

MIDDLETOWN TOWNSHIP EDUCATION ASSOCIATION,	:	
	:	
PETITIONER,	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE TOWNSHIP OF MIDDLETOWN, MONMOUTH COUNTY,	:	DECISION
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

Petitioning Education Association alleged that the Board improperly employed an uncertified volunteer to instruct students in Spanish during the extended absence of the district’s regular Spanish teacher. The Board argued that the teacher was not an employee, that she was supervised by a certified teacher, that petitioner has no standing to raise its claims, and that the matter is moot.

The ALJ determined that petitioner had standing, and that the case was not moot because it presented a situation capable of repetition and involving the public interest. However, the ALJ dismissed the petition based on a determination that it is not contrary to law to permit a volunteer to teach if supervised by a certified teacher.

The Commissioner affirmed dismissal of the petition, but not for the reasons set forth by the ALJ. The Commissioner found the matter to be moot because the arrangement at issue had ceased to exist in the district, and because a newly adopted amendment to the Professional Licensure Standards Code, providing for conditional certification of world language teachers, now sets forth a mechanism to address the situation confronted by the Board.

March 7, 2001

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The record in this matter and the Initial Decision of the Office of Administrative Law have been reviewed. Petitioner’s exceptions and the Board’s reply thereto were submitted in accordance with *N.J.A.C. 1:1-18.4*, and were duly considered by the Commissioner in reaching his determination.

Upon careful and independent review, the Commissioner determines to affirm the Administrative Law Judge’s (ALJ’s) dismissal of the petition in this matter. However, he does so not for reasons expressed by the ALJ, but because the matter is moot, as set forth below.

Initially, the Commissioner notes that Ms. Abreu, the volunteer whose services are at issue, ceased her volunteer services approximately 30 days before petitioner’s claim was filed. “\*\*\*[A]n action is considered ‘moot’ when it no longer presents a justiciable controversy because the issues involved have become academic. A case is moot when a determination is sought on a matter which, when rendered, cannot have any practical effect on the existing

controversy.” *Ronald Victoria v. Board of Education of the Township of Woodbridge, Middlesex County*, 1982 *S.L.D.* 1, 5.

Moreover, the potential for recurrence of the Board’s use of an uncertified volunteer to teach world language classes appears minimal, and resolution of the instant matter is no longer an issue of substantial public interest. On January 3, 2001, subsequent to the closing of the record in this matter, the State Board of Education adopted *N.J.A.C.* 6:11-4.8, an amendment to the Professional Licensure and Standards code, establishing a mechanism for conditional certification of world language teachers to address circumstances such as occurred in this matter.

Accordingly, for the reasons expressed above, the petition is hereby dismissed as moot.

IT IS SO ORDERED.\*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 7, 2001

Date of Mailing: March 8, 2001

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\* This decision, as the Commissioner’s final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.