

WILLIAM R. KENDRICK, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BOROUGH OF SOUTH RIVER,
MIDDLESEX COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner alleged that the Board violated his tenure rights when it failed to appoint him to the position of mathematics chairperson while appointing a nontenured supervisor to the position. Petitioner acknowledged that he had no certification in mathematics, having taught that subject only as a substitute in the vocational school.

Citing the *Lisa* and *Galbraith* decisions, the ALJ found that petitioner was not qualified to teach math, had not done so, and that if appointed to the math chair he could not fulfill the expected and historically based requirements of the job. Thus, ALJ found that the Board's action denying petitioner the appointment was proper; petition was dismissed.

Commissioner adopted findings and determination in initial decision as his own. Commissioner directed the District to forthwith conform its written job descriptions and endorsement qualifications to reflect its actual practice with regard to area chairs.

February 2, 1998

OAL DKT. NO. EDU 10331-96
AGENCY DKT. NO. 476-10/96

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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, which essentially recast and reiterate arguments advanced before the Administrative Law Judge (ALJ), were timely filed in accordance with *N.J.A.C.* 1:1-18.4 and were considered by the Commissioner in rendering the within decision.

Upon a careful and independent review, the Commissioner concurs with the findings and conclusions of the ALJ that petitioner is not entitled to the position in question. In so ruling, the Commissioner is satisfied that the duties attending the controverted position are of such character as to require possession of an instructional certification in a pertinent subject field, in addition to certification as a supervisor, in order to be authorized by statute and regulation to perform such functions. See *Lisa, supra*, and *Galbraith v. BOE Lenape Regional High School District*, aff'd State Board June 5, 1996, slip opinion at pp. 1-2, aff'd, N.J. Superior Court, Appellate Division, 97 *N.J.A.R.* 2d (EDU) 558.

Accordingly, for the reasons expressed therein, the Commissioner affirms the initial decision of the OAL and dismisses the within Petition of Appeal. However, in view of the information brought to the record in this matter, the Commissioner directs the District to forthwith conform its written job descriptions and endorsement qualifications to reflect its actual practice with regard to area chairs.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

February 2, 1998

* The Commissioner notes that while the Board's requirement that a supervisor possess subject area graduate credits, which was deemed justified by the ALJ on page 6 of the initial decision, may be appropriate for new hirings, it would have no bearing on claims rooted in tenure and seniority rights as are at issue herein.