

ANITA LEWIS, :  
 :  
 PETITIONER, : COMMISSIONER OF EDUCATION  
 :  
 V. : DECISION ON REMAND  
 :  
 STATE-OPERATED SCHOOL :  
 DISTRICT OF THE CITY OF :  
 PATERSON, PASSAIC COUNTY, :  
 :  
 RESPONDENT. :  
 \_\_\_\_\_:

SYNOPSIS

In consolidated matter, petitioners, two tenured teaching staff members who were rified in May 1994, sought back pay for the District's failure to employ them during the 1994-95 and 1995-96 school years. ALJ dismissed petitions. Upon review of the record and transcripts from the hearings, the Commissioner reversed the Initial Decision finding that subsequent to the RIF in May 1994, there were positions to which both petitioners could have been assigned by virtue of their superior tenure and seniority rights. Commissioner ordered the District to calculate the sums due petitioners, mitigated compensation for school years 1994-95 and 1995-96 until the date on which they were offered positions in the District. Moreover, the Commissioner directed the District to establish job positions and titles, as appropriate, for the positions discussed, to produce job descriptions that include certification requirements, *inter alia*, for each such position, and to submit positions bearing unrecognized titles to the County Superintendent for approval of designation of appropriate certification.

District appealed to the State Board. In 1997, the State Board approved a settlement resolving the dispute with Petitioner Skawinski. Requested relief of Petitioner Lewis in the form of back pay remained. State Board reversed Commissioner's determination with regard to petitioner's entitlement to in-school suspension assignment and remanded the matter for further proceedings to determine if the particular in-school suspension assignment at issue was a teaching staff position requiring possession of an appropriate certificate, as well as whether petitioner had any entitlement to it after November 1994. State Board remanded matter for determination.

On remand, the ALJ concluded that petitioner was entitled to three full months of compensation for a total of \$3,939 for the period in question. Commissioner concurred with the ALJ and directed the District to compensate petitioner for lost wages in the amount of \$3,939 and related emoluments.

November 29, 1999

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The record of this matter<sup>1</sup> and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions.

Upon careful and independent review of the record in this matter, and noting that the parties have stipulated as to the relevant facts on remand, the Commissioner concurs with the Initial Decision of the ALJ. Accordingly, the Initial Decision is adopted for the reasons expressed therein. The District is directed to compensate Ms. Lewis for lost wages in the amount of \$3,939 and related emoluments.<sup>2</sup>

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

November 29, 1999

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<sup>1</sup> This matter was formerly captioned *Anita Lewis and Debra Skawinski v. State-Operated School District of the City of Paterson, Passaic County*. (See Initial Decision, footnote 1.

<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. 18A:6-27 et seq.* and *N.J.A.C. 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.