

192-26
OAL Dkt. No. EDU 10184-25
Agency Dkt. No. 173-6/25

New Jersey Commissioner of Education
Final Decision

Christine Wells,

Petitioner,

v.

Board of Education of the Mercer County
Special Services School District, 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, the Commissioner concurs with the Administrative Law Judge (ALJ) that this matter is ripe for summary decision pursuant to *N.J.A.C. 1:1-12.5(b)*. The Commissioner agrees with the ALJ that the Assistant Transportation Coordinator (ATC) position previously held by petitioner is not a secretarial or clerical position and was therefore not eligible for tenure under *N.J.S.A. 18A:17-2*. The Commissioner also agrees with the ALJ that, consequently, no tenure violation occurred when respondent did not renew petitioner's employment contract for the 2025-2026 school year. Additionally, the Commissioner agrees with the ALJ that petitioner relinquished her secretarial tenure rights in 2019 when she voluntarily accepted a promotion from a tenured clerical position to the non-tenurable ATC position; thus, she cannot now assert tenure or seniority rights to a clerical position in the district.

Accordingly, the Initial Decision is adopted as the final decision in this matter, respondent's motion for summary decision is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹



COMMISSIONER OF EDUCATION

Date of Decision: June 2, 2026
Date of Mailing: June 3, 2026

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 ON
SUMMARY DECISION

OAL DKT. NO. EDU 10184-25

AGENCY DKT. NO. 173-6/25

CHRISTINE WELLS,

Petitioner,

v.

**BOARD OF EDUCATION OF THE
MERCER COUNTY SPECIAL SERVICES
SCHOOL DISTRICT, MERCER COUNTY,**
Respondent.

Christine Wells, appearing pro se

Geoffrey N. Stark, Esq., appearing for respondent (Capehart & Scatchard, P.A.,
attorneys)

Record closed: November 21, 2025

Decided: March 23, 2026

BEFORE **KIM C. BELIN**, ALJ:

STATEMENT OF THE CASE

The Mercer County Special Services School District (MCSSSD or respondent) determined not to renew Christina Wells's (petitioner or Wells) contract for the 2025–26

school year as an assistant transportation coordinator (ATC), and Wells appealed this decision. The inquiry is whether there are material issues of fact in dispute to warrant a hearing. No, there are no material issues of fact in dispute, and summary decision is appropriate.

PROCEDURAL HISTORY

On May 2, 2025, petitioner received notice that she was being placed on administrative leave because her employment contract was not going to be renewed. On May 28, 2025, Wells filed a petition of appeal in the form of emergent relief challenging respondent's decision to non-renew her contract. The Director of the Office of Controversies and Disputes within the Department of Education transmitted the petition and motion for emergent relief to the Office of Administrative Law (OAL), where it was filed on June 10, 2025. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13; N.J.A.C. 1:1-8.2. Oral argument was held on June 16, 2025. In an Order dated June 17, 2025, the undersigned denied the motion for emergent relief. Respondent filed its answer and affirmative defenses on June 26, 2025.

On October 15, 2025, respondent filed a motion for summary decision. Petitioner filed her response and cross-motion on November 7, 2025, and respondent filed its reply brief on November 21, 2025.

FINDINGS OF FACT

The following **FACTS** are undisputed, and I therefore **FIND**:

Wells was hired on October 16, 2013, as a building and grounds secretary and as such was a member of the Mercer County Special Services Support Staff Association (MCSSSSA). She remained in this position until June 1, 2019, when she was promoted to the ATC, which was a twelve-month, non-affiliated position. She was employed under annual employment contracts from July through June, and the contract for the 2024-25 school year expired on June 30, 2025. (Exhibit A, Respondent's Motion for Summary Decision (MSD).) She reported directly to the Transportation Coordinator.

Wells was presented with a letter dated April 15, 2025, notifying her that her employment contract would not be renewed for the 2025–26 school year.¹ (Exhibit B, Resp't's MSD.) Her position was eliminated due to budgetary constraints. (Superintendent's Cert.) On May 2, 2025, she was notified that she was placed on administrative leave immediately and not permitted to return to the school. (Petitioner's Appeal²)

Respondent issued a letter dated May 7, 2025, informing Wells that respondent approved her paid administrative leave effective May 2, 2025, through June 30, 2025. (ibid.)

On May 28, 2025, Wells filed for emergent relief. (Exhibit E, Resp't's MSD.) The motion for emergent relief was denied on June 17, 2025. Respondent's answer with affirmative defenses was filed on June 26, 2025. (Exhibit F, Resp't's MSD.) The motion was denied on June 17, 2025.

