

CATHERINE BUONANNO, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF : DECISION
THE GLOUCESTER COUNTY :
VOCATIONAL SCHOOL DISTRICT, :
GLOUCESTER COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner – formerly employed as a teacher of English in respondent’s school district – challenged the District’s decision to non-renew her contract for the 2011-2012 school year. Her appeal alleged, *inter alia*, that: she had been subjected to an illegal prior restraint on her freedom of speech; her poor evaluations were in retaliation for exercising her First Amendment rights; the respondent Board violated the New Jersey Law Against Discrimination (LAD) by creating a hostile work environment; she was the target of defamation; the Board’s teacher observation methods were improper; her employment contract was breached; and the Board’s decision not to renew said contract was arbitrary and capricious in violation of *N.J.S.A. 18A:27-4.1*. By Order dated May 3, 2013, as amended June 18, 2013, partial summary decision was granted on behalf of the Board as to those issues regarding jurisdiction to hear petitioner’s claims of violation of the LAD, defamation, and breach of contract. At the conclusion of petitioner’s case, the Board filed a motion for involuntary dismissal, which was granted on behalf of the Board on the issues of alleged personal bias or improper motive, and on the issue regarding petitioner’s First Amendment claims. Involuntary dismissal was denied on behalf of the Board on the issue of whether the Board acted arbitrarily and capriciously in failing to renew petitioner’s contract.

The ALJ found, *inter alia*, that: *N.J.S.A. 18A:27-4.1* provides that a board of education shall renew an employment contract only upon recommendation of the chief school administrator and a majority vote of the full membership of the board, and renewal shall not be withheld for arbitrary and capricious reasons; the petitioner bears the burden of proving that the underlying reasons for the board’s actions were improper; in the instant matter, the Board strictly complied with the statutory requirements for teacher evaluations, and petitioner failed to prove that the Board acted improperly in conducting her evaluations; although petitioner had excellent reviews during her first two years of teaching honors students, her reviews declined in her third year when she was required to teach non-honors students; petitioner admitted that she had difficulty with behaviorally-challenged students, characterized as “trade students”; the Gloucester County Institute of Technology is a vocational school, with a student population of both vocational, or trade, students and college-bound pupils; the respondent Board had valid reasons to consider the petitioner’s problems in teaching classes with students of differing abilities; unsatisfactory classroom performance is a valid reason for a Board to conclude that tenure should not be granted. The ALJ concluded that the Board did not act in an arbitrary or capricious manner in failing to renew the petitioner’s contract. Accordingly, the ALJ affirmed the Board’s actions, and dismissed the petition.

Upon comprehensive review, the Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision of the OAL as the final decision in this matter. The petition was dismissed.

<p>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.</p>

March 10, 2016

OAL DKT. NO. EDU 11786-11
AGENCY DKT. NO. 218-8/11

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the petitioner, Catherine Buonanno.¹

Upon a comprehensive review of the record in this matter, the Commissioner concurs with the Administrative Law Judge (ALJ) – for the reasons thoroughly set forth in the Initial Decision – that the Board’s decision to non-renew the petitioner for the 2011-2012 school year was not arbitrary capricious or unreasonable. Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: March 10, 2016

Date of Mailing: March 10, 2016

¹ The petitioner’s exceptions consisted of a copy of her written closing argument, which was filed at the OAL and previously considered by the ALJ.

² Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division.