student has successfully completed the approved program and is being recommended to the Department for issuance of the CEAS by the Board of Examiners provided that the student has passed a state test pursuant to N.J.A.C. 6A:9-8.1(a)4. Colleges and universities have up to one year from the date of completion of the approved program to recommend a student to the Department for issuance of a certificate.

(l) Colleges and universities shall align their programs with the Professional Standards for Teachers no later than September 1, 2005.

(m) With the exception of special education approved programs, colleges and universities shall inform the Department of those students that have matriculated in programs approved prior to January 20, 2004. This includes those students that matriculated as juniors in fall 2004 and spring 2005. Those candidates must complete all requirements at N.J.A.C. 6:11-7 by September 1, 2007. Candidates that do not complete all of the requirements at N.J.A.C. 6:11-7 by September 1, 2007 shall fulfill the requirements at N.J.A.C. 6A:9-10.

(n) Colleges and universities shall inform the Department of those students that have matriculated in special education programs approved prior to January 20, 2004. This includes those students that matriculated as freshman in fall 2003. Those candidates that do not complete all of the requirements at N.J.A.C. 6:11-7 by September 1, 2008 shall fulfill the requirements at N.J.A.C. 6A:9-10. These teachers shall be considered novice teachers and shall be required to complete a year of formal mentoring.

(o) Requirements in (d) through (g) above shall be considered minimum requirements. Colleges and universities have the authority to require higher GPAs and higher levels of proficiency for program admission, student teaching and recommendation for certification.

Amended by R.2005 d.110, effective April 4, 2005.

See: 36 N.J.R. 5044(a), 37 N.J.R. 1060(a).

In (l), rewrote the first sentence; added (m).

Amended by R.2006 d.170, effective May 15, 2006.

See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

In (a), substituted "Department" for "State Board" and added "approved by the State Board" to the end; added the last sentences in (j) and (m); and added (n).

Amended by R.2008 d.7, effective January 7, 2008.

See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

In (a)1, deleted "and" from the end; in (a)2, substituted "; and" for a period at the end; and added (a)3.

Amended by R.2009 d.24, effective January 5, 2009.

See: 40 N.J.R. 4856(a), 41 N.J.R. 128(a).

Rewrote the section.

6A:9-10.2 Curriculum for teacher preparation programs

(a) The preparation program for all instructional certificates shall include the provisions in (a)1 through 5 below. In addition, those candidates seeking the preschool through grade three endorsement shall comply with the requirements in (b) below, and candidates seeking special education endorsements shall comply with requirements in (c), (d), (e) or (f) below.

1. A minimum of 60 semester credit hours of general education including electives. General education courses shall be distributed among the arts, humanities, mathematics, science, technology and the social sciences. There must be some study in each area. Study in technology may include topics such as educational technology and tools, the history of technology and the sociological impact of technological advancement which would contribute to the general technological literacy of students. The purpose of general education is to develop the prospective teacher as an educated person rather than to provide professional preparation. This component of the program shall exclude courses that are clearly professional or career and technical in nature;

2. A major in the arts, humanities, social sciences, mathematics, science or technology disciplines;

3. A minimum of 90 credits of the total program distributed among general education and the academic major;

4. A sequence of courses devoted to professional preparation. Study must be devoted to the behavioral/social sciences, the teaching of literacy and numeracy, educating linguistically diverse and special education students, and, effective May 31, 2010, integrating educational technology and tools into the curriculum and classroom. Some of these areas may be included in the professional or liberal arts components of the program consistent with (a)1 above. The professional component of the undergraduate program shall be aligned with the Professional Standards for Teachers as specified in N.J.A.C. 6A:9-3.3 and shall provide students, normally beginning in the sophomore year, with practical experiences in an elementary, middle or secondary school setting. These opportunities shall increase in intensity and duration as the student advances through the program and culminate with a student teaching experience; and

5. A student teaching experience. School districts have a responsibility, as part of the continuum of professional education and development, for accepting and placing student teachers. This shall be the equivalent of a full-time experience of one semester's duration and shall be included within the professional component. The student teacher shall be under the direct and continuous personal supervision of an appropriately certified cooperating teacher. A State-approved Master of Arts in Teaching (MAT) program must ensure that its graduates have completed one of the following:

SUBCHAPTER 17. STATE BOARD OF EXAMINERS' PROCEEDINGS

6A:9-17.1 Certificate holder

(a) For purposes of this subchapter, the term certificate holder shall include all individuals who hold certificates, credentials, CEAs and CEASs issued by the State Board of Examiners.

