

New Jersey Commissioner of Education

Final Decision

Marlena Ventura,

Petitioner,

v.

Board of Education of the City of Trenton, Mercer
County,

Respondent.

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

Upon review, and for the reasons thoroughly detailed in the Initial Decision, the Commissioner concurs with the Administrative Law Judge (ALJ) that the Board acted properly in requiring petitioner to undergo a psychiatric examination.

Accordingly, the Initial Decision is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹


COMMISSIONER OF EDUCATION

Date of Decision: July 25, 2025
Date of Mailing: July 28, 2025

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 03072-23

AGENCY REF. NO. 60-3/23

MARLENA VENTURA,

Petitioner,

v.

CITY OF TRENTON BOARD

OF EDUCATION, MERCER

COUNTY,

Respondent.

Edward A. Cridge, Esq., for petitioner (Mellk Cridge, LLC, attorneys)

James Rolle, Jr., Esq., for respondent (General Counsel for Trenton Public School District, attorneys)

Record closed: December 2, 2024

Decided: April 28, 2025

BEFORE **JEFFREY N. RABIN**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Marlene Ventura, appeals the decision by the respondent, City of Trenton Board of Education, Mercer County (Board), that petitioner must undergo a psychiatric examination/Fitness For Duty examination (FFD), pursuant to N.J.S.A.

18A:16-2. Petitioner filed a due process petition on March 7, 2023, with the Commissioner of Education (the “Commissioner”) challenging the directive. The Board filed an Answer, and the matter was then transmitted to the Office of Administrative Law (OAL) on April 10, 2023, as a contested matter. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

Hearings were held via Zoom on August 23, 2023, and September 18, 2023. Final post-hearing briefs were received by December 2, 2024, and the record closed. Extensions to complete the Initial Decision were granted on March 7, 2025 and April 28, 2025.

FINDINGS OF FACT

Testimony

For respondent

Michael Rosenberg was the principal of the Copeland Elementary School in the Trenton School District. He was petitioner’s principal for five years. As principal, as part of his morning routine, he would conduct walkthroughs to check on teachers, see how they were doing, and if they needed any support. During several walkthrough conversations, petitioner shared with Rosenberg that her anxiety level was “not good” and “worsening.”

On one occasion in autumn 2021, Rosenberg saw that petitioner brought her cat into her classroom. Petitioner explained why she needed her cat there, and Rosenberg told her that she was first required to submit a formal request for a 504 accommodation through the Human Resources (HR) department. Petitioner did not bring the cat into the building again. Petitioner did apply to bring her cat to school as a service animal, but that request was denied due to potential health issues between the animal and students.

In January 2022, Rosenberg had to discuss this issue with petitioner again because an officer from the Trenton Humane Department had been following up on

several reports about a kitten being left in a car in the school parking lot for several hours during the cold winter months. Petitioner told Rosenberg that she believed her cat was safe due to there being warm clothing in the car.

Petitioner had been out on administrative leave, approved by HR, for fifty-six days during the 2021–2022 school year, returning to work at the beginning of the 2022–2023 school year. Petitioner informed Rosenberg that the leave was because she was receiving therapy for a mental health condition.

Exhibit R-1 was a memorandum by Rosenberg to the district superintendent, which documented concerns from six teachers as to petitioner's behavior and raised classroom security concerns.

Keith Powers, a staff member and union building representative, told Rosenberg on September 15, 2022, that petitioner had confronted him in the lunchroom about the lack of organization and control of students in a loud and disruptive manner in front of students. Powers said this confrontation disturbed the students.

Susan Mueller told Rosenberg on September 15, 2022, that petitioner had confronted her in a physically agitated manner about student control, claiming a lack of organization and disruptiveness amongst students. Mueller also complained about petitioner's body odor.

Dolores Snow, a school paraprofessional, also complained to Rosenberg that petitioner had a noticeable body odor.

Melissa Lewis, Rosenberg's secretary, told Rosenberg that petitioner approached her in an aggressive manner, which upset her, in order to complain about an allegedly inappropriate assignment of a four-year-old to her kindergarten class; Lewis showed a birth certificate to petitioner to prove that the child was five years old.

Lorenzo Gonzales, a veteran parent-liaison, told Rosenberg that petitioner claimed that her anxiety level was reaching a critical level and that her anxiety would get even

worse if she received one more student, despite class size fluctuation not being unusual at the beginning of a school year.

