

New Jersey Commissioner of Education

Final Decision

Jill Mortenson,

Petitioner,

v.

Board of Education of the Borough of Hopatcong,
Sussex 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.

This matter arises out of two separate reductions in force (RIF) implemented by the Hopatcong Board of Education (Board). Petitioner began employment with the Board as a health and physical education (PE) teacher in 2005. On May 7, 2018, petitioner was approved for a maternity leave of absence for the upcoming 2018-2019 school year. On May 14, 2018, the Board implemented its first RIF. Petitioner was not terminated, but three other teachers, including fellow PE teacher Gary Andolena, were terminated. On June 25, 2018, the Board re-hired Andolena.

In May 2019, petitioner was approved to extend her maternity leave for the upcoming 2019-2020 school year. In May 2020, the Board implemented its second RIF, and petitioner's employment was terminated, effective June 30, 2020. She was placed on the Board's preferred eligibility list for rehiring, and she was re-hired when another PE teacher resigned from the district, with an effective date of March 21, 2021.

Petitioner appealed, arguing that when Andolena was re-hired in 2018, it was as her maternity leave replacement. According to petitioner, *N.J.S.A. 18A:16-1.1* does not allow replacement teachers to earn seniority credit, and if Andolena's employment during the 2018-2019 and 2019-2020 school years did not count towards his seniority, then he would have been less senior than petitioner at the time of the May 2020 RIF, and he should have been terminated rather than petitioner. Petitioner sought reinstatement, as well as back pay, benefits, and emoluments retroactive to June 30, 2020. Because petitioner was re-hired during the course of the proceedings and continues to be employed by the Board, the remedy now at issue is solely back pay, benefits, and emoluments for the period from June 30, 2020 through March 21, 2021.

The Administrative Law Judge (ALJ) conducted a thorough review of the Board's actions and found that the Petitioner was not entitled to back pay, benefits, and emoluments for the period from June 30, 2020 through March 21, 2021 based upon the appropriate seniority analysis. Importantly, a review of the record also demonstrated that the petitioner's maternity leaves did not have any impact on the two RIFs that were implemented by the Board.

First, the ALJ reviewed the Board's hiring practices earlier in petitioner's career, when she was approved for a leave of absence during the 2014-2015 school year. In that instance, the ALJ noted that the Board hired teacher Meghan Tobin as petitioner's replacement. In doing so, the Board's meeting minutes showing Tobin's appointment specifically stated that Tobin was designated as a replacement for petitioner, and they listed a start and end date for her employment. When the Board approved an extension of petitioner's leave for the 2015-2016 school year, it again appointed Tobin, and its meeting minutes specifically designate Tobin as petitioner's replacement, with a start and end date for her employment. The meeting minutes for both years also reflect other

appointments of replacement teachers for different employees taking leaves of absence, all specifically designating the hired teachers as replacements.

The ALJ found these designations significant, because when Andolena was re-hired for the 2018-2019 school year, there is no indication in the Board's meeting minutes that he was being hired as a replacement for petitioner or any other teacher, nor was there any end date listed for his employment. Furthermore, when petitioner extended her maternity leave of absence for the 2019-2020 school year, Andolena was not mentioned in the minutes. The ALJ found that the Board was diligent in specifying when someone is hired as a replacement teacher and if Andolena was petitioner's replacement, the Board's minutes would have reflected that – but they did not. While petitioner argued that she was told Andolena was her replacement, the ALJ found that petitioner provided no testimony or evidence to support that claim. Based on these findings, the ALJ concluded that Andolena was not re-hired as a replacement for petitioner. He, therefore, earned service credit for the 2018-2019 and 2019-2020 school years, and he had more service credit than petitioner at the time of the second RIF.

Additionally, the ALJ concluded that even if Andolena was petitioner's maternity leave replacement, the statute that petitioner relied on did not bar him from earning service credit as a replacement teacher. *N.J.S.A. 18A:16-1.1* provides that a person designated as a replacement may not "acquire tenure" in the position, but it does not state that a person who is already tenured may not earn service credit in a replacement position. Because Andolena was already tenured, he was entitled to the protection of the tenure laws, and the Board was statutorily required to award him service credit.