(b) For purposes of this subchapter, the term certificate shall include all standard, emergency and provisional certificates, all credentials and all CEAs and CEASs issued by the State Board of Examiners.

(c) All certificate holders shall report their arrest or indictment for any crime or offense to their superintendent within 14 calendar days. The report shall include the date of arrest or indictment and charge(s) lodged against the certificate holder. Such certificate holders shall also report to their superintendents the disposition of any charges within seven calendar days of disposition. Failure to comply with these reporting requirements may be deemed "just cause" pursuant to N.J.A.C. 6A:9-17.5. School districts shall make these requirements known to all new employees and to all employees on an annual basis.

Amended by R.2006 d.170, effective May 15, 2006.
See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

Made a stylistic change.

Amended by R.2008 d.7, effective January 7, 2008.
See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

Inserted designation (a); in (a), inserted "credentials,"; and added (b).

Amended by R.2009 d.24, effective January 5, 2009.
See: 40 N.J.R. 4856(a), 41 N.J.R. 128(a).

Added (c).

6A:9-17.2 Conduct barring candidate from certification

Notwithstanding that a candidate may meet all requirements for certification, the Board of Examiners may refuse to issue a certificate to that candidate if, based on the record before it, the Board of Examiners determines that, for reasons set forth in N.J.A.C. 6A:9-17.5, the candidate is not suitable for employment as a teaching staff member in the public schools.

6A:9-17.3 Candidates to provide information regarding criminal history

(a) As part of the application for certification, a candidate must advise the Office whether he or she has a record of conviction(s) for any crime or offense in New Jersey or any other state or foreign jurisdiction. Candidates who have been convicted shall complete a form approved by the Secretary setting forth the details of the conviction(s).

(b) The Board of Examiners shall review all information the candidate provides and determine whether the candidate's criminal history is such that he or she should not receive a certificate. In making its determination, the Board of Examiners shall consider the Rehabilitated Convicted Offenders

Act, N.J.S.A. 2A:168A-1 et seq., and whether the crime(s) or offense(s) would be disqualifying under N.J.S.A. 18A:6-7.1 et seq.

Amended by R.2008 d.7, effective January 7, 2008.

See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

In (a), inserted "or foreign jurisdiction".

6A:9-17.4 District reporting responsibility

(a) The chief school administrator of a district shall notify the Board of Examiners when:

1. Tenured teaching staff members who are accused of criminal offenses or unbecoming conduct resign or retire from their positions;

2. Nontenured teaching staff members, including substitute teachers, who are accused of criminal offenses or unbecoming conduct resign, retire or are removed from their positions;

3. A certificate holder fails to maintain any license, certificate or authorization pursuant to N.J.A.C. 6A:9-4.1(b) that is mandated in order for the holder to serve in a position;

4. He or she becomes aware that a certificate holder has been convicted of a crime or criminal offense while in the district's employ; or

5. He or she has received a report from the Division of Youth and Family Services (DYFS) substantiating allegations of abuse or neglect or establishing "concerns" regarding a certificated teaching staff member.

(b) In the event that the Board of Examiners issues an order to show cause based on the information that the school district provided about the certificate holder, it shall be the responsibility of the reporting school district to cooperate with the Board of Examiners in any proceeding arising from the order to show cause.

Amended by R.2006 d.170, effective May 15, 2006.
See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

Made a stylistic change in (a)2; and added (b).

Amended by R.2008 d.7, effective January 7, 2008.

See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

In (a)3, deleted "or" from the end; in (a)4, inserted "or criminal offense" and substituted "; or" for a period at the end; and added (a)5.

Amended by R.2009 d.24, effective January 5, 2009.

See: 40 N.J.R. 4856(a), 41 N.J.R. 128(a).