Finally, Laura Colvin, an experienced school guidance counselor and licensed mental health counselor, told Rosenberg that she had a discussion in 2021–2022 with petitioner wherein petitioner reported anxiety resulting from her teaching job. On September 14 or 15, 2022, Colvin advised Rosenberg that petitioner needed immediate mental health support.

Rosenberg did not have individual written statements from these six complainants because they were told by their union not to reduce their complaints to writing. Rosenberg did not go to speak with petitioner immediately after each of these individual complaints but spoke with her after all six complaints had been received. Based on his interactions with petitioner and these six complaints, on September 16, 2022, Rosenberg made his request that petitioner get a FFD. (Exhibit R-1.)

One time Rosenberg walked into petitioner's classroom and noted that the students were watching a movie. Petitioner told Rosenberg that she was having a bad day and just wanted the children to be quiet.

A "Ms. Pembleton" reported that petitioner had grabbed student "K.S." inappropriately. Ms. Pembleton told Rosenberg that petitioner had said to K.S. in class that she did not care if God came down to this Earth; the student should never move out of line. Rosenberg filed a report on these complaints. (Exhibit R-2.)

Petitioner complained to Rosenberg upon her return from her mental health hiatus in 2021–2022 because the paraprofessional assigned to her kindergarten classroom was not there at the start of the 2022–2023 school year. Petitioner became loud and agitated during that conversation; this agitated behavior did not occur in front of any students and did not include profanities; otherwise, Rosenberg would have had to address those issues in a memorandum. On September 16, 2022, Rosenberg made his request that petitioner get a FFD. On September 22, 2022, petitioner was placed on administrative leave with pay and therefore was not working at the school in the 2022–2023 school year.

Cherelle Tolor has been the Board's executive director of human resources since September 2022. She was previously director of the Willingboro and Irvington, New Jersey, Boards of Education. Tolor was made aware of Rosenberg's email dated September 16, 2022, to Superintendent Earle. (Exhibit R-1.) Tolor discussed petitioner's issues with both Rosenberg and Earle. Tolor did not investigate the six staff complaints or interview the complainants.

Tolor testified to an issue of corporal punishment allegedly committed by petitioner, which was reported to the New Jersey Division of Child Protection and Permanency (DCP&P). The State did not establish that any child abuse took place.

Tolor was aware of the complaints made to Rosenberg by Lewis, Gonzalez and Colvin. Tolor testified that Rosenberg spoke with petitioner after the six complaints were made. Rosenberg looked at this matter as a disciplinary issue but also wanted to both help petitioner and ensure the safety of teachers and students. Tolor did not speak with petitioner after learning of these six complaints.

Petitioner had shared with Rosenberg that she was struggling at work due to anxiety. Petitioner had a physical altercation with a student in front of his parents. This altercation, combined with the six staff complaints, led Tolor to believe that petitioner needed help.

Exhibit R-9 was the district policy, which allows for examinations for cause. Per paragraph two, there must be competent evidence of behavioral deviations. Per paragraph three, notice must be given of the request for a FFD. Exhibit R-5 was a revised FFD notice to petitioner, dated January 19, 2023, changing the date of the FFD.

Melissa Lewis worked as a secretary at the Copeland Elementary School. She had an interaction with petitioner on September 1, 2022, regarding a child's age. Petitioner stated that a four-year-old child had been registered in her kindergarten class, not yet the required age of five. Petitioner told Lewis that she had called the parents and verified that the child was four years old. Lewis pulled the child's birth certificate and

verified that the child was five years old. Lewis called the parents, and one parent stated that she had never spoken with petitioner.

Susan Mueller was a third-grade teacher employed by the Board at the Copeland Elementary School. She had an interaction with petitioner in September 2022. Petitioner came out of the lunchroom, her face was red, she seemed angry, and she raised her voice and loudly questioned why her students were using the first-floor bathroom instead of the second-floor bathroom. There was no formal bathroom policy. After this incident, students questioned Mueller about why petitioner was yelling at her. Mueller reported the interaction to Rosenberg because she felt that petitioner should not have raised her voice in front of her students but should have spoken with Mueller privately.

Mueller never complained about petitioner's body odor.

