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| GARY D. GRAY, | : | |
| PETITIONER, | : | |
| V. | : | COMMISSIONER OF EDUCATION |
| BOARD OF EDUCATION OF THE RANCOCAS VALLEY REGIONAL HIGH SCHOOL DISTRICT, BURLINGTON COUNTY, | : | DECISION |
| RESPONDENT. | : | |
| | : | |

SYNOPSIS

Petitioner, a grounds and maintenance employee of the District since 1999, contends that the Board violated N.J.S.A. 18A:30-2.1 when it docked him for nine vacation days during a period of time when he was out of work and receiving worker's compensation during the 2009-2010 school year. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: the facts in this matter are not in dispute, and the matter is ripe for summary decision; N.J.S.A. 18A:30-2.1(b) provides that leave taken by an employee because of a work-related injury shall constitute satisfactory service; petitioner's reliance on *Fabrizio v. Board of Education of Farmingdale*, EDU 10050-99, Initial Decision (January 9, 2001) is well founded in this case; respondent's action in docking the petitioner for vacation time against his entitlement for the subsequent year has the same effect as assessing an employee vacation time while being out on work-related leave, and is violative of N.J.S.A. 18A:30-2.1. Accordingly, the ALJ concluded that petitioner is entitled to his full allotment of vacation time for the 2009-2010 school year and must be credited with the nine days of vacation that he was docked.

The Commissioner concurred with the ALJ, and adopted the Initial Decision of the OAL as the final decision in this matter.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

OAL DKT. NO. EDU 12189-09
AGENCY DKT. NO. 312-11/09

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Exceptions of the Board and petitioner's reply thereto – filed in accordance with the provisions of *N.J.A.C. 1:1-18.4* – were fully considered by the Commissioner in making his determination herein.

The Board's exceptions merely recast and reiterate its arguments advanced before the Administrative Law Judge (ALJ) below. As all of these were fully considered and addressed by the ALJ in her Initial Decision, they will not be revisited here.

Upon full consideration, the Commissioner agrees with the ALJ – for the reasons comprehensively presented in her decision – that that the action of the Board in refusing to credit petitioner with his full complement of vacation days during the 2009-2010 school year was violative of *N.J.S.A. 18A:30-2.1*, necessitating that these vacation days be restored and credited to his future vacation entitlement.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter. The Board is hereby directed to immediately restore the nine vacation days impermissibly withheld from petitioner for the 2009-2010 school year.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 14, 2011

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* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).