The major responsibilities of the ATC were to: 1) assist with the setup and coordination of bus routes for the regular and extended school years; 2) maintain pupil records in the transportation system, including additions, deletions, and route changes; 3) disseminate bus passes and transportation data to all students prior to the start of the school year; 4) purchase and coordinate pupil safety equipment with transportation contractors; 5) prepare monthly billing statements and invoices for contractors; 6) assist the transportation coordinator with parents, principals and contractors regarding route issues, complaints, and other issues that may arise; 7) create purchase orders in the accounting system for department supplies and other needs; 8) assume all responsibilities in the absence of the transportation coordinator; and 9) perform other tasks as assigned by the transportation coordinator or Mercer County Special Services District Administrators. (Exhibit C, Resp't's MSD.) Additional qualifications, such as "knowledge of computer applications and excellent clerical skills," were essential in the transportation department. (ibid.)

¹ The letter is dated April 14, 2025, and is unsigned.

² Petitioner's original appeal packet does not contain exhibit labels or page numbers.

The collective bargaining agreement between the MCSSSD and the MCSSSSA, effective July 1, 2022, through June 30, 2025, covers all “full-time salaried, part-time salaried, full-time hourly and part-time hourly cleaning, clerical, custodial, grounds person, [and] transportation employees of the school district” but excludes the transportation coordinators. (Exhibit D, Resp’t’s MSD.)

ARGUMENTS ON THE MOTIONS

Respondent contends that it is entitled to summary decision because Wells was not a tenured employee at the time her employment was non-renewed. Wells had acquired tenure as a secretary; however, she relinquished that status when she accepted the role as ATC. Further, Wells had no bumping rights to return to a secretarial position when the ATC position was eliminated because she relinquished her tenure rights. In addition, N.J.S.A. 18A:17-2, which grants tenure to secretaries, school business administrators or business managers, does not apply to petitioner’s ATC position. Finally, petitioner’s duties as an ATC exceeded the duties of a clerical employee, and the collective bargaining agreement between respondent and the MCSSSSA specifically excluded transportation coordinators. (Resp’t’s Letter Brief at 6-9.)

Conversely, Wells contends that she held tenure under N.J.A.C. 18A:17-2, and therefore, she was entitled to be renewed as an ATC or, alternatively, returned to a secretarial position in the District because of her seniority entitlement. In addition, respondent violated her seniority rights by retaining a non-tenured employee. Finally, she never relinquished her tenure as a secretary when she was promoted to the ATC position.

LEGAL DISCUSSION AND CONCLUSIONS OF LAW

A motion for summary decision may be granted if the papers and discovery presented, as well as any affidavits that may have been filed with the application, show that there is no genuine issue of material fact, and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5(b). If the motion is sufficiently supported, the non-moving party must demonstrate by affidavit that there is a genuine issue of fact which can only be determined in an evidentiary proceeding in order to prevail in such an

application. Ibid. These provisions mirror the summary judgment language of R. 4:46-2(c) of the New Jersey Court Rules.

The motion judge must “consider whether competent evidential materials presented, when viewed in the light most favorable to the non-moving party . . . are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party.” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995). And even if the non-moving party comes forward with some evidence, this forum must grant summary decision if the evidence is “so one-sided that [the moving party] must prevail as a matter of law.” Id. at 536.

The issues presented here are whether petitioner was eligible for tenure as an ATC, whether she relinquished those tenure and seniority rights when she moved into the ATC position, and whether she was entitled to bumping rights to a secretarial position when her position as ATC was eliminated.

Tenure Eligibility

It is well established that tenure rights are statutory and not contractual. DiNapoli v. Bd. of Ed. of Twp. of Verona, 434 N.J. Super. 233, 237 (2014), citing Zimmerman v. Newark Bd. of Educ., 38 N.J. 65, 72 (1962). The statute at issue in this case is N.J.S.A. 18A:17-2, which provides that:

- a. Any secretary, assistant secretary, school business administrator or business manager of a board of education of any school district who has or shall have devoted his full time to the duties of his office and has or shall have served therein for three consecutive calendar years, and
- b. Any person holding any secretarial or clerical position or employment under a board of education of any school district or under any officer thereof, after
 1. The expiration of a period of employment of three consecutive calendar years in the district or such shorter period as may be fixed by the board or officer employing him, or

2. Employment for three consecutive academic years, together with employment at the beginning of the next succeeding academic year, an academic year being the period between the time when school opens in the district after the general summer vacation and the beginning of the next succeeding summer vacation, and
- c. Any person, who has acquired, or shall hereafter acquire, tenure in any secretarial or clerical office, position or employment under the board of education of a school district and has been appointed district clerk or secretary, or shall hereafter be appointed secretary of said district, as such secretary, shall hold his office, position or employment under tenure during good behavior and efficiency and shall not be dismissed or suspended or reduced in compensation, except for neglect, misbehavior or other offense and only in the manner prescribed by subarticle B of article 2 of chapter 6 of this title.