For petitioner

Petitioner did not present any witnesses and did not put on a case.

Credibility

In evaluating evidence, it is necessary to assess the credibility of the witnesses. Credibility is the value that a finder of the facts gives to a witness's testimony. It requires an overall assessment of the witness's story in light of its rationality or internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). "Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself," in that "[i]t must be such as the common experience and observation of mankind can approve as probable in the circumstances." In re Perrone, 5 N.J. 514, 522 (1950).

A fact finder "is free to weigh the evidence and to reject the testimony of a witness . . . when it is contrary to circumstances given in evidence or contains inherent improbabilities or contradictions which alone or in connection with other circumstances in evidence excite suspicion as to its truth." Id. at 521–22; see D'Amato by McPherson v.

D'Amato, 305 N.J. Super. 109, 115 (App. Div. 1997). A trier of fact may also reject testimony as “inherently incredible” when “it is inconsistent with other testimony or with common experience” or “overborne” by the testimony of other witnesses. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958).

Further, “[t]he interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony.” State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted). The choice of rejecting the testimony of a witness, in whole or in part, rests with the trier and finder of the facts and must simply be a reasonable one. Renan Realty Corp. v. Dep’t of Cmty. Affairs, 182 N.J. Super. 415, 421 (App. Div. 1981).

Michael Rosenberg testified in a clear manner, displaying an excellent recollection of details. He appeared to be a caring, concerned principal and knowledgeable about school procedures. He remained calm and clear during cross-examination. Regarding the six unsolicited staff complaints during cross-examination, Rosenberg failed to recall exact dates because he had not received written memorializations of each of the six conversations. But he was able to explain each of those encounters and narrow the dates down to either September 14 or 15 in each situation.

Petitioner’s counsel raised the point that Rosenberg did not go and speak with petitioner after each of the six individual staff complaints were made. However, there was testimony that Rosenberg did discuss all six complaints with petitioner after the sixth complaint was made.

Rosenberg testified that Melissa Lewis told him that petitioner approached her in an aggressive manner, which upset her, in order to complain about an allegedly inappropriate assignment of a four-year-old to her kindergarten class. Lewis did not characterize the manner in which petitioner approached her. Petitioner’s counsel wrote in his post-hearing brief that Lewis “denied that she had ever had an interaction with Ms. Ventura where Ms. Ventura was ‘agitated,’” but such a denial does not appear in the

transcript, nor did petitioner's counsel cite the transcript for that statement. I do not find that Lewis contradicted any statements of Rosenberg.

Petitioner's counsel was correct in pointing out that Rosenberg testified that Mueller criticized petitioner's body odor, but Mueller testified that she never mentioned petitioner's body odor. Despite this inconsistency, I ultimately found Rosenberg to be a credible witness.

Cherelle Tolor was a knowledgeable witness who answered questions in a very direct manner. I found her to be a credible witness.

Melissa Lewis seemed annoyed and preoccupied during her testimony. She needed to be reminded about her conversation with respondent's counsel. But she was clear that she did not see firsthand an altercation referred to between petitioner and another teacher. However, her testimony about the age discrepancy and birth certificate appeared honest and supported Rosenberg's testimony about her complaint against petitioner.

Susan Mueller testified in a seemingly honest and direct manner. She displayed a good recollection of facts, and I found her testimony credible.

Accordingly, after carefully considering the testimonial and documentary evidence presented, I **FIND** the following to be the relevant and credible **FACTS**:

Petitioner advised Rosenberg on several occasions that her anxiety level was "not good" and "worsening"; one time Rosenberg walked into petitioner's classroom and noted that the students were watching a movie, and petitioner told Rosenberg that she was having a bad day and just wanted the children to be quiet; in Autumn 2021, petitioner brought her pet, a cat, into her classroom, without permission; as of January 2022, petitioner had continued bringing her cat to school, leaving it unattended in her vehicle during winter weather; at the beginning of the 2022–2023 school year, petitioner applied to bring her cat to school as a service animal, which request was denied due to potential health issues between the animal and students; Rosenberg had been informed that

petitioner had grabbed student “K.S.” inappropriately, and Rosenberg filed a report; petitioner complained to Rosenberg upon her return from her mental health hiatus in 2021–2022 because the paraprofessional assigned to her kindergarten classroom was not there at the start of the 2022–2023 school year—petitioner became loud and agitated during that conversation.