Upon review, the Commissioner concurs with the ALJ that Andolena was not hired as a maternity leave replacement for petitioner. The New Jersey Supreme Court held in *Bridgewater-*

Raritan Educ. Assn'n v. Bd. of Educ. of Bridgewater-Raritan Sch. Dist., 221 N.J. 349, 361 (2015) that a board of education is required to make an employee aware that they are being employed as a replacement to ensure that they are aware that their time in service will not count towards the acquisition of tenure. A detailed review of the Board's minutes demonstrates that it regularly complied with this requirement, specifically designating many appointments as replacements - including replacements for petitioner earlier in her career. The Board's action in re-hiring Andolena in 2018 did not bear any such designation, neither referring to him as a replacement nor listing an end date for his employment to coincide with the end of petitioner's maternity leave. Furthermore, the ALJ correctly concluded that even if Andolena had been a maternity leave replacement for petitioner, he still would have earned service credit for the years at issue because he was already tenured at the time, and *N.J.S.A. 18A:16-1.1* only applies to the acquisition of tenure, not the earning of service credit. For both of these reasons, Andolena was more senior to petitioner at the time of the second RIF.

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 27, 2026
Date of Mailing: July 27, 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

SUMMARY DECISION

OAL DKT. NO. EDU 10101-20

AGENCY DKT NO. 179-8/20

JILL MORTENSON,

Petitioner,

v.

BOARD OF EDUCATION OF THE

BOROUGH OF HOPATCONG,

SUSSEX COUNTY,

Respondent.

Kathleen Naprstek Cerisano, Esq., for petitioner (Zazzali, P.C., attorneys)

Richard H. Bauch, Esq., for respondent (Porzio, Bromberg & Newman, P.C., attorneys)

Record Closed: April 1, 2026

Decided: April 27, 2026

BEFORE **PATRICE E. HOBBS**, ALJ:

STATEMENT OF THE CASE

Andolena, a tenured teacher terminated under a reduction in force (RIF), was rehired by the Board of Education of the Borough of Hopatcong (respondent) while

petitioner, Jill Mortenson, was on leave. Was Andolena rehired to replace Mortenson, and does he earn service credit? An employer must notify any prospective employee that they are being hired as a temporary replacement employee under N.J.S.A. 18A:16-1.1. and tenured employees rehired after a RIF continue to earn service credit under N.J.S.A. 18A:28-12.

PROCEDURAL HISTORY

On May 26, 2020, Mortenson, who was on an approved maternity leave of absence and scheduled to return in September 2020, was notified by the respondent that she was a RIF instructor, subject to recall if there was an opening. On August 21, 2020, petitioner filed a timely appeal. On October 14, 2020, respondent filed their answer to the appeal. On October 16, 2020, the case was transmitted to the Office of Administrative Law (OAL) under N.J.S.A. 52:14B-1 to -15 and the act establishing the OAL, N.J.S.A. 52:14F-1 to -13, for a hearing as a contested case under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to 21.6 and N.J.S.A. 52:14B-1 to -15. The case was assigned to the Honorable Leslie Celentano. On January 23, 2025, Judge Celentano retired, and the case was transferred to me. Several status conferences were held, and on February 9, 2026, the parties agreed to a briefing schedule for joint motions for summary decision. On March 4, 2026, the parties submitted their motions. On April 1, 2026, the parties submitted their oppositions, and, on that date, I closed the record.

FINDINGS OF FACT

Based upon the documents the parties submitted in support of and in opposition to the motions for summary decision, I **FIND** the following **FACTS**:

Mortenson has held a standard instructional certificate with endorsements in physical education since 2006 and health and physical education since October 2010. (J-1.)

School Years 2006-2014

On September 1, 2005, Mortenson began employment with respondent as a full-time teacher of health and physical education at the Tulsa Trail Elementary School. She remained in that position from 2005 through 2009 and accumulated four years of service credit.

Gary Andolena began working at Hopatcong High School as a health and physical education teacher in 2007.

From 2009 through the end of the 2013–2014 school year, Mortenson taught physical education at Tulsa Trail Elementary School, Hopatcong Middle School, Hudson Maxim Elementary School and Hopatcong High School. Andolena was also continuously employed by respondent.

