

DONALD GARLANGER, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
NEW JERSEY STATE DEPARTMENT : DECISION
OF HUMAN SERVICES, ANCORA :
PSYCHIATRIC HOSPITAL, :
RESPONDENT. :

SYNOPSIS

Petitioner, tenured teacher at Ancora Psychiatric Hospital, asserted respondent N.J. Department of Human Services improperly issued a written reprimand to him. Petitioner sought expungement.

ALJ found that respondent failed to follow the proper procedures for imposing disciplinary action which would result in a reduction in salary. Following intradepartmental hearing and the recommendation of the hearing officer, respondent recognized its error and imposed a written reprimand instead of suspension. If respondent had wished to suspend petitioner without pay, it would have had to follow the procedures set forth at *N.J.A.C. 10:11-1.8(b) through (h)* and *N.J.A.C. 6:24-5.4*. No such suspension was ever imposed. Thus, ALJ determined that to contest the validity of his reprimand, petitioner should have sought relief in the appropriate forum not before the Commissioner of Education. Petition was dismissed.

Commissioner adopted findings and determination in initial decision as his own.

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The record of this matter and the initial decision of the Office of Administrative Law have been reviewed. No exceptions were filed by the parties.

Upon careful and independent review, the Commissioner concurs with the Administrative Law Judge's (ALJ) view that the within matter is properly dismissed. When respondent determined that it failed to follow proper procedures for imposing disciplinary action upon a tenured staff member which would result in a reduction in salary, respondent reconsidered its penalty and, instead, imposed a penalty of reprimand. Having done so, its action no longer implicated *N.J.S.A. 18A:60-2*. Any matters remaining are, as noted by the ALJ, outside the jurisdiction of the Commissioner.

Accordingly, the initial decision of the ALJ is affirmed for the reasons expressed therein. The Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

DATE: November 13, 1997