

BECTON EDUCATION ASSOCIATION,	:	
SCOTT B. SIGMON AND JANICE WEHRLE,	:	
	:	
PETITIONERS,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
CARLSTADT-EAST RUTHERFORD	:	
REGIONAL SCHOOL DISTRICT,	:	
BERGEN COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. Petitioners’ exceptions and the Board’s reply thereto, filed in accordance with *N.J.A.C.* 1:1-18.4, were duly considered by the Commissioner in making his determination herein.

In their exceptions, petitioners reiterate the same arguments advanced below, claiming that:

- 1) There was not a true reduction in force within the meaning of *N.J.S.A.* 18A:28-9 in that there was an increased need for child study team services, rather than a decrease, and that work was not eliminated, but merely transferred to another provider in a manner circumventing tenure status contrary to *Viemeister, supra*, which prohibits such transfer of duties (Petitioners’ Exceptions at 1-2);
- 2) The Commissioner’s decisions in *Trigani, supra*, and *Anders, supra*, are a misinterpretation and overbroad application of the Appellate Division decision in *Vicenzino, supra*, and are flawed in their analysis in that they ignore the specific language of the applicable statutory and regulatory mandates regarding child study teams (*id.* at 5-10); and

- 3) “[T]he anticipated savings did not come to pass and that any alleged savings do not justify the abrogation of tenure rights” (*id.* at 10).

In response, the Board avers that the Initial Decision was factually sound, legally supported and correctly recognized the propriety of the reduction in force. (Board’s Reply at 1) The Board further submits that the *Vicenzino* decision was appropriately applied to this case and in prior decisions. (*Id.* at 3)

Upon a thorough and independent review of the record, the Initial Decision, petitioners’ exceptions and the Board’s reply thereto, the Commissioner has determined to adopt the Initial Decision in this matter granting the Board’s motion for summary decision and dismissing the within petition with prejudice. In so concluding, the Commissioner rejects the arguments set forth in petitioners’ exceptions, which were previously advanced before the Administrative Law Judge (ALJ) and thoroughly considered and addressed in the Initial Decision, and notes his concurrence with the well-reasoned analysis and conclusions of law articulated by the ALJ.

Accordingly, the Initial Decision in this matter is hereby adopted for the reasons expressed therein.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: December 20, 2004

Date of Mailing: December 20, 2004

* 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.* 6:2-1.1 *et seq.*.