At the end of the 2013–2014 school year, Mortenson had accumulated nine years of service credit, and Andolena had accumulated seven years of service credit.

School Years 2014–2018

In November of the 2014–2015 school year, Mortenson was approved for a maternity leave of absence. Respondent hired Meghan Tobin as Mortenson's designated maternity leave replacement teacher. (J-2.) The respondent's board minutes state that Tobin was hired as the maternity leave replacement for Mortenson. These minutes detail Tobin's salary, date of hire and last date of employment. They also list the employment of Whittaker replacing Motyka (J-2 at 12(f)), Vincent replacing Jaksetic (J-2 at 12(g)), and Ward substituting for the absence of Murray (J-2 at 12(i)). While Mortenson was on leave, she earned six-tenths of a year of service credit because she had utilized her accrued sick time.

Respondent approved an extension of Mortenson's maternity leave for the 2015–2016 school year. (J-3.) Respondent hired Tobin as Mortenson's designated maternity leave replacement teacher. (J-4.) The respondent's board minutes state that

Tobin was hired as the maternity leave replacement for Mortenson. These minutes detail Tobin's salary, date of hire and last date of employment. They also state that Blazier replaced Fersch (J-4 at 13(f)), Meyer-Pflug replaced Sienkiewicz (J-4 at 13(g)), Melekos replaced Rodriguez (J-4 at 13(i)), Moschella was hired as maternity leave replacement for Martin (J-4 at 13(k)), and Canizaro replaced Ibaceta (J-4 at 13(m)). While Mortenson was on leave, she earned one-tenth of a year of service credit because she had utilized her accrued sick time. Mortenson returned to teach physical education for respondent for the 2016–2017 and 2017–2018 school years.

May 7, 2018

Mortenson was approved for a maternity leave of absence for the 2018–2019 school year. (J-5.)

May 14, 2018

On May 14, 2018, Mortenson was involuntarily transferred to Hopatcong Middle School. (J-6.) On that same date, respondent terminated employees under N.J.S.A. 18A:28-9, permitting a RIF for economic reasons. The RIF terminated Andolena and three other teachers, including another physical education teacher. The employees were terminated with an effective date of June 30, 2018. At that time, Mortenson had already been approved for maternity leave and was not placed on the list of RIF employees. RIF employees are placed on a priority list for rehire if a position becomes available.

June 25, 2018

On June 25, 2018, Mortenson was involuntarily transferred from Hopatcong Middle School to Hopatcong Middle School and Hopatcong High School. (J-7.) Mortenson stated that she spoke with the superintendent's administrative assistant and the interim superintendent regarding the appointment of her maternity leave replacement. Mortenson stated that she was told that her maternity leave replacement was Andolena. There were no minutes, resolutions or testimony to support that statement.

At the June 25, 2018, board meeting, the respondent's board minutes state that Andolena was approved for full-time reemployment at Hopatcong High School and reappointed as a physical education teacher for the 2018–2019 school year with an effective date of September 1, 2018. (J-7.) These minutes do not state that Andolena was hired as the maternity leave replacement for Mortenson. These minutes only list his date of rehire and salary. At the time of Andolena's reappointment, he was on the RIF list, subject to recall based on seniority. The other physical education teacher who was terminated under the 2018 RIF was not recalled.

As of June 30, 2018, Mortenson had accumulated eleven and seven-tenths years of service credit, and Andolena had accumulated eleven years of service credit.

School Year 2018–2019

As of April 29, 2019, Mortenson was still on her maternity leave. On that date, respondent approved a contract renewal for Mortenson and Andolena for the 2019–2020 school year. (J-11.) On May 6, 2019, Mortenson was approved for a leave of absence for the 2019-2020 school year. (J-12.) Mortenson stated that respondent advised her that they were not hiring a maternity leave replacement for her. On May 16, 2019, Brian Collins and Art DiBendetto exchanged emails confirming that Mortenson was not returning for 2019–2020. (J-13.) DiBendetto stated in the email that they did not need an extra physical education teacher for the 2018–2019 school year and, therefore, would not be replacing her for the 2019–2020 school year.