In (a)2, inserted ", including substitute teachers,".

6A:9-17.5 Grounds for revocation and suspension of certification

The Board of Examiners may revoke or suspend the certificate(s) of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. Other just cause shall include, but not be limited to, offenses within the terms of the forfeiture statute, N.J.S.A. 2C:51-2, or the disqualification statute, N.J.S.A. 18A:6-7.1. The Board of Examiners may revoke or

suspend a certificate upon evidence that the holder did not meet the qualifications for the certificate at the time of issuance or no longer satisfies the criteria set forth in N.J.A.C. 6A:9-5.1(b). The Board of Examiners shall not revoke or suspend a certificate without providing the holder an opportunity to be heard pursuant to N.J.A.C. 6A:9-17.6.

Case Notes

Principal's failure to notify a fire department of a fire in the school and the disabling of an automatic reporting of an alarm to the local fire department without notifying a fire official were imminent hazards, violated the State Fire Prevention Code, and constituted unbecoming conduct. The alarm system had been malfunctioning, however, and the principal, who had a long and distinguished career as an educator, honestly believed he was doing his best to keep the students safe; on reconsideration, the principal's administrative certificates were suspended from February 21, 2008 until May 1, 2008, rather than for two years. In re Certificates of Kramer, OAL Dkt. No. EDE 2085-07; SBE No. 0607-148 (On Reconsideration), 2009 N.J. AGEN LEXIS 622, State Board of Examiners Decision (January 13, 2009), *aff'd*, No. 115-09A (N.J. Comm'r of Educ. April 8, 2009).

Initial Decision (2008 N.J. AGEN LEXIS 325) adopted, which concluded that revocation of a teacher's certificate was warranted because the teacher maintained an inappropriate out-of-school relationship with a 17-year-old female student at the school, which included overnights at his apartment; the absence of evidence of sexual or romantic involvement did not mitigate the seriousness of the infraction. An objective standard applies, and thus the teacher's intent, as well as the consent of the student or her mother, were not controlling in judging the appropriateness of his behavior. In re Certificate of Cantillon, OAL Dkt. No. EDE 10433-06, State Board of Examiners Decision (July 17, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 294) adopted, which concluded that a high school teacher's comments in the classroom, involving the words "gay," "hickey," and "triple-X," while inappropriate, could not be interpreted as anything other than instantaneous or reflexive comments having no intent other than to make light of a situation or illustrate the students' inappropriate behavior, and, as such, warranted a one-year suspension of the teacher's certificates. In re Certificates of Zantow, OAL Dkt. No. EDE 459-07, State Board of Examiners Decision (July 17, 2008).

Where a teacher was alleged to have breached security procedures in administering the Grade Eight Proficiency Assessment test, the New Jersey State Board of Education reversed the State Board of Examiners' determination to revoke the teacher's certificates under N.J.A.C. 6A:9-17.5 and instead ordered suspension of the teacher's certificates. While the teacher did provide confidential information that would give students an unfair advantage, the teacher did not provide specific answers to the questions on the test and had an excellent employment history. In re Revocation of Teaching Certificates of Karis, OAL Dkt. No. EDE 1564-07; SBE No. 0607-111; SB No. 7-08, 2008 N.J. AGEN LEXIS 722, State Board of Education Decision (June 18, 2008).

Teacher engaged in conduct unbecoming a teacher when he masturbated in a public store; thus, the teacher's teaching certificate was revoked under N.J.A.C. 6A:9-17.5. The teacher could not exclude his "out-of-school" behavior from the State Board of Examiners' examination. In re Certificates of Jordan, OAL Dkt. No. EDE 00460-07; SBE No. 0506-287, State Board of Examiners Decision (February 21, 2008), *aff'd*, SB No. 17-08 (N.J. Comm'r of Educ. August 13, 2008).

Initial Decision (2007 N.J. AGEN LEXIS 679) adopted, finding that a teacher's Teacher of Elementary School Certificate of Eligibility and Teacher of Elementary School certificates were revoked under N.J.A.C. 6A:9-17.5 for breaching the security of the New Jersey Assessment of Skills and Knowledge Test. The teacher willfully read the reading comprehension sections of the test aloud, ignored time elements, and attempted to provide substantive assistance to a student while she was taking the test. In re Certificates of Mascuch, OAL Dkt. No. EDE

00458-07; SBE No. 0607-134, State Board of Examiners Decision (January 17, 2008).

