

LEGISTREAN PURVIS-CHAPMAN, :

PETITIONER, : COMMISSIONER OF EDUCATION

V. : DECISION

BOARD OF EDUCATION OF THE BOROUGH :
OF GLASSBORO, GLOUCESTER COUNTY, :
MARK SILVERSTEIN, SUPERINTENDENT :
AND PETE CALVO, BOARD PRESIDENT, :
RESPONDENTS. :

SYNOPSIS

Petitioner – a history teacher in respondent’s school district for forty-one years – challenged the decision of the Board requiring her to submit to a psychiatric evaluation pursuant to *N.J.S.A.* 18A:16-2 and *N.J.A.C.* 6A:32-6.3(d). The Board’s decision to require the evaluation was motivated by concern – following complaints by parents and an internal inquiry by Board administrators – that the petitioner was exhibiting symptoms of mental instability during the spring of 2014. A continuing pattern of seemingly confused communications and uncooperative behavior culminated in petitioner’s suspension with pay on June 2, 2014. In lieu of an answer to the petition, the Board filed, *inter alia*, a motion for summary decision. Petitioner’s sole response consisted of the assertions 1) that the proceeding before the Commissioner should be stayed pending resolution of a federal civil rights complaint which she had filed in April 2013, and 2) that such a stay relieved her from appearing at the OAL hearing.

The ALJ found, *inter alia*, that: boards of education have wide latitude in the exercise of discretion, and there is specific authority under *N.J.S.A.* 18A:16-2 and *N.J.A.C.* 6A:32-6.3 for requesting a psychiatric evaluation when school personnel exhibit deviations from normal mental health; in the instant matter, the petitioner’s behavior in class and subsequent correspondence with the Board signaled the need for a mental health assessment; petitioner’s submissions did not debate the accuracy of the Board’s motion arguments, but rather insisted that this matter be stayed pending resolution of her claims of harassment and discrimination which have been filed in federal court. The ALJ concluded that petitioner’s federal case poses no bar to moving forward in the instant matter, and the need to determine whether petitioner is mentally fit to teach is immediate. Accordingly, the ALJ granted the Board’s motion for summary decision.

Upon independent review, the Commissioner concurred with the findings of the ALJ and adopted the Initial Decision as the final decision in this matter. Respondent’s summary disposition motion was granted as regards its request for an order requiring petitioner to undergo an evaluation by a psychiatrist, and the petition was dismissed.

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| 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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The instant controversy before the Commissioner requires a determination about the propriety of the respondent board of education’s (Board) action in requiring petitioner to undergo a psychiatric evaluation to ascertain her fitness for duty, and suspending her with pay pending the completion of said evaluation. The Commissioner’s review of the record and the Initial Decision of the Office of Administrative Law (OAL)¹ leads to the conclusion that the Board’s action was warranted.

Petitioner initially filed her pleadings on June 30, 2014, and amended them on July 1, 2014. In addition to objecting to the Board’s directive to her to undergo an evaluation, she asked the Commissioner, *inter alia*,

to require Silverstein and Calvo to cease and desist, harassment, Libel, slander, request that petitioner be evaluated by a psychiatrist and psychologist, request to read petitioner confidential records, suspension from Glassboro Public Schools property, Glassboro Schools Activities, attempting to investigate this matter (Amended Petition at 10)

¹ Neither party filed exceptions to the Initial Decision.

Respondents filed an answer, counter-petition and motion for summary disposition on July 29, 2014. Their counter-petition requested that the Commissioner dismiss the petition, order petitioner to undergo a psychiatric evaluation by a physician designated by the Board, declare that the Board had “acted appropriately and in compliance with all applicable State and federal statutes, regulations, and the school laws of the State of New Jersey,” and award respondent fees and costs. On the same date as respondents’ filings, the matter was transmitted to the OAL for fact-finding.

Petitioner’s answers to the counter-petition (filed on August 4, 7, and 28, 2014) appeared to allege that because petitioner had instituted a federal civil rights complaint against respondent Silverstein in April 2013, the Commissioner had no jurisdiction to adjudicate the instant dispute concerning the need for her to be evaluated. Similarly, when the Administrative Law Judge (ALJ) assigned to the case sent petitioner a notice advising that on September 10, 2014, oral argument would be heard on respondents’ motion for summary disposition, she wrote back insisting that since she had “transferred” her case to federal court [sic], no such oral argument should take place.

The ALJ wrote to petitioner explaining that her federal complaint did not stay the action before the Commissioner – which she herself had brought. He confirmed that oral argument would be held as scheduled and offered petitioner ten days to supplement her papers with “true opposition to the District’s motion for summary decision.” (Letter dated September 8, 2014 from ALJ Solomon A. Metzger to petitioner)

Having received no further filings from petitioner by September 30, 2014, ALJ Metzger issued an Initial Decision concluding that petitioner is obligated to undergo a psychiatric evaluation if she wishes to continue her employment with the Board. This

conclusion was based upon the facts set forth via the un rebutted certification of respondent Silverstein, the documents produced by the parties, and the education law provisions which govern board directives to employees to undergo physical or psychiatric evaluations.

More specifically, ALJ Metzger correctly recognized that there is explicit authority in *N.J.S.A. 18A:16-2*² to enable boards to order psychiatric evaluations when personnel exhibit deviations from normal mental health. In light of the fact that *N.J.S.A. 18A:16-2* is an education law statute, it is fully within the jurisdiction of the Commissioner of Education to adjudicate issues falling within its purview. Petitioner's invocation of a different cause of action, *i.e.*, a civil rights/harassment complaint, in a different forum, *i.e.*, the United States Department of Justice, against a different combination of respondents, does not –in and of itself – affect the progress of the instant administrative proceeding.

Having identified the Commissioner's authority to hear a controversy arising from a board's exercise of its authority under *N.J.S.A. 18A:16-2*, ALJ Metzger found that petitioner's behavior as described in Silverstein's certification, petitioner's subsequent correspondence with the respondents, and her "approach to this proceeding" signaled the need for a mental health assessment. (Initial Decision at 3) The Commissioner is in complete agreement.

The Board's perception of the need for an evaluation – to ensure that its students are not subjected to inappropriate behavior or put at risk – was well founded. No stay from the Department of Justice or any other forum has been issued regarding the instant litigation. Should the Department of Justice substantiate petitioner's civil rights claims, the proceedings before the Commissioner pose no bar to the effectuation of any remedies which that agency might order.

² The regulation *N.J.A.C. 6A:32-6.3* also allows boards to require personnel to undergo psychiatric examinations. It requires such boards to provide the subject employees with statements of reasons and, if requested by the employees, hearings.

Accordingly, the Commissioner adopts the Initial Decision as the final decision in this case. Respondent's summary disposition motion is granted as regards its request for an order requiring petitioner to undergo an evaluation by a psychiatrist. Its request for a declaration that it "acted appropriately and in compliance with all applicable State and federal statutes, regulations, and the school laws of the State of New Jersey" is denied as overly broad, and its request for costs and fees is denied – as it is beyond the Commissioner's jurisdiction. The petition is hereby dismissed.

IT IS SO ORDERED.³

ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 14, 2014

Date of Mailing: November 17, 2014

³ This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*, (*N.J.S.A. 8A:6-9.1*).