

#288-13 (OAL Decision: Not yet available online)

CITY ASSOCIATION OF SUPERVISORS :  
AND ADMINISTRATORS, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
STATE-OPERATED SCHOOL DISTRICT :  
OF THE CITY OF NEWARK, : DECISION  
ESSEX COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

### SYNOPSIS

Petitioner – the City Association of Supervisors and Administrators (CASA) – asserted, on behalf of three of its non-tenured members, that the respondent State-Operated School District of Newark (District) violated their rights by failing to properly evaluate their performance as principals in accordance with applicable statutes, regulations and the provisions of the Collective Bargaining Agreement (CBA) between the parties. CASA sought reinstatement of the three former principals. The District contended that the relief sought by CASA is not available under the school laws and that the claims under the CBA have been brought in the wrong forum. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no issues of material fact in this case, and the matter is ripe for summary decision; the three members represented by CASA in this action had all been appointed to two one-year terms of employment as principals, and had served from July 1, 2010 through June 30, 2012 – at which time their contracts were non-renewed; the District cited fiscal and reorganizational concerns as its rationale for the non-renewals, and no performance issues were noted in the non-renewal letter; the District did fail to comply with the requirements of *N.J.S.A. 18A:27-3.1* and *N.J.A.C. 6A:32-4-5* relative to staff member evaluation, but – as CASA conceded – non-compliance with the statute holds no penalty, and previous court cases have held that such non-compliance does not prevent a school district from acting to non-renew the employment of a non-tenured teaching staff member; there is no nexus legally or factually between a non-renewal for budgetary reasons and the evaluation process; and the claim that the District’s failure to evaluate violated the parties’ CBA is a contractual matter not under the jurisdiction of the OAL. Accordingly, the ALJ concluded that the petition must be dismissed.

Upon full consideration, the Commissioner concurred with the ALJ that the relief sought by CASA is unavailable under the law. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and the petition was dismissed.

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.

August 5, 2013

OAL DKT. NO. EDU 13813-12  
AGENCY DKT. NO. 268-9/12

CITY ASSOCIATION OF SUPERVISORS :  
AND ADMINISTRATORS,

PETITIONER,

V.

STATE-OPERATED SCHOOL DISTRICT  
OF THE CITY OF NEWARK,  
ESSEX COUNTY,

RESPONDENT.

---

:  
:  
:  
:  
:  
:  
:

COMMISSIONER OF EDUCATION

DECISION

Petitioner brought this matter on behalf of three principals whose employment was not renewed due to financial and organizational issues in respondent's district. Upon review of the record and Initial Decision of the Office of Administrative Law,<sup>1</sup> the Commissioner concurs with the Administrative Law Judge that the relief sought by petitioner is unavailable under the law. Accordingly, the Initial Decision is adopted for the reasons set forth therein, and the petition is dismissed

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

COMMISSIONER OF EDUCATION

Date of Decision: August 5, 2013

Date of Mailing: August 5, 2013

---

<sup>1</sup> No exceptions to the Initial Decision were filed by the parties.

<sup>2</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).