Initial Decision (2007 N.J. AGEN LEXIS 713) adopted, determining that a teacher and co-owner of a preschool, who was alleged to have known that the preschool was making fraudulent payroll payments to an individual who did not perform any duties at the preschool, should not have her teacher of elementary school and teacher of nursery school certificates revoked or suspended under N.J.A.C. 6A:9-17.5 because the teacher was unaware of the payment arrangements. In re Certificates of Natalini, OAL Dkt. No. EDE 09629-05; SBE No. 0405-104, State Board of Examiners Decision (January 17, 2008).

Initial Decision (2007 N.J. AGEN LEXIS 604) adopted, which, under N.J.A.C. 6A:9-17.5, revoked a special education teacher's teaching certificates because the teacher had used racial epithets during class, allowed students to play video games during class while conducting very little instruction, yelled at students, advocated violence, and viewed pornography while in the classroom. The ALJ was in the best position to render credibility determinations and concluded that the teacher's deleterious actions rendered him unfit to hold a teaching certificate in New Jersey. In re Certificates of Grendysa, OAL Dkt. No. EDE 985-03; SBE No. 726-06/02, State Board of Examiners Decision (January 17, 2008).

Revocation of an educator's certificates was warranted, where the ALJ assessed conflicting testimony and found that the Board of Examiners met its burden of establishing by a preponderance of the credible evidence that the educator, who operated an educator assessment company, engaged in a plan to obtain a position at a charter school for the purpose of enhancing his pension benefits without providing services in return. It was not necessary to prove that the educator engaged in a criminal conspiracy. In re Certificates of Hayes, OAL Dkt. No. EDE 978-05; SBE No. 0405-176, 2007 N.J. AGEN LEXIS 202, Initial Decision (April 19, 2007), adopted (State Bd. of Examiners July 19, 2007).

Where there was no direct evidence that a school principal, who held a Teacher of English Standard Certificate, a Principal/Supervisor Certificate, a Principal/Supervisor Standard Certificate, and a School Administrator Certificate of Eligibility, ordered a fire alarm system disabled or did it herself after a trash can fire, neglect allegations were not proven. The Administrative Law Judge found the principal's testimony credible, and the principal's certificates were not revoked or suspended pursuant to N.J.A.C. 6A:9-17.5 (adopting as modified 2007 N.J. AGEN LEXIS 31). In re Certificates of Brown, OAL Dkt. No. EDE 0012-06; SBE No. 0405-327, State Board of Examiners Decision (May 3, 2007).

Initial Decision (2007 N.J. AGEN LEXIS 37) adopted, finding that the New Jersey Department of Education did not meet its burden of proof to establish corporal punishment and unbecoming conduct by a teacher to warrant suspension or revocation of her teaching certificates under N.J.A.C. 6A:9-17.5. Based on the evidence, the physical intervention by the teacher between fighting students was reasonably justified to quell a disturbance that threatened physical injury to others and for the purpose of self-defense. In re Certificates of Koonce, OAL Dkt. No. EDE 6300-05; SBE No. 405-255, 2007 N.J. AGEN LEXIS 539, State Board of Examiners Decision (May 3, 2007).

Suspension of teacher's Teacher of Industrial Arts certificate was warranted under N.J.A.C. 6A:9-17.5 due to conduct unbecoming of a teacher, including engaging in inappropriate horseplay with a female student, inappropriately touching female students, and making inappropriate comments to his students. Under the facts of the case, revocation of the teacher's certification was too harsh a penalty and a two-year suspension of his teaching certificate was warranted instead. In re Revocation of Teaching Certificate of Chavez, OAL Dkt. No. EDE 11443-03; SBE No. 776-06/03; SB No. 26-06, 2006 N.J. AGEN LEXIS 1091, State Board of Education Decision (April 4, 2007).

