

LYNN SCHWEBER, :  
 :  
 PETITIONER, :  
 :  
 v. : COMMISSIONER OF EDUCATION  
 :  
 BOARD OF EDUCATION OF THE : DECISION  
 CITY OF TRENTON, MERCER :  
 COUNTY, :  
 :  
 RESPONDENT. :  
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SYNOPSIS

Petitioner, tenured assistant principal whose position was abolished, claimed tenure and seniority entitlement to one of the vice principal positions held by nontenured teaching staff members.

Citing *Nelson* Appellate Division decision and *N.J.S.A.* 18A:28-5, ALJ noted that for any specifically listed administrative or supervisory position, tenure can only be acquired by virtue of serving the statutory time period in that specific position. The positions of assistant principal and vice principal are specifically enumerated in the statute as separately tenurable positions. Thus, the ALJ determined that achieving tenure in the position of assistant principal did not entitle petitioner to the position of vice principal over incumbent vice principals who had not yet acquired tenure in that position. ALJ granted summary decision to the Board; petition was dismissed.

Commissioner concurred with the findings and determination in the initial decision. Petition was dismissed.

JUNE 10, 1998

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The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions<sup>1</sup> and the Board's reply thereto were timely filed pursuant to *N.J.A.C.* 1:1-18.4.

Upon his independent review of the within record, the Commissioner concurs with the findings and conclusion of the Administrative Law Judge that, as a tenured assistant principal, petitioner has no superior claim to the separately tenurable position of vice principal as compared to the non-tenured staff members who occupy this position and, therefore, the Board's motion for summary decision must be granted.

Accordingly, the initial decision of the OAL is adopted as the final decision in this matter for the reasons clearly articulated therein, and the within Petition of Appeal is hereby dismissed.<sup>2</sup>

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

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<sup>1</sup> It is noted that such exceptions recast and reiterate arguments advanced before the Administrative Law Judge at the hearing below. In that the Commissioner finds that these were fully addressed in the initial decision, they will not be revisited herein.

<sup>2</sup> This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 6:2-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.

JUNE 10, 1998