It is uncontested that under this statute, Wells acquired tenure as a building and grounds secretary, having served from October 16, 2013, until June 1, 2019, when she accepted the ATC position. This statute, however, does not provide for tenure for the ATC position, because it is expressly limited to secretaries, assistant secretaries, school business administrators and business managers.

The Commissioner of Education (Commissioner) and the courts have explored the definition of a “clerk” and determined that a position is clerical in nature “when the employee is ‘employed to keep records or accounts or to perform general office work’ The plain meaning of a ‘clerical position’ is thus one in which the employee performs the rote record-keeping duties that are typical of office operations, such as answering telephone calls, typing, photocopying, and filing.” Robert L. Effenberger v. Bd. of Ed. of Toms River Reg’l Sch. Dist., 96 N.J.A.R. 2d (EDU) 690; 1995 N.J. AGEN LEXIS 1280, (App. Div. 1994) at *10, quoting Lammers v. Bd. of Ed. of Boro of Point Pleasant, 134 N.J. 264, 248 (1993); I/M/O Dempster, Bd. of Ed. of City of Trenton, 96 N.J.A.R. 2d (EDU) 120, 1995 N.J. AGEN LEXIS 550 (Aug. 25, 1995).

A review of the Effenberger case is instructive. Robert Effenberger was a fifteen-year employee with Toms River School District (Toms River) who held various positions, including purchasing technical assistant, maintenance technical assistant, and assistant transportation supervisor for special education transportation. His position was eliminated, and he asserted tenure rights under N.J.S.A. 18A:17-2. As the Assistant Transportation Supervisor, Effenberger was responsible for answering telephones, inputting computer data and assisting the transportation supervisor and director in conducting bus safety drills. 1995 N.J. AGEN LEXIS 1280, *2. His duties later expanded to handling all aspects of in-district and out-of-district transportation contracts and jointure agreements for special needs students, and he acted in the absence of the transportation director. 1994 N.J.A.R. 2d (EDU) 1383, *9–10. Effenberger asserted that Toms River violated his tenure rights by eliminating positions and failing and refusing to transfer him to an appropriate position. The Commissioner ruled that the actual duties performed, rather than a title, were the controlling factor when determining whether Effenberger acquired tenure. Id. at *16. In addition, the Commissioner stated that most jobs, including his own, contained some functions that could be classified as clerical, and thus, “[p]erforming nominal clerical duties d[id] not make one a clerical employee within the meaning of the statute.” Id. at *19. Accordingly, the Commissioner ruled, and the Appellate Division affirmed, that Effenberger was not a clerical employee when he worked in the transportation department because he had “great discretion and independence” to act in the absence of his supervisor. Ibid.

Here, the ATC was a full-time, salaried position that Wells maintains was clerical in nature because some of the duties were the same as a general secretary, such as managing student records in the transportation system, assisting and coordinating bus routes, assisting the Transportation Coordinator, and managing complaints or other issues that might arise. In addition, the job required “excellent clerical skills.” (Exhibit C., Resp’t’s MSD.) Specifically, the job description listed the following as major responsibilities:

1. Assist with the setup and coordination of bus routes for the regular and extended school years.

2. Maintain pupil records in transportation system – including additions, deletions, and route changes.
3. Disseminate bus passes and transportation data to all students prior to the start of the school year.
4. Purchase and coordinate pupil safety equipment with transportation contractors.
5. Prepare monthly billing statements and invoices for contractors.
6. Assists the Transportation Coordinator with districts, parents, principals and contractors regarding route issues, complaints, and other issues that may arise.
7. Create purchase orders in the accounting system for department supplies and other needs.
8. In the absence of the Transportation Coordinator, the Assistant to the Transportation Coordinator will assume all responsibilities.
9. Perform other tasks as assigned by the Transportation Coordinator or Mercer County Special Services District Administrators.

(Ibid.)

