

EDU# 1509-96
C# 34-00
SB# 16-00

LYDIA ANDERSON, :

PETITIONER-APPELLANT, : STATE BOARD OF EDUCATION

V. : DECISION

STATE-OPERATED SCHOOL :
DISTRICT OF THE CITY OF NEWARK, :
ESSEX COUNTY, :

RESPONDENT- RESPONDENT. :

Decided by the Commissioner of Education, January 19, 2000

For the Petitioner-Appellant, Dan Solomon Smith, Esq.

For the Respondent-Respondent, Sills Cummis Radin Tischman Epstein
& Gross (Cheri L. Maxwell, Esq., of Counsel)

The State Board of Education affirms the decision of the Commissioner of Education substantially for the reasons expressed therein. In doing so, we reiterate that “absent constitutional constraints or legislation..., local boards of education have an almost complete right to terminate the services of a teacher who has no tenure and is regarded as undesirable by the local board.” Dore v. Bedminster Twp. Bd. Of Ed., 185 N.J. Super. 447, 456 (App. Div. 1982). Hence, while a non-tenured teacher is entitled to a statement of the reasons for his termination, Donaldson v. Bd. Of Ed. Of No. Wildwood, 65 N.J. 236 (1974); see N.J.S.A. 18A:27-3.2 (teaching staff members entitled to statement of reasons when contract is not offered for the succeeding year), such

teachers are not entitled to litigate their terminations in this forum unless the reason for the board's action is in violation of constitutional or legislatively conferred rights. Dore, supra. See Guerriero v. Board of Education of the Borough of Glen Rock, decided by the State Board of Education, February 5, 1986 (district board entitled to summary judgment where non-tenured teacher did not allege that nonreemployment was in violation of constitutional or legislatively-conferred rights).

Moreover, we stress that a non-tenured teacher does not have any protected interest in continued employment under the United States Constitution and, therefore, no right to due process protection under the Fourteenth Amendment. Board of Regents of State Colleges et al. v. Roth, 408 U.S. 564, 92 S. Ct. 2701 (1972). Nor do such teachers have a right to due process under the New Jersey Constitution. Donaldson, supra. Hence, there was no constitutional requirement that the Board conduct a hearing before terminating petitioner. As petitioner now argues for the first time, she may have had the right to a hearing under the applicable collective negotiations agreement.¹ However, resolution of such claims does not lie within our jurisdiction.

Therefore, for the reasons stated herein, as well as those expressed by the Commissioner, we affirm the Commissioner's decision.

February 7, 2001

Date of mailing _____

¹ We note that there is no indication that petitioner invoked the procedures set forth in the agreement.