ALJ assessed credibility and found that a school nurse left used needles in a common supply closet, failed to maintain the medical waste disposal box, failed to properly treat injured students, and turned out the lights, locked her office door, and failed to answer the door to treat a

that grounds for revocation or suspension of a certificate exist.

(d) If the Board of Examiners issues an order to show cause pursuant to (a) above, the school district employing the certificate holder at the time of the conduct at issue shall cooperate with the Board of Examiners in any proceeding arising from the order to show cause.

Amended by R.2006 d.170, effective May 15, 2006.
See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

In (b)3, added the last sentence; and added (d).
Amended by R.2008 d.7, effective January 7, 2008.
See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

In (a)3, inserted "or pending criminal charges"; in (a)6, inserted "or has pending charges for an offense that is disqualifying"; and in (b)2, inserted "mailing".

Amended by R.2009 d.24, effective January 5, 2009.
See: 40 N.J.R. 4856(a), 41 N.J.R. 128(a).

In (a)7, deleted "or" from the end; in (a)8, substituted a semicolon for a period at the end; and added (a)9 through (a)11.

Case Notes

Persistently and knowingly responding in an untruthful, evasive manner to district administrators attempting to investigate a very serious situation cannot be viewed as anything other than insubordinate; accordingly, teachers were dismissed from tenured employment and all three matters were referred to the State Board of Examiners pursuant to N.J.A.C. 6A:9-17.6(a)(1) for appropriate action (adopting 2007 N.J. AGEN LEXIS 257). In re Tenure Hearing of Duran, OAL Dkt. Nos. EDU 6754-06, EDU 6887-06 and EDU 6957-06, 2007 N.J. AGEN LEXIS 499, Commissioner's Decision (July 5, 2007).

State Board of Examiners does not need to rely only on a New Jersey Division of Youth and Family Services (DYFS) report that has been substantiated through an adjudicatory procedure when forming the basis of an Order to Show Cause. The fact that the DYFS report has been substantiated through an investigative rather than an adjudicatory procedure is of no consequence to the case that the Board of Examiners must independently prove before it takes the drastic step of suspending or revoking an individual's teaching certificates. In re Certificates of Brown, OAL Dkt. No. EDE 0012-06; SBE No. 0405-327, State Board of Examiners Decision (May 3, 2007).

Initial Decision (2007 N.J. AGEN LEXIS 64) adopted, which concluded that there was no evidence of selective enforcement against a teacher; the Board of Examiners had acted consistently against every individual it knew was involved in the scheme to defraud the State Health Benefits Program. N.J.A.C. 6A:9-17.6 articulates the methods by which the Board of Examiners receives information of possible wrongdoing from various outside sources. Although the Board of Examiners may issue an order to show cause on its own initiative when it has reason to believe that grounds for certificate revocation or suspension exist, there is no requirement on the part of the Board of Examiners to ferret out independently potential malefactors in the absence of the receipt of information regarding a specific certificate holder. In re Certificate of Toler, OAL Dkt. No. EDE 07638-06; SBE No. 0405-209 (On Remand), State Board of Examiners Decision (March 29, 2007).

6A:9-17.7 Procedures for revoking or suspending a certificate

(a) After review of the information received pursuant to N.J.A.C. 6A:9-17.6, the Board of Examiners shall determine by public vote whether to initiate a revocation or suspension proceeding. In those cases where the Board of Examiners moves for revocation or suspension, the Secretary, on behalf of the Board of Examiners, shall issue an order to show cause

that states the specific charges that form the basis of the revocation or suspension proceeding.

(b) The certificate holder shall file an answer with the Board of Examiners no later than 30 days from the date of mailing of the order to show cause. The answer may not generally deny the charges, but must respond specifically to each allegation.

(c) If the certificate holder does not file an answer within 30 days, the Secretary shall send a second notice affording an additional response time of 15 days from the date of mailing of the second notice. The second notice shall also advise the certificate holder that, should the Board of Examiners not receive any response within that time, the allegations against the certificate holder as set forth in the order to show cause shall be deemed admitted and that the Board of Examiners shall proceed to a decision on the allegations in the order to show cause on the basis of the evidence before it.