Wells contends that these duties were performed by other secretaries and clerical staff throughout the district. However, she provided no proof to support this allegation, such as the job descriptions of other secretaries or clerks showing the same responsibilities. Assuming *arguendo* that other secretaries or clerks performed some of the ATC duties, the most distinguishing duty of the ATC is that the ATC assumed all responsibilities in the absence of the Transportation Coordinator. This differentiates the ATC from a general secretary because there was no evidence presented showing that general secretaries assume the responsibilities in their supervisor's absence. Wells had great discretion and independence to act in the absence of her supervisor, as did the petitioner in Effenberger. Accordingly, following the logic of the Effenberger decisions, Wells is not a clerical employee and is not entitled to tenure protections simply because the ATC position included some nominal clerical tasks.

Wells also relies upon the decision in Bernard Sharkey v. Bd. of Ed. of Twp. of Washington, Dkt. No. EDU 09335-07 (Nov. 21, 2008), aff'd w/ mod., Comm'r Docket No. 207-78/07 (Dec. 29, 2008), which ruled that Sharkey, who was employed as a financial officer/account-payable employee, had earned tenure under N.J.S.A. 18A:17-2(b). I concur with the analysis and conclusion of the MCDSSS that this case is inapplicable to the current controversy, and thus, no further discussion is warranted.

Finally, the collective bargaining agreement between respondent and the MCSSSSA does not specifically list the ATC but specifically excludes the "transportation coordinators" from being part of the bargaining unit and is not relevant to the issue of whether Wells acquired tenure because tenure rights cannot be waived by collective bargaining. I/M/O Joan Dempster, 96 N.J.A.R.2d (EDU); 1995 N.J. AGEN LEXIS 550 (Nov. 6, 1995.) (Motion for Summary Decision granted on the basis that the duties of an information systems control specialist were not primarily clerical in nature.) Accordingly, I **CONCLUDE** that the ATC is not a clerical position and is not tenure eligible under N.J.S.A. 18A:17-2.

Relinquishment

The next inquiry is whether Wells relinquished her tenure rights when she accepted the ATC position. Wells relies upon Barnes v. Bd. of Ed. of City of Jersey City, 85 N.J. Super. 42 (App. Div. 1964), certif. denied, 43 N.J. 450 (1964) to support her contention that she maintained her tenure rights when she accepted the ATC position. In Barnes, the Appellate Division considered whether clerical, secretarial, janitorial and custodial employees were tenured and should be reinstated after being dismissed for economic reasons. Jersey City argued that "secretary" and "clerk" were synonymous terms and a clerk was restricted to "one who under direction, performs routine, repetitive, non-complex clerical work of a varied nature as a beginner at the entrance level of employment." Id. at *44-45.

The Appellate Division examined the intended definition of "clerical position" under the predecessor statute, N.J.S.A. 18:6-27, which was similar to the current N.J.S.A.

18A:17-2, granting tenure to individuals holding clerical or secretarial positions. The Appellate Division rejected Jersey City's narrow definition and ruled that six employees performing clerical duties were entitled to tenure, and the legislative history revealed that a "clerical position was intended to extend the statutory protection coverage beyond secretarial employment," and the "tenure statutes were intended to secure public service by protecting public employees in their employment, 'the widest range should be given to the applicability of the law.'" Barnes, at 45; (quoting Sullivan v. McOsker, 84 N.J.L. 380, 385 (E.A. 1913)).

However, I am not persuaded that the wide range discussed in Barnes extends to the present controversy in which Wells performs managerial duties in the absence of the transportation coordinator. The petitioners in Barnes were an inspector in the maintenance department, a storekeeper, stock clerks, an assistant storekeeper, and a supervisor of maintenance. The question was whether these positions were clerical in nature. The Commissioner ruled that the supervisors were not subject to tenure under the clerk statute (now N.J.S.A. 18A:17-2), and the board of education acted within its legal discretion to abolish the positions and terminate the other employees. However, the State Board reversed, and the Appellate Division affirmed, finding that all the positions involved recordkeeping, which was clerical in nature.

Wells also had recordkeeping duties; however, in stark contrast, her duties were more expansive. Moreover, the Commissioner ruled, and the Appellate Division affirmed that performing nominal clerical duties does not make one a clerical employee. Effenberger, 194 N.J. AGEN LEXIS 1383 at *18.