Mortenson earned an additional three-tenths of a year of service credit because she had utilized her accrued sick time. Andolena earned a year of service credit.

As of June 30, 2019, both Mortenson and Andolena had accumulated twelve years of service credit.

School Year 2019–2020

On May 4, 2020, Mortenson was still on her maternity leave. On that date, respondent's board minutes approved a contract renewal for tenured teachers, including Mortenson and Andolena, for the 2020–2021 school year. (J-14.) These minutes do not indicate that any maternity leave replacement teachers were hired for the 2020–2021 school year.

On May 18, 2020, respondent rescinded its employment of Mortenson for the 2020–2021 school year. (J-15.) On May 26, 2020, DiBendetto wrote to Mortenson notifying her that respondent did not need a physical education teacher for the 2020–2021 school year and that she would be placed on the RIF list, subject to recall. (J-16.) On September 28, 2020, respondent eliminated the position of physical education teacher at the Middle School, which resulted in her termination as part of a 2020 RIF. Mortenson was placed on the respondent's preferred eligibility list. (J-17.)

Mortenson earned one-tenth of a year of service credit because she had utilized her sick time. Andolena earned a year of service credit.

As of June 30, 2020, Mortenson had accumulated twelve and one-tenth years of service credit because she had utilized her accrued sick time, and Andolena had accumulated thirteen years of service credit.

On January 25, 2021, respondent approved the resignation of a physical education teacher at the Hopatcong High School. (J-18.) On February 22, 2021, respondent approved the recall and reappointment of Mortenson as a health and physical education teacher at Hopatcong High School, effective March 21, 2021. (J-19.)

CONCLUSIONS OF LAW

Summary decision “may be rendered if the papers and discovery[,] which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of

law.” N.J.A.C. 1:1-12.5(b). This rule is substantially like the summary judgment rule embodied in R. 4:46-2. See Judson v. Peoples Bank & Trust Co. of Westfield, 17 N.J. 67, 74 (1954). All inferences of doubt are drawn against the party filing the motion and in favor of the party against whom the motion is directed. Id. at 75. The judge’s function is to determine whether there are genuine issues of fact to be adjudicated. Brill v. Guardian Life Ins. Co., 142 N.J. 520 (1995).

Having read the briefs and certifications and having reviewed the exhibits, I **CONCLUDE** that no issues of material fact exist and that the case is ripe for summary decision.

New Jersey Tenure Laws

The tenure laws, N.J.S.A. 18A:28-1 to -18 (Act), define the conditions under which teaching staff members are entitled to the security of tenure. Tenure has been described as a “statutory right” imposed upon a teaching staff member’s contractual employment status. Zimmerman v. Newark Bd. of Educ., 38 N.J. 65, 72 (1962). The objective of the tenure statutes is to protect competent and qualified teaching staff members, after a probationary period, from removal for “unfounded, flimsy, or political reasons.” Id. at 71. They are “designed to aid in the establishment of a competent and efficient school system by affording to principals and teachers a measure of security in the ranks they hold after years of service.” Viemeister v. Prospect Park Bd. of Educ., 5 N.J. Super. 215, 218 (App. Div. 1949). Teachers who have satisfied the statutory conditions for tenure are entitled to tenure unless they come within the explicit exceptions, such as N.J.S.A. 18A:16-1.1. Spiewak v. Bd. of Educ., 90 N.J. 63, 81 (1982).

Under the Act, teachers who are tenured must not be dismissed or reduced in compensation except for specific reasons such as inefficiency, incapacity, or conduct unbecoming. N.J.S.A. 18A:28-5(a) and (b). However, a board of education can reduce the number of teaching staff members employed in the district whenever it is advisable to abolish any such positions for reasons of economy or for other good cause. N.J.S.A. 18A:28-9. Dismissals resulting from any such reduction are commonly referred to as a reduction in force (RIF) and must not be made by reason of residence, age, sex, marriage,

race, religion or political affiliation, but rather are made based on seniority. N.J.S.A. 18A:28-10. After a RIF, a teaching staff member's right to recall is governed by N.J.S.A. 18A:28-11 and N.J.A.C. 6A:32-5.1. Under N.J.S.A. 18A:28-12, a teaching staff member who has been terminated under a RIF must remain on a preferred eligibility list and be reemployed whenever a vacancy occurs in a position for which such person shall be qualified. "A vacancy exists when the teacher leaves the position permanently, as in the case of a resignation or a retirement." Lammers v. Bd. of Educ., 134 N.J. 264, 268 (1993).

