

SHIRLEY FINK, :  
 :  
 PETITIONER, : COMMISSIONER OF EDUCATION  
 :  
 V. : DECISION  
 :  
 BOARD OF EDUCATION OF :  
 HUNTERDON COUNTY POLYTECH, :  
 HUNTERDON COUNTY, :  
 :  
 RESPONDENT. :  
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SYNOPSIS

Petitioner, a tenured secretarial employee, asserted that the respondent Board violated her tenure rights when it retained full-time, non-tenured secretarial employees and reduced her job to an hourly part-time position. Petitioner claimed eligibility for the position of full-time secretary, asserted that the duties and responsibilities of the position of coordinator of adult education are essentially those of a secretary, and that the individual holding this position does not have tenure in the secretarial position.

The ALJ found, *inter alia*, that: mere overlap in duties does not mean that two positions are equivalent for tenure purposes; if a new position is similar to a tenure holder's abolished position, but also requires additional duties or different responsibilities, the newly created position is not considered substantially similar to the former position; in this case, the duties of an adult education coordinator involve higher level responsibilities that differ from the clerical and supportive responsibilities of a secretarial position; therefore, the two positions are not substantially similar; and, while there may have been some slight overlap in the duties of secretary and those of adult education coordinator, the petitioner did not perform virtually all of the duties and responsibilities of an adult education coordinator during the time that she held the position of a tenured secretary. Accordingly, the ALJ concluded that respondent Board did not violate petitioner's tenure rights, and ordered the petition dismissed.

Upon a thorough and independent review of the record in this matter the Commissioner concurred with the findings and conclusions of the ALJ and adopted the Initial Decision as the final decision in this matter. The petition was dismissed.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

November 2, 2009

OAL DKT. NO. EDU 6435-06  
AGENCY DKT. NO. 262-8/06

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon review, the Commissioner concurs that the Adult Education Coordinator position is not secretarial in nature, so that the respondent Board of Education did not violate petitioner's tenure rights by reducing her employment to part-time while retaining a full-time employee in the coordinator position.

Accordingly, for the reasons expressed therein, the Initial Decision of the OAL dismissing petitioner's appeal is adopted as the final decision in this matter.

IT IS SO ORDERED.\*

COMMISSIONER OF EDUCATION

Date of Decision: November 2, 2009

Date of Mailing: November 2, 2009

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\* Pursuant to *P.L. 2008, c. 36*, Commissioner decisions are appealable to the Superior Court, Appellate Division.