

210-03

JERRY COHEN,	:	
	:	
PETITIONER,	:	
V.	:	COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE	:	
BOROUGH OF MIDDLESEX,	:	DECISION
MIDDLESEX COUNTY, AND	:	
PATRICIA JOHNSON,	:	
SUPERINTENDENT,	:	
	:	
RESPONDENTS.	:	
_____	:	

SYNOPSIS

Petitioner, former nontenured high school guidance counselor, alleged the Board terminated him absent the appropriate procedural requirements set forth at *N.J.S.A.* 18A:27-3.2.

The ALJ found that pursuant to a letter dated May 9, 2002, prior to the effective date of the termination, petitioner resigned from the District and was no longer a teaching staff member as that term is defined by the New Jersey school laws. Thus, the ALJ found that petitioner relinquished any rights that would have otherwise accrued to him had he merely been the recipient of a letter from the District indicating that his annual contract would not be renewed. (Although it was not obligated to do so, the Board still sent him a statement of reasons for nonrenewal.) The ALJ ordered that the petition be dismissed.

The Commissioner adopted 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.

May 1, 2003

OAL DKT. NO. EDU 6787-02
AGENCY DKT. NO. 307-9/02

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. Timely exceptions were filed by petitioner, as were replies by the Board of Education (Board). Petitioner’s response to the Board’s submission is not considered herein, since no provision is made for such filings by applicable rule, *N.J.A.C.* 1:1-18.4.

Upon review, the Commissioner observes that petitioner’s arguments on exception hinge in their entirety upon his central contention, purportedly overlooked in the Initial Decision, that once petitioner was notified of his impending nonrenewal, any action he may have subsequently taken to “resign” or “retire” cannot be considered to have terminated his relationship with the Board so as to free it from its statutory obligations to nontenured persons whose employment is not recommended for renewal. However, the Commissioner determines that the Initial Decision has, in fact, adequately and correctly addressed petitioner’s claims, through findings and conclusions with which the Commissioner fully concurs.

Accordingly, for the reasons expressed therein, the Initial Decision of the OAL is adopted as the final decision in this matter.¹

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: May 1, 2003

Date of Mailing: May 1, 2003

¹ For technical accuracy, the Commissioner clarifies that *N.J.S.A.* 18A:27-3.2 provides that a written statement of reasons may be *requested* by the affected employee within 15 days, not that the employee shall be *given* such a statement within that time (Initial Decision at 6).

² 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.*