

EDU #6257-97S
C # 350-99
SB # 52-99

FLORENCE ADLER, :
PETITIONER-RESPONDENT, :
V. : STATE BOARD OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF SHAMONG,
BURLINGTON COUNTY, :
RESPONDENT-APPELLANT. :

Decided by the Commissioner of Education, November 3, 1999

For the Petitioner-Respondent, Zazzali, Zazzali, Fagella & Nowak
(Kathleen A. Naprstek, Esq., of Counsel)

For the Respondent-Appellant, John T. Barbour, Esq., of Counsel

Petitioner Florence Adler was a music teacher employed by the Board of Education of the Township of Shamong (hereinafter "Board") whose full-time position was reduced to part-time effective in the 1997-98 school year. By petition filed in June 1997, the petitioner challenged her reduction to part-time status, alleging that the Board had retained non-tenured and less senior teachers in full-time positions for which she was qualified.¹ Petitioner, who had achieved tenure as a result of her employment and who possessed certification only as a teacher of music, asserted claims to two

¹ We note that the petitioner served as a music teacher on a part-time basis during the 1997-98 and 1998-99 school years. On July 1, 1999, a staff retirement resulted in a vacancy for a full-time music teacher. The petitioner was advised that she would be employed in that assignment for the 1999-2000 school year.

positions—one as a music teacher and the other as a teacher of Computers/Technology to elementary school classes. The music position was held by Florence Tavani. The Computers/Technology assignments were filled by two non-tenured teachers who possessed elementary certification.

The Administrative Law Judge (“ALJ”) found that Tavani, an elementary teacher who also possessed a music endorsement, had acquired seniority as a music teacher by virtue of her assignment to teach music in 1967-68 and 1968-69 while the regular classroom teacher took her lunch break. As a result, Tavani had accrued more seniority as a music teacher than the petitioner, who had not begun her employment in the district until 1983. The ALJ therefore rejected the petitioner’s claim to that position. However, the ALJ found that the petitioner had been entitled to retention as a Computers/Technology teacher over the non-tenured teachers serving in that assignment, concluding that such assignment required only instructional certification rather than elementary certification.

The Commissioner adopted the ALJ’s determination with the clarification that Ms. Tavani’s superior seniority as a music teacher resulted from the fact that she was asked to teach the additional classes because the principal was aware that she possessed certification as both an elementary teacher and a music teacher. Agreeing with the ALJ that an elementary endorsement was not required to teach the Computers/Technology courses, the Commissioner directed the Board to compensate the petitioner for lost salary and emoluments.

The Board appealed the Commissioner's decision, arguing that elementary certification is required to teach the Computers/Technology course because that course integrates the core curriculum content standards.

Ms. Adler did not appeal the Commissioner's determination that Ms. Tavani had more seniority as a music teacher.

After careful review of the record in this case, we reverse the Commissioner's determination that an elementary endorsement is not required to teach the Computers/Technology courses at issue. In this respect, we stress that the State Board of Education is the ultimate administrative decision-maker and fact-finder in school matters. In the Matter of the Tenure Hearing of Tyler, 236 N.J. Super. 478, 485 (App. Div. 1989), certif. den., 121 N.J. 615 (1990); Dore v. Bedminister Tp. Bd. of Ed., 185 N.J. Super. 447, 452 (App. Div. 1982).

In South River Education Association et al. v. Board of Education of the Borough of South River, decided by the State Board November 4, 1987, aff'd by the Appellate Division, Docket #A-1695-87T8, April 16, 1990, the State Board considered the question of whether a district board could impose additional qualifications beyond those set forth in the certification regulations so as to permit it to hire an individual with nine credits in computer classes to teach a computer literacy course rather than select one of the certified elementary teachers on its preferred eligibility list. In deciding that question in the negative, the State Board found that, in the absence of a separate endorsement authorizing the holder to teach computer literacy, elementary certification was the appropriate certification. South River, supra, State Board's decision, slip op. at 8, n.3. Stressing that the State Board was the ultimate decision-maker in controversies arising

under the school laws and that the State Board's expertise was entitled to deference, the Appellate Division affirmed our determination that elementary certification was appropriate. Id., Appellate Division's decision, slip op. at 4-6.

Similarly, examination of the "Computer Curriculum" developed by the district's Computer Curriculum Committee (hereinafter "curriculum guide") settles that elementary certification was appropriate in the case now before us. Exhibit J-4, in evidence. The curriculum guide was intended to be functional in both the computer lab and the classroom, and it was intended to be expanded upon by the use of "individual teaching techniques and resources." Id. The curriculum guide was designed to be a "comprehensive guide of content standards, learning environments, related curriculum areas, and assessments for teachers to use in the computer lab as well as in classrooms from kindergarten to eighth grade." Id. The guide therefore focused on providing problem-solving learning experiences and employing computer assisted instruction, as well as the fundamental characteristics of technological systems.

Related curriculum areas are keyed to each computer content standard, and resource strategies are geared to the substantive curriculum areas such as language arts and social studies. The bibliography also reflects the district's intent to use the computer course as a vehicle for teaching the core curriculum standards. Given the character of the computer course designed by the district, elementary certification was appropriate for this assignment. In so concluding, we stress that the fact that there is no specific endorsement for computer courses does not mean that any instructional certification will qualify an individual to teach such courses in all cases. Rather, individuals must possess certification that is appropriate to the assignment and, as here,

that certification must be determined by careful reference to the particular curriculum that the district has adopted in a given case.

Thus, for the reasons set forth herein, we conclude that the petitioner was not qualified to teach Computers/Technology by virtue of her music certification, and we reverse the decision of the Commissioner on that issue.

Attorney exceptions are noted.²

Arnold G. Hyndman abstained.

July 5, 2000

Date of mailing _____

² We note that our Legal Committee granted the Board's request for leave to file exceptions to the Committee's report in this matter beyond the ten day period established by N.J.A.C. 6A:4-1.17, and that we have therefore considered the exceptions filed by the Board on June 7, 2000 in determining this case.