Wells also cites DiNapoli v. Bd. of Ed. of Twp. of Verona, 434 N.J. Super 233 (2014), in which the Commissioner upheld the ALJ's finding that the petitioner retained her secretarial tenure rights when she accepted a position as the assistant school business administrator and should have been returned to a clerical position held by a non-tenured employee when her position was eliminated. However, this decision was later reversed by the Appellate Division. The Appellate Division analyzed the statute and determined that the "plain language of the statute . . . limits the retention of tenure to the time during which the employee holds her secretarial office, position or employment." Id.

at *239. The Appellate Division ruled: “[o]nce DiNapoli voluntarily transferred to the assistant school business administrator position, she no longer held her ‘office, position or employment’ as a secretary, and absent expressed statutory authority, she relinquished her right to ‘bump back’ into a secretarial position.” Id. at *240. Thus, the prevailing law is that secretaries/clerks do not retain tenure status after transferring to a certificated position.

The present matter, however, concerns whether a tenured secretary retains tenure rights after transferring to a non-clerical, non-tenure-eligible position. The case that addresses this issue is Amelia Colon-Serrano v. Bd. of Ed. of the City of Plainfield, 2008 N.J. AGEN LEXIS 252, in which the petitioner earned tenure as an attendance aide, which was a clerical position, and transferred to a classroom aide position that was neither clerical nor tenure eligible. The district failed to renew her contract at the end of the school year, and petitioner claimed tenure rights to a clerical position held by a non-tenured or less senior clerical employee. The Commissioner determined that petitioner had acquired tenure as an attendance aide; however, petitioner relinquished her tenure rights when she accepted a separate, non-tenurable position of classroom aide, and therefore she was not entitled to “bump back” into a clerical position. Ibid. The Commissioner concluded, “in the absence of express legislative provision for retention of accrued tenure rights upon transfer to a position which is not tenure eligible, the petitioner must be deemed to have relinquished the protections associated with her clerical tenure upon acceptance of the nonprotected position of classroom aide.” Id. at *2–3. A similar result is warranted here.

It is uncontested that Wells acquired tenure as a secretary and maintained that tenure while she was in the position. However, she relinquished those protections when she voluntarily accepted the ATC position, a separate, non-clerical, non-tenurable position. Wells confuses the tenure protections contained in N.J.S.A. 18A:28-6, which extends tenure protections upon promotion or transfer to teaching staff members who are defined as professional staff members holding employment, office or position that requires a valid and effective standard, provisional or emergency certificate appropriate for the position. N.J.S.A. 18A:1-1. Wells is not a teaching staff member, and “N.J.S.A. 18A:17-2 does not contain a similar tenure retention provision regarding tenured

secretarial employment, thus reflecting the Legislature's decision not to afford such rights." DiNapoli, 434 N.J. Super. at *240-241.

Finally, Wells contends that she has seniority rights under N.J.S.A. 18A:28-13 and thus is entitled to bump back into a clerical position. N.J.S.A. 18A:28-13 authorizes the Commissioner to establish seniority standards in "the fields or categories of administrative, supervisory, teaching or other educational services and fields and categories of school nursing which are performed in school districts in this state." Ibid. The ATC position does not fall within these parameters, and thus, I **CONCLUDE** Wells's reliance upon this statute is misplaced.

"Seniority provides a mechanism for ranking all tenured teaching staff members so that reductions among the tenured force can be effected in an equitable fashion and in accord with sound education policies. Capodilupo v. W. Orange Bd. of Ed., 218 N.J. Super. 510, 514 (App. Div. 1987), certif. den., 109 N.J. 514 (1987). Seniority does not create comparable rights for non-tenured employees. Bednar v. Westwood Bd. of Ed., 221 N.J. Super. 239 (App. Div. 1987). Moreover, it is well established that seniority rights do not accrue to clerical employees. Sheridan v. Bd. of Ed. of Ridgefield Park, 1976 S.L.D. 995 (Dec. 17, 1976). Thus, I **CONCLUDE** that Wells cannot assert a seniority right to a clerical position.

CONCLUSION

For the reasons stated above, I **CONCLUDE** that respondent has established that Wells was not a tenured employee at the time her employment was non-renewed, and she did not retain tenure as a secretary when she transferred to the ATC position. There are no genuine material facts in dispute that require an evidentiary hearing.

ORDER

I **ORDER** that the Mercer County Special Services School District's motion for summary decision is **GRANTED**, and petitioner's cross motion for summary decision is **DENIED**.

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

This recommended decision may be adopted, modified, or rejected by the **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 **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.

March 23, 2026

DATE



KIM C. BELIN, ALJ

Date Received at Agency:

March 23, 2026

Date Mailed to Parties:

March 23, 2026

KCB/gd

APPENDIX

Exhibits

For petitioner:

Letter brief with exhibits in support of petitioner's application for emergent relief

For respondent:

Letter brief, dated June 13, 2025, with exhibits in opposition to petitioner's application for emergent relief