(d) If the certificate holder files an answer and there are material facts in dispute, the Board of Examiners shall either hear the matter directly or transmit the matter to OAL for a hearing. The hearings at OAL shall be heard in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) If the certificate holder files an answer and no material facts appear to be in dispute, the Secretary shall send the certificate holder a hearing notice informing him or her of the opportunity to submit written briefs, affidavits and other supporting documentation for the Board of Examiners' consideration. The certificate holder shall submit 21 copies of all response papers within 30 days from the date of mailing of the hearing notice.

(f) After receipt of the written submissions pursuant to (e) above, the Secretary will place the matter on the Board of Examiners' agenda and notify the certificate holder of the date the Board of Examiners will consider the matter. The notice will advise the certificate holder whether his or her appearance is necessary.

(g) The Board of Examiners may transmit the matter to OAL if, after review of the written submissions, the Board of Examiners determines that there are material facts in dispute. The Board of Examiners may identify the specific issues OAL shall consider.

(h) In all cases, the Board of Examiners shall clearly articulate the findings of fact upon which its decision was based. If the Board of Examiners has decided a matter solely on the papers, it shall set forth the reasons it deemed summary decision appropriate.

(i) The Office may refuse to issue a new certificate to a certificate holder who is otherwise eligible for the additional certificate if the certificate holder is the subject of a pending

action to revoke or suspend his or her certificate(s) pursuant to N.J.A.C. 6A:9-17.7.

(j) Upon application of the certificate holder for an extension of time, the Secretary may extend the time for filing the answer pursuant to (b) above or for filing the hearing brief pursuant to (e) above, provided that the application for the extension is requested prior to the expiration of the 30 days for filing the answer or the hearing brief.

Amended by R.2005 d.110, effective April 4, 2005.
See: 36 N.J.R. 5044(a), 37 N.J.R. 1060(a).

In (e), inserted "within 30 days from the date of mailing of the hearing notice" following "all response papers".

Amended by R.2006 d.170, effective May 15, 2006.
See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

Made a stylistic change in (d); and added (j).

6A:9-17.8 Revoked and suspended certificates

(a) If the Board of Examiners orders the revocation or suspension of a certificate, the holder shall surrender it to the Secretary within 30 days after mailing of the revocation or suspension order.

(b) After the Board of Examiners has revoked or suspended a certificate, the Secretary shall notify:

1. The 50 states and territories and other such agencies that are part of the Interstate Certification Project;
2. The county superintendents of schools;
3. Appropriate governmental pension and annuity funds, or retirement services;
4. The chief school administrator in the employing district; and
5. Any other agency or entity as may be required by law.

(c) The Board of Examiners may reinstate a suspended certificate at the end of the suspension period, provided that the certificate holder has met all conditions that the Board of Examiners established.

Amended by R.2004 d.306, effective August 2, 2004.
See: 36 N.J.R. 1636(a), 36 N.J.R. 3526(a).

In (b)5, inserted "by law" at the end of the sentence.

Amended by R.2006 d.170, effective May 15, 2006.
See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

In (a), substituted "30" for "20".

6A:9-17.9 Suspension of certificates for failure to give notice of intention to resign

(a) A teacher employed by a district board of education who, without the consent of the board, ceases to perform his or her duties prior to the expiration of the employment, shall be deemed guilty of unprofessional conduct.

(b) The Commissioner may, upon receiving notice of the fact, suspend the certificate for a period not to exceed one year.

(c) Appeal of the Commissioner's decisions pursuant to this section shall be to the State Board in accord with N.J.A.C. 6A:4.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 633) adopted, finding that under N.J.S.A. 18A:26-10 and N.J.A.C. 6A:9-17.9, a mathematics teacher committed unprofessional conduct and that the circumstances warranted suspension of his teaching certificate for a period of one year because the teacher abandoned his employment with a board of education for a better job opportunity, without giving the 60-day prior notice required under his contract. *Bd. of Educ. of Alpine v. Yuz*, OAL Dkt. No. EDU 1116-06, 2008 N.J. AGEN LEXIS 1178, Final Decision (September 23, 2008).

