

684-03

DR. WILMA J. FARMER, :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE CITY OF :
 CAMDEN, CAMDEN COUNTY, AND :
 ANNETTE D. KNOX, SUPERINTENDENT, :

RESPONDENT, : COMMISSIONER OF EDUCATION

AND : DECISION

PAUL STEPHENSON, :

PETITIONER, :

V. :

BOARD OF EDUCATION OF THE CITY OF :
 CAMDEN, CAMDEN COUNTY, AND :
 ANNETTE D. KNOX, SUPERINTENDENT, AND: :
 CHARLES HIGHSMITH, :

RESPONDENTS. :

: SYNOPSIS

In consolidated matter, petitioners, two unsuccessful finalists for Assistant Superintendent position, alleged the Board unlawfully appointed Respondent Highsmith to the position. They requested the appointment be declared null and void since respondent did not possess the requisite certification prior to the March 12, 2001 application deadline. Since the filing of the positions, Respondent Highsmith resigned; Petitioner Farmer retired; and the Board significantly restructured the position.

The ALJ concluded that there were no genuine issues of material fact and that the Board was entitled to prevail as a matter of law. Moreover, the ALJ determined that the Commissioner did not have the authority to appoint either petitioner to the position nor did he have the authority to award monetary damages. The ALJ dismissed the issues as moot.

The Commissioner concurred with the ALJ and dismissed the consolidated petitions.

<p>This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

December 23, 2003

OAL DKT. NOS. EDU 6789-01 AND EDU 6790-01 (CONSOLIDATED)
 AGENCY DKT. NOS. 396-9/01 AND 390-9/01

DR. WILMA J. FARMER,	:	
	:	
PETITIONER,	:	
V.	:	
	:	
BOARD OF EDUCATION OF THE CITY OF	:	
CAMDEN, CAMDEN COUNTY, AND	:	
ANNETTE D. KNOX, SUPERINTENDENT,	:	
	:	
RESPONDENT,	:	COMMISSIONER OF EDUCATION
	:	
AND	:	DECISION
	:	
PAUL STEPHENSON,	:	
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BOARD OF EDUCATION OF THE CITY OF	:	
CAMDEN, CAMDEN COUNTY, AND	:	
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CHARLES HIGHSMITH,	:	
	:	
RESPONDENTS.	:	
_____	:	

The record of this consolidated matter and the Initial Decision of the Office of Administrative Law have been reviewed. In accordance with *N.J.A.C.* 1:1-18.4, the Board submitted an “exception” requesting correction of the Administrative Law Judge’s (ALJ) statement, at page 4 of the Initial Decision, that Charles Highsmith was “confirmed” by the Board on June 25, 2001. The Board notes that, although Highsmith had been recommended by the Superintendent, only the Board can appoint, and the Board’s action in June 25, 2001 was its

first and only official appointment of Highsmith, rather than the “confirmation” of an earlier Board action. Petitioners did not reply to the Board’s submission.¹

Upon careful and independent review of the record, the Commissioner concurs with the ALJ that summary decision is properly granted in favor of the Board. Accordingly, the Petitions of Appeal filed in this matter are dismissed for the reasons expressed in the Initial Decision.²

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: December 23, 2003

Date of Mailing: December 30, 2003

¹ Petitioner Stephenson’s and Respondent Highsmith’s exceptions were untimely filed pursuant to *N.J.A.C.* 1:1-18.4(a), in that the Initial Decision was mailed to the parties on November 21, 2003 and their exceptions were filed on December 15, 2003 and December 19, 2003, respectively, outside the 13-day period prescribed by regulation. Such exceptions, therefore, were not considered in the Commissioner’s determination of this matter.

² To the extent the Initial Decision might suggest otherwise, the Commissioner clarifies that determination of Highsmith’s qualification is unnecessary to resolution in this matter and is not reached herein.

³ This decision 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.*