

115-03

JOHN CALABRIA, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 TOWNSHIP OF WINSLOW, :
 CAMDEN COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioning teacher alleged the Board's action to nonrenew his employment for the 2002-03 school year was violative of his tenure rights, claiming that he acquired tenure on March 24, 2002. The Board contended petitioner remained in the status of "substitute teacher" during the entire 1998-99 school year and, thus, did not acquire tenure.

The ALJ found that once the teacher petitioner was hired to replace returned to the District in another position and the position from which she departed became vacant, petitioner could not properly be excluded from accruing time toward tenure since the vacant position was not filled by petitioner as a substitute teacher but as a regular teacher. The ALJ concluded petitioner acquired tenure on March 24, 2002 and the Board's failure to employ him for the 2002-03 school year was a violation of his tenure rights. The Board was ordered to reinstate petitioner to the full-time teaching position he held or to an equivalent teaching position within the scope of his teaching certificates effective immediately with compensation for lost salary, benefits and emoluments.

The Commissioner adopted the findings and determination in the Initial Decision as his own.

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.
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March 14, 2003

OAL DKT. NO. EDU 6403-02
AGENCY DKT. NO. 210-7/02

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon review, the Commissioner concurs with the Administrative Law Judge that petitioner acquired tenure on March 24, 2002, and that the Board's failure to employ him for the 2002-03 school year was a violation of his tenure rights.

Accordingly, the Initial Decision of the OAL is adopted, for the reasons expressed therein, as the final decision in this matter.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: March 14, 2003

Date of Mailing: March 14, 2003

* 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.*