Special education teacher, who resigned from her teaching position with only five days notice on the second day of school, showed a blatant disregard for the middle school students assigned to her care, warranting the maximum penalty of a one-year suspension of her teaching certificate for unprofessional conduct under N.J.S.A. 18A:26-10 (rejecting ALJ's conclusion, 2005 N.J. AGEN LEXIS 418, that a lesser penalty was appropriate). *In re Suspension of Savino*, OAL Dkt. No. EDU 1688-04, 2005 N.J. AGEN LEXIS 1233, Commissioner's Decision (August 30, 2005), *aff'd*, SB No. 40-05, 2006 N.J. AGEN LEXIS 106 (N.J. State Bd. of Educ. February 1, 2006).

6A:9-17.10 Application for certification after revocation

(a) A certificate that has been revoked for any of the grounds set forth in this chapter shall not be reinstated. An individual who has had a certificate revoked may file an application for a new certificate with the Board of Examiners.

(b) The Board of Examiners shall not issue a new certificate to a candidate whose certificate(s) has been revoked unless the following conditions are met:

1. The candidate shall satisfy all criteria for the issuance of the certificate that are in effect at the time of the application for the new certificate;
2. At least four years shall have passed since the effective date of the revocation of the previous certificate;
3. The candidate shall have provided evidence demonstrating rehabilitation for the unbecoming conduct, incompetence, or other cause for the revocation;
4. If the basis for the revocation was the conviction of a crime that is not disqualifying under N.J.S.A. 18A:6-7.1 et seq., the candidate shall have submitted evidence to the Board of Examiners that he or she has been fully rehabilitated in accord with the factors set forth in N.J.S.A. 2A:168A-2 and that issuing a certificate to the candidate would not be detrimental to the public welfare;
5. The candidate shall have complied with all conditions imposed by the order of revocation; and
6. If the revocation arose from a criminal matter involving the candidate, the candidate shall have provided evidence that he or she has satisfied any conditions imposed by the court, probation, plea bargain agreement or any other entity.

(c) Notwithstanding the provisions of (b) above, the Board of Examiners shall not issue a new certificate to any candidate who is:

1. Ordered to forfeit certification as part of a settlement in a tenure or criminal proceeding;
2. Barred from teaching again in the State of New Jersey by order of a court of competent jurisdiction;
3. Ordered to forfeit certification as part of a plea bargain;
4. Ordered to forfeit certification as a condition for entrance into a pre-trial intervention program as set forth in Rule 3.28 of the New Jersey Court Rules;
5. Ordered to forfeit certification pursuant to a sentence imposed in a criminal proceeding;
6. Barred from teaching for any reason; or
7. Relinquishing his or her certificate pursuant to N.J.A.C. 6A:9-17.11.

Case Notes

Initial Decision (2005 N.J. AGEN LEXIS 212) adopted as modified, finding that a health teacher could apply for recertification as a teacher of health after revocation under N.J.A.C. 6A:9-17.10. The teacher's certificate had been revoked after he presented a fraudulent Teacher of Biological Science certificate to a school official in order to obtain public school employment; however, because the teacher waited at least four years before applying for recertification, as required, and offered sufficient evidence of his rehabilitation, recertification was warranted. In re Certification of Elmezzi, OAL Dkt. No. EDE 11515-03; SBE No. 0304-135, 2005 N.J. AGEN LEXIS 1091, State Board of Examiners Decision (July 21, 2005).

6A:9-17.11 Relinquishment of certificate without order to show cause

(a) The Board of Examiners may accept the relinquishment of all certificates held by an individual without issuance of an order to show cause.

(b) When accepted by the Board of Examiners, the relinquishment of certificates as provided in (a) above shall have the force and effect of a revocation including, but not limited to, the notification requirements in N.J.A.C. 6A:9-17.8(b).

(c) The individual seeking to relinquish a certificate(s) shall submit an affidavit to the Board of Examiners stating that the certificate holder:

1. Is relinquishing all certificates held by the individual;
2. Is waiving the right to a hearing pursuant to N.J.A.C. 6A:9-17.7 and agrees not to institute proceedings concerning the relinquishment in any forum; and
3. Understands that the relinquishment has the force and effect of a revocation with its attendant consequences.

