

KITTRELS EDUCATIONAL TRAINING :
SYSTEMS, INC. AND ALONZO :
KITTRELS, :
 :
 PETITIONERS, :
 V. : COMMISSIONER OF EDUCATION :
 :
 STATE-OPERATED SCHOOL DISTRICT : DECISION :
 OF THE CITY OF NEWARK, ESSEX :
 COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioners, prior to the District being taken over by the State, contracted with the Newark School District to provide various educational services to the District. After the State-operated School District was created, petitioners' services to the District were terminated. Petitioners filed a petition seeking payment in the amount of \$4,445.37 for services rendered during the period from July 1 to July 12, 1995, 60 calendar days pay after July 12, 1995 pursuant to *N.J.S.A.* 18A:7A-44, and a \$1,200 payment in the form of a salary adjustment or bonus payment, which payment had allegedly been previously authorized for certain senior staff employees of the School District.

The matter was transmitted to the OAL. After a hearing was conducted, the ALJ determined that petitioners were not entitled to 60 calendar days pay after July 12, 1995 pursuant to *N.J.S.A.* 18A:7A-44 because they were hired to provide consultant services and, thus, they did not fall within the purview of the statute. In addition, the ALJ concluded that petitioners had failed to provide testimony or documentary evidence to support their claim for a \$1,200 payment in the form of a salary adjustment or bonus. Finally, the ALJ concluded that petitioners were entitled to a *quantum meruit* payment in the amount of \$4,445.37 for work performed from July 1 to July 12, 1995.

The Commissioner affirmed the determination of the ALJ.

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The District’s exceptions were timely filed pursuant to *N.J.A.C. 1:1-18.4*.¹

The District excepts to that portion of the Initial Decision which allows petitioners’ *quantum meruit* recovery of \$4,445.37, arguing that: 1) *quantum meruit* should be awarded sparingly against public entities and should not be permitted where the contract was *ultra vires* or the work was performed without proper authorization; 2) Superintendent Campbell lacked the statutory authority to administratively extend contracts; and 3) even if the Board had approved the extension of the contract on a month-to-month basis, any extension which exceeded one year (beyond June 30, 1995) was *ultra vires*. (District’s Exceptions at 3-8) The District, additionally, re-advances its contention that should *quantum meruit* recovery be permitted, the amount of such award should be reduced, arguing that “[*q*]uantum meruit must be awarded fairly and is only intended to compensate a party for the fair value of services actually rendered.”

¹ Petitioners did not file a reply to the District’s exceptions.

(citation omitted) (District's Exceptions at 8) Here, it reasons, any such award is intended to compensate petitioners for services rendered during the period from July 1 through July 12, 1995. The District finds it significant that, because of the 4th of July holiday and weekends, petitioners were awarded \$4,445.37 for what amounts to "seven days of work, or approximately \$640 per day for consulting services in 1995," an astronomical figure constituting a "windfall," and contrary to the objective of *quantum meruit*. (emphasis in text) (*Ibid.*) As such, the District urges that any award be "limited to a reasonable daily figure, and ***only be awarded for the number of days actually worked." (District's Exceptions at 9)

Upon his careful and independent review of the record in this matter, which included a transcript of the hearing conducted at the OAL on July 21, 1999, the Commissioner initially concurs with the Administrative Law Judge (ALJ) that petitioners possess no entitlement to 60 days pay pursuant to *N.J.S.A. 18A:7A-44(a)* for the reasons clearly articulated on pages 6-7 of the Initial Decision. The Commissioner, likewise, agrees that petitioners have presented no documentary or testimonial evidence sufficient to support their claim to a \$1,200 bonus or payment adjustment from the District.

Finally, in considering the recommended *quantum meruit* award of compensation for services rendered by petitioners during the July 1 – July 12, 1995 time period, the Commissioner, according due regard to the District's arguments, concurs with the ALJ that "given all the circumstances of this case, the public interest will not be contravened" by recovery in the designated amount. (Initial Decision at 7) In this respect, the Commissioner specifically notes that the ALJ had the opportunity to hear all testimony, observe all witnesses and evaluate all evidence, and that, while the District excepts to the ALJ's recommendations, it identifies no

compelling basis on which to disturb the conclusions reached by the ALJ in light of the totality of applicable law and fact.

Accordingly, the recommended decision of the OAL is affirmed for the reasons stated therein. The District is hereby directed to compensate petitioners in the amount of \$4,455.37, representing recovery, in *quantum meruit*, for the services rendered during the period at issue in July 1995. Petitioners' remaining claims in their Petition of Appeal are hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: September 18, 2000

Date of Mailing: September 20, 2000

² This decision, as the Commissioner's final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.