If any teaching staff member is dismissed because of a RIF and is on the preferred eligible list in order of seniority for reemployment when a vacancy occurs, that employee will be given full recognition for previous years of service. N.J.S.A. 18A:28-12; See also, N.J.A.C. 10A:15-2.5.

The district can designate another person to act in place of any employee during an absence, subject to the provisions of N.J.S.A. 18A:17-13. This replacement is legal and binding as if done and performed by the employee on leave, but in performing the replacement duties, the replacement will not acquire tenure in that position. N.J.S.A. 18A:16-1.1. An absence is the place of "another which that other will reclaim when the period of absence is over." Sayreville Educ. Ass'n v. Bd. of Educ., 193 N.J. Super 424, 474 (1984).

A person who is offered specific employment as a replacement does not have the normal expectation that their time in service will count towards tenure. Bridgewater-Raritan Educ. Ass'n v. Bd. of Educ. of Bridgewater-Raritan Sch. Dist., 221 N.J. 349, 361 (2015). The school board must provide notice to that employee that they are being employed as a "replacement." Id. This decision was revisited in 2022 in Parsells v. Bd. of Educ. of Borough of Somerville, 472 N.J. Super. 369 (App. Div. June 6, 2022). In Parsells, a tenured, full-time teacher accepted a part-time position to spend time with her family. She had intended to return full-time when her family's needs were less demanding. The board approved her transfer from full-time to part-time but did not inform her that she relinquished her rights as a full-time teacher. The Court concluded that the board must inform teachers of adverse job consequences before they are reassigned to a replacement teaching assignment. Id. at 380.

2005–2015

Mortenson began her employment with the respondent in 2005 and began earning service credit. Andolena began his employment with respondent in 2007 and began earning service credit. On June 30, 2014, Mortenson had nine years of service credit, and Andolena had seven years. At the end of the 2013–2014 school year, Mortenson took her first leave of absence. Tobin was appointed by respondent to replace Mortenson during this leave of absence. On June 30, 2015, Mortenson extended her leave of absence for the 2015–2016 school year. Tobin was again appointed by respondent to replace Mortenson during this leave of absence.

I **CONCLUDE** that Mortenson was absent for the school years 2014–2015 and 2015–2016, Tobin was hired as her maternity leave replacement in her absence, and Tobin was not filling a vacant spot. I further **CONCLUDE** that under the Act, Tobin’s two school years as the maternity leave replacement would not be counted as service credit so that she could acquire tenure under N.J.S.A. 18A:16-1.1.

2016–2018

Mortenson and Andolena were employed by respondent for the school years 2016–2017 and 2017–2018, and they each earned two years of service credit. As of June 30, 2018, Mortenson had accumulated eleven and seven-tenths years of service credit, and Andolena had accumulated eleven years of service credit. There is no dispute that, on June 30, 2018, Mortenson had seven-tenths more years of seniority than Andolena.

2018–2019

On May 7, 2018, respondent approved Mortenson’s requested leave of absence. On May 14, 2018, Andolena was terminated under a RIF and placed on the recall list. Mortenson was not terminated under that RIF. She was on leave. On June 25, 2018, more than a month later, Andolena was **rehired** as a physical education teacher, with an effective date of September 1, 2018.

The gravamen of Mortenson's appeal is that when Andolena was rehired in 2018, he was hired as her maternity leave replacement, and therefore, he would not earn any service credit for the 2018–2019 school year. Mortenson argues that she and others spoke to members of the board who assured her that Andolena was, in fact, her replacement for her maternity leave. There is no evidence or testimony to support this claim. None of the respondent's board minutes for 2018 indicate that a replacement teacher was being hired. Rather, the minutes demonstrate that Mortenson was approved for leave and that Andolena and three other teachers, including a physical education teacher, were terminated under a RIF. The minutes also demonstrate that Andolena was the only teacher who was recalled for the 2018–2019 school year and was rehired as a permanent teacher.