(d) The Board of Examiners shall vote on whether to accept the certificate(s). If the Board of Examiners votes to accept the relinquishment, the revocation shall be effective as of the date of the Board of Examiners' vote.

(e) The certificate holder shall return all certificates to the Board of Examiners.

(f) Individuals who relinquish their certificates pursuant to this section shall not apply for certification in the future.

Amended by R.2008 d.7, effective January 7, 2008.

See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

In (a), substituted a period for a colon at the end; and deleted (a)1 through (a)3.

6A:9-17.12 Voluntary surrender of certificates and endorsements

(a) An individual may voluntarily surrender a certificate or endorsement if he or she has not been employed under that certificate or endorsement in the 10 years preceding the proposed surrender and if he or she satisfies the following conditions:

1. The individual shall submit an affidavit to the Board of Examiners stating that he or she is surrendering the certificate or endorsement voluntarily, and not under the conditions set forth in N.J.A.C. 6A:9-17.11;

2. The individual shall submit an affidavit setting forth his or her employment history for the 10 years preceding the voluntary surrender, including official documentation from a school official, if applicable; and

3. The individual shall submit an affidavit stating that he or she has not been employed under the certificate or endorsement at issue in the 10 years preceding the voluntary surrender.

(b) The certificate holder shall return the original certificate or endorsement at issue to the Board of Examiners.

(c) The Board of Examiners shall review the application for a voluntary surrender. If the Board of Examiners votes to accept the surrender, the certificate or endorsement shall be deemed surrendered as of the date of the Board of Examiners' vote.

(d) Individuals who voluntarily surrender a certificate or endorsement may not apply for that certificate for three years from the effective date of the voluntary surrender. Candidates are subject to the certification requirements in effect at the time the new application is submitted.

Amended by R.2005 d.110, effective April 4, 2005.

See: 36 N.J.R. 5044(a), 37 N.J.R. 1060(a).

Substituted "surrendered" for "revoked" following "shall be deemed".

Amended by R.2006 d.170, effective May 15, 2006.

See: 37 N.J.R. 4612(a), 38 N.J.R. 2126(a).

Added "and endorsements" to section heading; in (a) through (d), inserted "or endorsement" wherever appearing, and made related stylistic changes throughout.

6A:9-17.13 Substitution of alternate education and/or experience

(a) If an applicant receives an evaluation pursuant to N.J.A.C. 6A:9-5.16(b) that identifies areas of deficiency in the requirements for certification, the applicant may provide the Board of Examiners with evidence of alternative education and/or experience that the applicant believes is equivalent to the area(s) of deficiency.

(b) Upon receipt of a request to substitute alternate education or experience, the Secretary shall provide the applicant with a copy of credentials review procedures.

(c) The applicant shall submit to the Secretary for Board of Examiners' review 21 copies of information and documentation of alternative educational background and/or experience that the applicant believes is the equivalent of the certification deficiency. The application for review and the packet of documentation shall be in the form approved by the Secretary.

(d) The Secretary shall review the information submitted by the applicant for sufficiency and transmit it to the Board of Examiners for review.

(e) An applicant may not simultaneously seek relief under this section and N.J.A.C. 6A:9-17.17. If an applicant seeks a

credentials review initially, he or she may appeal from the initial adverse decision of the Office under N.J.A.C. 6A:9-17.17 only after the Board of Examiners has rendered a final decision under this section. The 60-day time limitation of N.J.A.C. 6A:9-17.17(a)1 shall not apply in those circumstances.

Amended by R.2008 d.7, effective January 7, 2008.

See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

Added (e).

6A:9-17.14 Public discussion of alternative education and/or experience

(a) The Secretary shall give an applicant not less than 10 days notice of the Board of Examiners' meeting at which it will consider his or her application for certification based on alternative education and/or experience.

(b) The applicant may be present at the meeting at which the Board of Examiners considers the application.

(c) If the applicant is in attendance, the Board of Examiners may question the applicant regarding his or her submission.

Amended by R.2008 d.7, effective January 7, 2008.

See: 39 N.J.R. 3441(a), 40 N.J.R. 113(b).

Rewrote (b) and (c).