

#540-10 (OAL Decision: Not yet available online)

BRIDGEWATER-RARITAN EDUCATION ASSOCIATION,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE BRIDGEWATER-RARITAN SCHOOL DISTRICT, SOMERSET COUNTY,	:	DECISION
	:	
RESPONDENT.	:	
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SYNOPSIS

Petitioner asserted that the Board improperly disavowed and repudiated its policy of crediting employment as a maternity leave replacement teacher toward the acquisition of tenure, specifically referencing eighteen teachers who received a letter in September 2009 from the district superintendent which stated that only time worked in a permanent position can be counted toward the three years required to earn tenure. The Board sought dismissal of the petition, contending that its claims were not ripe for adjudication, and filed a motion for summary judgment.

The ALJ found that: there are no disputed material facts in this matter, and the Board is entitled to judgment as a matter of law; for a matter to be adjudicated, a party must have suffered a distinct injury or harm that was caused by the adverse party and can be remedied by the court; in this case, the petition asserts no loss of pay, rank, position, or any other benefit by the staff members who received the controverted letter from the district superintendent; subsequent to the filing of the petition, three of the teachers referenced therein were terminated for financial reasons, but even considering the changes in their status, the petition is still not ripe for adjudication; and the petition cannot properly be viewed as one for a declaratory ruling in accordance with *N.J.A.C. 6:3-2.1*. Accordingly, the ALJ granted the Board's motion to dismiss the petition.

Upon full consideration, the Commissioner concurred with the ALJ for the reasons comprehensively presented in her recommended decision, and adopted the Initial Decision of the OAL as the final decision in this matter.

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.
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December 15, 2010

OAL DKT. NO. EDU 1199-10  
AGENCY DKT. NO. 358-12/09

BRIDGEWATER-RARITAN EDUCATION ASSOCIATION,	:	
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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon full consideration, the Commissioner concurs with the Administrative Law Judge that summary decision is appropriately granted to the Board as the claims advanced in the instant petition of appeal are not ripe for adjudication, necessitating their dismissal.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter – for the reasons clearly articulated therein – and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.\*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: December 15, 2010

Date of Mailing: December 15, 2010

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\* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).