

KIMBERLI BROWN, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
CITY OF ELIZABETH, UNION COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

SYNOPSIS

Petitioner’s tenured position as an English teacher in a pre-school extended-day/extended-year program was eliminated in response to a reduction in State aid in 2008, and petitioner was reassigned to a regular program and position, effectively reducing her salary. Petitioner contended that her seniority rights were violated when three teachers with less seniority were reassigned to extended-day/extended-year programs for kindergarten through grade eight. Petitioner sought recalculation of her seniority and a reassignment to an extended-day/extended-year program and position. At a prehearing conference, the parties agreed that no genuine issues of fact existed, and filed cross motions for summary decision.

The ALJ found that: 125 pre-school teachers were reassigned to regular-school programs in response to a reduction in State aid, and the reassignments resulted in a reduction in salary for all affected teachers; three teachers reassigned to extended-day/extended-year programs for kindergarten through grade eight were less senior than petitioner, but had become highly qualified teachers under the No Child Left Behind Act of 2001; petitioner had not become highly qualified under the Act, *i.e.*, she had not taken the Elementary Teacher Content Knowledge Praxis II Assessment to demonstrate content preparation/expertise for the core academic subjects taught in elementary school. Accordingly, the ALJ concluded that petitioner was ineligible to teach kindergarten or higher because she had not met the highly qualified teacher requirement, and was therefore not eligible for reassignment to an extended-day/extended-year program and position in an elementary school. The ALJ granted summary decision to the Board and dismissed the petition.

Upon a thorough and independent review of the record, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter.

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.

OAL DKT. NO. EDU 13373-08  
AGENCY DKT. NO. 294-10/08

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner concurs with the Administrative Law Judge that the Elizabeth City Board of Education is entitled to summary decision. Accordingly, the petition of appeal is dismissed.

IT IS SO ORDERED.\*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 22, 2010

Date of Mailing: November 23, 2010

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\* Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division.