

#417-12 (OAL Decision: Not yet available online)

BARBARA CORRENTI, :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION

TOWN OF KEARNY, HUDSON COUNTY, :

RESPONDENT. :

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SYNOPSIS

Petitioner – a district employee since 1979 – challenged the respondent’s decision not to appoint her to the position of Director of Student Personnel Services during a Board meeting in June 2008. Petitioner was employed by the district as a teacher of home economics at the high school level for nearly 20 years, and as a guidance counselor for more than 8 years. She was appointed to the position of Department Chairperson of Basic Skills in September 2007. Beginning in February 2008, petitioner applied on four occasions for the position of Director of Student Personnel Services; she was interviewed twice, but was not offered the job. Petitioner asserted that the Board’s action in denying her the position was arbitrary, capricious and in violation of *N.J.S.A. 18A:27-4.1*. Respondent Board moved to dismiss the appeal, contending that the Commissioner does not have the authority to appoint an individual whom the local board has already considered and decided not to appoint. The ALJ denied respondent’s motion to dismiss, and the matter proceeded to hearing.

The ALJ found, *inter alia*, that: as in non-tenured employment renewal matters, the petitioner in this case bears the burden of proving that the Board’s action in failing to select her for the Student Personnel Services position was arbitrary, capricious or unreasonable; the Board members who voted against petitioner’s appointment explained that their decision was largely based on the fact that petitioner had served in the position of Department Chairperson of Basic Skills for less than a year, and the break in continuity would not be in the best interest of the District; Board members also expressed concern about how much of petitioner’s experience was relevant to the Student Personnel position, as well as petitioner’s level of professionalism and self-control; and, in sum, the credible evidence supported the conclusion that each Board member made a rational and reasonable decision regarding the hiring of petitioner for the position in question. Accordingly, the ALJ concluded that petitioner failed to meet her burden of showing that the Board’s hiring decision was arbitrary or capricious.

Upon careful and independent review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter for the reasons stated therein.

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.

October 25, 2012

OAL DKT. NO. EDU 9517-08  
AGENCY DKT. NO. 193-7/08

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The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon such review, the Commissioner adopts the Initial Decision as the final decision for the reasons set forth therein.<sup>1</sup>

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: October 25, 2012

Date of Mailing: October 26, 2012

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<sup>1</sup> The Commissioner notes that the third sentence of the second paragraph on page 11 of the Initial Decision should read: "Petitioner bears the burden of proving by a preponderance of the credible evidence that respondent's actions were arbitrary, capricious or unreasonable."

<sup>2</sup> 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*).