Petitioner had been out on administrative leave for a mental health condition approved by HR for fifty-three days during the 2021–2022 school year, briefly returning to work at the beginning of the 2022–2023 school year.

Six staff members lodged complaints with Rosenberg as to petitioner’s behavior, and raised classroom security concerns; petitioner approached Melissa Lewis in an aggressive manner, which upset her, in order to complain about an allegedly inappropriate assignment of a four-year old to her kindergarten class—petitioner lied to Lewis about having spoken with that child’s parents before Lewis proved to petitioner that the child was five years old by showing the child’s birth certificate; petitioner had confronted Susan Mueller in a physically agitated manner, about student control issues—petitioner approached Mueller in front of students, with her face red and appearing angry, and she raised her voice and loudly questioned why her students were using the first-floor bathroom instead of the second-floor bathroom; after this incident, students questioned Mueller about why petitioner was yelling at her.

Laura Colvin, an experienced school guidance counselor and licensed mental health counselor, told Rosenberg that she had a discussion in 2021–2022 with petitioner where petitioner reported anxiety resulting from her teaching job, and on September 14 or 15, 2022, Colvin advised Rosenberg that petitioner needed immediate mental health support. Rosenberg did not have individual written statements from these six complainants because they were told by their union not to reduce their complaints to writing, but Rosenberg did speak with petitioner after the sixth staff complaint to discuss each of the complaints; based on his interactions with petitioner and these six complaints, on September 16, 2022, Rosenberg made his request that petitioner get a FFD. (Exhibit R-1.)

LEGAL ANALYSIS

The issue is whether the respondent Board proved by a preponderance of the competent, credible evidence that it may compel petitioner to undergo a psychiatric examination/FFD in order to keep her job as a Trenton school teacher.

N.J.S.A. 18A:16-2 governs a board of education's request that an employee undergo a psychiatric examination and provides:

- a. Every board of education may require its employees and shall require any candidate for employment who has received a conditional offer of employment to undergo a physical examination. The board may require individual psychiatric or physical examinations of any employee, whenever, in the judgment of the board, an employee shows evidence of deviation from normal, physical or mental health.

Petitioner cited to Kochman v. Keansburg Bd. of Ed., 124 N.J. Super. 203 (Ch. Div. 1973), wherein the court analyzed N.J.S.A. 18A:16-2 and stated:

The term "deviation from normal mental health" as used in N.J.S.A. 18A:16-2 is construed to mean "harmful, significant deviation from mental health affecting the teacher's ability to teach, discipline or associate with children of the age of the children subject to the teacher's control in the school district."

[Kochman], at 212.]

Therefore, the issue becomes whether the respondent proved by a preponderance of the competent, credible evidence that petitioner displayed behavior evincing a "harmful, significant deviation from mental health affecting the teacher's ability to teach, discipline, or associate with children of the age of the children subject to the teacher's control in the school district." See Tami Stewart v. Bd. of Ed. of City of New Brunswick, Middlesex Cnty., OAL Dkt. No. EDU 01186-16, Comm. of Ed. Dec. No. 310-16. If so, then the respondent is entitled to have petitioner undergo a psychiatric examination pursuant to N.J.S.A. 18A:16-2.

While Rosenberg did not testify that petitioner Ms. Ventura was insubordinate or disrespectful, he was made aware of several concerning behaviors and facts:

First, petitioner had been out on administrative leave approved by HR for fifty-three days during the 2021–2022 school year, only briefly returning to work at the beginning of the 2022–2023 school year. Petitioner herself advised Rosenberg that her absences were to address a mental health condition. Accordingly, petitioner made Rosenberg and the school aware that she had needed mental health care.

Second, petitioner advised Rosenberg on several occasions that her anxiety level was “not good” and “worsening.” Taken in light of petitioner missing fifty-three school days for mental health reasons the previous school year, Rosenberg would have been negligent if he had ignored a report from petitioner indicating that her condition was worsening. A worsening of a mental health issue goes to the heart of the phrase “deviation from normal mental health.” N.J.S.A. 18A:16-2, as cited in Kochman.