I **CONCLUDE** that Mortenson was absent for the school year 2018–2019, and Andolena was not rehired as a maternity leave replacement for Mortenson for the 2018–2019 school year. Andolena had been rehired as a permanent physical education teacher to fill a vacant spot.

2019–2020

Mortenson argues that Andolena continued to fill the role as her maternity leave replacement teacher for the 2019–2020 school year and that when she was slated to return in the fall of 2020, she should have resumed her role as health and physical education teacher. If she had resumed her teaching role, Andolena would have been terminated by the 2020 RIF. Respondent argues that the regulations are clear. If the respondent replaces an employee during an absence, the respondent must specifically state who the employee is replacing and the term of the replacement.

I agree. There is no dispute that in 2014 and 2015, the respondent hired Tobin as Mortenson's replacement. In both sets of the respondent's board minutes, the respondent specifically designated Tobin as Mortenson's replacement and detailed her salary, the beginning date, and the ending date of her employment. In 2019, when Mortensen extended her leave of absence, Andolena was not mentioned in the minutes. Andolena did not have a temporary position; he had been rehired to a vacant position in 2018. More

importantly, on May 4, 2020, the respondent's board minutes approved contract renewals for tenured teachers for the 2020–2021 school year, which included Mortenson and Andolena. If Andolena had been retained as the continued maternity leave replacement for Mortenson for the 2019–2020 school year, he would not have been listed on the contract renewal for tenured teachers for the 2020–2021 school year. When Mortenson took two successive years of leave, the 2014–2015 school year and 2015–2016 school year, respondent stated explicitly in their board minutes that Tobin was her replacement. Likewise, if Andolena had been designated as Mortenson's maternity leave replacement for the 2019–2020 school year, it would have been stated explicitly in the minutes. The minutes were silent as to any leave replacement for Mortenson. In fact, a review of the relevant portions of the respondent's board minutes demonstrates that the respondent diligently specifies when someone is hired as a replacement for another person and when someone is hired as a maternity leave replacement. (See J-2 at 12(f), (g) and (l) and J-4 at 13(f), (g), (i), (j), (k) and (m).)

Finally, respondent must inform a teacher of adverse job consequences before being assigned to a replacement teaching assignment. Here, the respondent has shown by a preponderance of the evidence that they do provide such notice to any teacher whom they hired as a replacement. The respondent's minutes for October 27, 2014, and July 27, 2015, specifically detail all employees who are hired as replacements.

Respondent has shown by a preponderance of the evidence that Andolena was not a maternity leave replacement for Mortenson in 2019–2020. Further, respondent has shown by a preponderance of the evidence that if Andolena were indeed a replacement for Mortenson, he would have been explicitly designated as a maternity leave replacement for Mortenson.

I **CONCLUDE** that Mortenson was absent for the school year 2019–2020 and Andolena was not hired as a maternity leave replacement for Mortenson for the 2019–2020 school year. Andolena had been rehired as a permanent physical education teacher to fill a vacant spot.

Service Credit

When Mortenson was slated to return in 2020, she was told that there was a position for her. However, respondent stated that they did not, in fact, have a position for Mortenson. Respondent rescinded her employment, and she was placed on the 2020 RIF list. Mortenson argues that Andolena did not earn any service credit for 2018–2019 or 2019–2020 because he was her maternity leave replacement. Mortenson further argues that since he would not have earned these additional two years of service credit, she would have been more senior to Andolena, and therefore, he should have been terminated by the 2020 RIF. Respondent argues that even if Andolena had been hired as her replacement for those years, which respondent adamantly denies, he was a tenured teacher rehired after a RIF and would continue to earn service credit upon being rehired.

