

EDU #9721-02
C # 254-04
SB # 33-04

HOWARD SOLOMON, :

PETITIONER-RESPONDENT, :

V. : STATE BOARD OF EDUCATION

PASSAIC COUNTY EDUCATIONAL : DECISION
SERVICES COMMISSION, PASSAIC
COUNTY, :

RESPONDENT-APPELLANT. :

Decided by the Commissioner of Education, June 24, 2004

For the Petitioner-Respondent, Viola, Benedetti, Azzolini & Morano
(Joseph R. Morano, Esq., of Counsel)

For the Respondent-Appellant, Lindabury, McCormick & Estabrook, P.A.
(Anthony P. Sciarriello, Esq., of Counsel)

The decision of the Commissioner of Education, which adopted with modification the Partial Initial Decision of the Office of Administrative Law, is affirmed for the reasons expressed therein. In so doing, we agree with the Commissioner that:

As to the relief to be afforded as a result of the present interim proceeding, however, the Commissioner cannot concur with the ALJ that an order of relief is appropriate at this time. While it is true in principle that a party aggrieved by an employing board's failure to provide requisite notice of termination would be entitled to reinstatement for a like term as the preceding contract, as stated by the ALJ, in the current instance, it appears that there remains an unresolved question regarding the reach of the preceding contract. Additionally, as to back pay, benefits

and emoluments, again, while an aggrieved party would be entitled to these in principle, no specific determination can be made on the present record, which includes only undisputed facts and argument pertaining to the point of law at issue.

Accordingly, for the reasons expressed therein as modified above with respect to relief, the Partial Initial Decision of the OAL is adopted as the final decision on the question of law now before the Commissioner in this matter, which shall continue at the OAL in accordance with the instructions of the ALJ, bearing in mind the Commissioner's ruling herein. [Footnotes omitted.]

Commissioner's Decision, slip op. at 10-11.

October 6, 2004

Date of mailing _____