Third, Rosenberg walked into petitioner’s classroom one day and saw that the students were watching a movie. Petitioner told Rosenberg that she was having a bad day and just wanted the children to be quiet. Based on this fact, petitioner’s mental health was affecting her ability to teach a class, evidencing a failure to discharge her duties and responsibilities as a teaching staff member.

Fourth, in fall 2021, petitioner brought her pet cat to school and into her classroom without permission. She was advised that she needed to obtain permission for a service animal through HR. She sought such approval in September 2022, when permission was denied due to potential health issues that students might suffer from due to there being an animal in the classroom. There was credible testimony that school policy required preapproval for an employee having a service animal on school premises, but even without such a policy, it was negligent of petitioner to bring an animal to school without considering that some of her students might have allergies to cats and without establishing that her pet was healthy and well-behaved enough to be in a location other than its regular home. There was no evidence that respondent was attempting to penalize the petitioner for seeking an Americans with Disabilities Act (ADA) accommodation.

Fifth, in January 2022, an animal control agent from the City of Trenton brought to Rosenberg's attention that petitioner had continued bringing her cat to school, choosing to leave it unattended in her vehicle during that winter weather month. Petitioner applied to bring her cat to school as a service animal, but her request was denied due to potential health issues between the animal and students. It is clear that petitioner wantonly ignored the instructions given to her by Rosenberg. Not only did she continue to bring her cat onto school property, but she also displayed harmful behavior towards her own pet cat by leaving it unattended in her car during a winter month. This behavior indicates a deviation from normal mental health and raises questions as to petitioner's ability to be responsible for the welfare of the students in her charge.

Sixth, Rosenberg had been informed that petitioner had grabbed student "K.S." inappropriately, as confirmed by a report written by Rosenberg. This raises questions as to petitioner's mental ability to associate with young children.

Seventh, petitioner complained to Rosenberg in a loud and agitated manner upon her return from her mental health hiatus in 2021–22 that the paraprofessional assigned to her kindergarten classroom was not there at the start of the 2022–2023 school year. While poor behavior in front of one's employer is typically poor form in and of itself, it might not indicate a deviation from normal mental health, which would affect her ability to work as a teacher. But this must be taken together in light of the above-referenced facts and the complaints from six fellow staff members.

The eighth matter was that six school staff members lodged independent, unsolicited complaints with Rosenberg as to petitioner's behavior and raised classroom security concerns. Petitioner upset Rosenberg's secretary, Melissa Lewis, by confronting her in an aggressive manner. While petitioner's complaint to Lewis might have been a legitimate complaint—Lewis needed to produce a birth certificate to prove that a new student added to petitioner's class was of the legal age for kindergarten—there are no legitimate grounds for a teacher to behave aggressively towards school staff.

Ninth, petitioner lied to Lewis by stating she had already spoken with the child's parents, when Lewis was able to determine, pursuant to a telephone call with the parents, that they had never spoken with petitioner about their child's age. Aggressive behavior and falsification of facts must be considered as evidence of a deviation from normal mental health that could affect one's ability to teach.

Tenth, petitioner confronted Susan Mueller in a physically agitated manner about student control issues. This confrontation took place in front of students; the credible testimony was that petitioner's face was red, she appeared angry, and she raised her voice and loudly questioned why her students were using the first-floor bathroom instead of the second-floor bathroom. Mueller testified that after this incident, students questioned Mueller about why petitioner was yelling at her. Mueller's testimony as to the incident lent credibility to Rosenberg's testimony as to this incident. This is further evidence of a harmful, significant deviation from mental health affecting a teacher's ability to teach, discipline, or associate with elementary school-aged students.

Respondent correctly pointed out that boards of education have an obligation to ensure that staff are mentally and physically able to perform the functions that they are hired to perform. See John Gish v. Board of Educ. of the Borough of Paramus, Bergen Cnty., 145 N.J. Super. 96 (App. Div. 1976). It is a proper argument that under N.J.S.A. 18A:16-2, a board "may require individual psychiatric or physical examinations of any employee, whenever, in the judgment of the board, an employee shows evidence of deviation from normal, physical or mental health." Respondent has proven at least ten instances of deviations from normal mental health; these were not merely examples of unusual or out-of-character behavior, but behaviors with a direct bearing on petitioner's ability to work as a teacher in an environment with fellow staff members and five-year-old children.