Assuming *arguendo* that Andolena was a maternity leave replacement teacher, would he have earned any service credit for school years 2018–2019 and 2019–2020? I **CONCLUDE** that he would. The regulations state how and when tenure is acquired, and they also specify the exceptions to obtaining tenure. As Spiewak explained, a teacher who satisfies the statutory conditions for tenure is entitled to tenure unless it falls within an exception such as N.J.S.A. 18A:16-1.1. Spiewak at 81. Petitioners argue that N.J.S.A. 18A:16-1.1 applies to Andolena because he was hired as her replacement. However, N.J.S.A. 18A:16-1.1 states explicitly that teachers do not **acquire** tenure if they are designated as a replacement. (Emphasis added.) N.J.S.A. 18A:16-1.1 is not applicable to Andolena because he has already attained tenure. That regulation is applicable only to teachers who are seeking to **acquire** tenure. Simply put, replacement teaching years are not service years for teachers who are not tenured. Andolena was a tenured teacher prior to his termination under the RIF. When he was rehired, respondent was statutorily required to credit him with his eleven years of seniority because he was terminated under a RIF.

In addition, when he was rehired, he was rehired as a permanent teacher and was subject to the Act. Moreover, the respondent's board minutes regarding rehiring Andolena do not state that he was a maternity leave replacement. Nor do these minutes list a

specified period for employment as they did for Tobin. Stated otherwise, Andolena was rehired as a permanent physical education teacher to fill a vacant spot effective September 1, 2018. As a permanent, tenured teacher, rehired after a RIF, Andolena retained his prior years of service and was eligible to continue to earn service years for his employment from 2018–2019 to 2019–2020. No evidence or testimony was presented regarding any partial service credit that Mortenson earned while she was on leave in 2018–2019 or 2019–2020. However, the evidence presented for her prior absences demonstrates that any service credit she earned for those school years would have been less than one year per school year of absence, and therefore less than Andolena.

Based upon the findings of fact, conclusions of law, and discussion above, I must **CONCLUDE** that Andolena was not hired as a maternity leave replacement for Mortenson, that Andolena was properly credited with service years for the school years 2018–2019 and 2019–2020, that Andolena was more senior to Mortenson at the time of the 2020 RIF, and that Mortenson’s appeal must be **DISMISSED**.

ORDER

Based upon the foregoing, I **ORDER** that respondent’s motion for summary decision is **GRANTED** and that petitioner’s motion for summary decision is **DENIED**. I further **ORDER** that the petitioner’s appeal is **DISMISSED**.

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 Acting 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 under 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.

April 27, 2026

DATE



PATRICE E. HOBBS, ALJ

Date Received at Agency:

April 27, 2026

Date Mailed to Parties:

April 27, 2026

APPENDIX

Documents

Moving papers for petitioner:

Motion for Summary Decision, dated March 4, 2026

Opposition to Summary Decision, dated April 1, 2026

Moving papers for respondent:

Motion for Summary Decision, dated March 4, 2026

Opposition to Summary Decision, dated April 1, 2026

Joint Exhibits

- J-1 Teacher certification from the Department of Education for Jill Mortenson
- J-2 Relevant portions of the minutes of the BOE meeting on October 27, 2014
- J-3 Relevant portions of the minutes of the BOE meeting on May 11, 2015
- J-4 Relevant portions of the minutes of the BOE meeting on July 27, 2015
- J-5 Relevant portions of the minutes of the BOE meeting on May 7, 2018
- J-6 Relevant portions of the minutes of the BOE meeting on May 14, 2018
- J-7 Relevant portions of the minutes of the BOE meeting on June 25, 2018
- J-8 Job description for the administrative assistant to the superintendent
- J-9 Relevant portions of the minutes of the BOE meeting on July 23, 2018
- J-10 Relevant portions of the minutes of the BOE meeting on January 28, 2019
- J-11 Relevant portions of the minutes of the BOE meeting on April 29, 2019
- J-12 Relevant portions of the minutes of the BOE meeting on May 6, 2019
- J-13 Emails between Collins and DiBenedetto, dated May 16, 2019
- J-14 Relevant portions of the minutes of the BOE meeting on May 4, 2020
- J-15 Relevant portions of the minutes of the BOE meeting on May 18, 2020
- J-16 Letter from Superintendent DiBenedetto to Mortenson, dated May 26, 2020
- J-17 Relevant portions of the minutes of the BOE meeting on
September 28, 2020

J-18 Relevant portions of the minutes of the BOE meeting on January 25, 2021

J-19 Relevant portions of the minutes of the BOE meeting on February 22, 2021