Subsequent to Kochman, the Commissioner of the Department of Education has held that the authority for these mental health examinations is given to the Board by unambiguous statutory language. See Bd. of Educ. of Lyndhurst v. Blevins, Comm'r Decision No. 29-1/07, decided December 5, 2007. In concluding in that case that there was ample and credible testimony and evidence that the accused had acted in an

irrational and threatening manner toward fellow teachers and his supervisor, the Commissioner in Blevis held that:

A board has the authority to direct an employee to undergo a psychiatric evaluation if it perceives that the employee is manifesting behavior that deviates from normal health. There is no explicit mandate for the board to prove that the employee's aberrant behavior has been specifically directed toward students. The protection of students is an obvious rationale for the statute. However, there is nothing in the statute that prevents a board from determining that hostile and abnormal behavior directed by one teacher towards several others, and outbursts of temper displayed on multiple occasions warrant a psychiatric evaluation, including an assessment of the likelihood that respondent's control could further deteriorate, and that his negative behavior could be visited upon students.

[Blevis, at 9–10.]

More importantly, in Bd. of Educ. of Lyndhurst v. Blevis, No. A-6004-07T3, 2009 N.J. Super. Unpub. LEXIS 2524, at *16 (App. Div. Oct. 8, 2009), the court held that “[t]he bar set by the statute is low, which comports with the overriding purpose in this and related statutes that the health, safety and well-being of students is paramount.” Respondent made a compelling argument that a board of education was not required to wait for a harm to become manifest but rather was charged to perform an examination when there was a legitimate possibility of harm. Gish, at 105.

Respondent cited case law holding that a board’s use of its authority “may not be upset unless patently arbitrary, without rational basis or induced by improper motives.” Kopera v. Bd. of Educ. of W. Orange, 60 N.J. Super. 288 (App. Div. 1960). In the within matter, respondent set forth ten incidences of concern which led Principal Rosenberg to require a FFD. They have established a rational basis for such a requirement, and therefore, their requirement was in no way arbitrary. It must be further noted that Laura Colvin, an experienced school guidance counselor and licensed mental health counsellor at petitioner’s school, told Rosenberg that she had a discussion in 2021–22 with petitioner in which petitioner reported anxiety resulting from her teaching job, and on or about September 14, 2022, Colvin advised Rosenberg that petitioner needed immediate mental

health support. Rosenberg did not have a written statement from Colvin; however, combined with the fact that Rosenberg spoke with petitioner after the sixth staff complaint to discuss each of the complaints, and based on his own interactions with petitioner, Rosenberg clearly did not act arbitrarily in requiring a FFD because he had a recommendation from a licensed mental health counsellor that petitioner's mental health issues were connected to her employment and that she needed help.

For the foregoing reasons, I **CONCLUDE** that the respondent Board proved by a preponderance of the competent, credible evidence that petitioner's behavior was a harmful, significant deviation from mental health affecting the teacher's ability to teach, discipline, or associate with children of the age of the children subject to the teacher's control in the school district, and further **CONCLUDE** that respondent acted properly in compelling petitioner to undergo a psychiatric examination/FFD in order to keep her job as a Trenton school teacher.

ORDER

I hereby **ORDER** that petitioner's appeal be **DISMISSED** and that respondent's requirement that petitioner undergo a psychiatric examination/FFD in order to keep her position as a Trenton school teacher be **AFFIRMED**.

I hereby **FILE** this initial decision with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.

April 28, 2025

DATE



JEFFREY N. RABIN, ALJ

Date Received at Agency:

Date Mailed to Parties:

JNR/cab

APPENDIX

Witnesses

For petitioner

None

For respondent

Michael Rosenberg
Cherelle Tolor
Melissa Lewis
Susan Mueller

Exhibits

For petitioner

Post-hearing brief

For respondent

R-1 Rosenberg memorandum, dated September 16, 2022
R-2 Incident Reporting Form, dated September 21, 2022
R-3 Rosenberg letter, dated September 21, 2022
R-4 HR letter, dated September 22, 2022
R-5 FFD notice, dated January 19, 2023
R-6 Rolle letter, dated January 27, 2023
R-7 Dr. York letter, dated March 31, 2011
R-8 Dr. York letter, dated April 11, 2011
R-9 Board policy #3161
R-10 Petition of appeal
R-11 Respondent's Answer
Post-hearing brief