

C #162-03L
SB # 12-03

PASCACK VALLEY REGIONAL EDUCATION ASSOCIATION,	:	
	:	
PETITIONER-APPELLANT,	:	STATE BOARD OF EDUCATION
V.	:	
	:	DECISION
BOARD OF EDUCATION OF THE PASCACK VALLEY REGIONAL HIGH SCHOOL DISTRICT, BERGEN COUNTY AND MANUEL FERREIRA,	:	
	:	
RESPONDENTS-RESPONDENTS.	:	

Decided by the Commissioner of Education, April 8, 2003

For the Petitioner-Appellant, Springstead & Maurice (Harold N.
Springstead, Esq., of Counsel)

For the Respondents-Respondents, Fogarty & Hara (Rodney T. Hara,
Esq., of Counsel)

This is an appeal from a decision of the Commissioner of Education dismissing a petition filed by the Pascack Valley Regional Education Association. That petition challenged a determination made by the Board of Education of the Pascack Valley Regional High School District not to certify tenure charges against Manuel Ferreira, who was then the principal of Pascack Hills High School. The charges, which were filed by the Association, alleged that respondent was guilty of unbecoming conduct in that he had engaged in a pattern of sexual harassment against students and staff and that he had threatened the Association's representatives. They were supported by the

certifications of several teaching staff members and materials relating to an affirmative action complaint that had been filed against respondent. After considering the charges, the supporting evidence, and respondent's response, the Board determined that there was not probable cause to credit the evidence in support of the charges and, even if true, the charges were not sufficient to warrant respondent's dismissal or a reduction in his salary. By letter dated October 21, 2002, respondent resigned from his position with the Pascack Regional High School District effective December 20, 2002. However, he is currently employed as an assistant superintendent in another school district.

The Commissioner found that because respondent had terminated his employment with the Pascack Board at the time that the petition of appeal was filed, there was no basis upon which he could direct the matter to proceed and that there was no relief that he could afford to the Association. He therefore dismissed the matter as moot. In doing so, the Commissioner observed that if the Association was concerned about respondent's continued employment in the public school system, N.J.A.C. 6:11-3.6(a)3 provided a mechanism for addressing such concern.¹

The Association appealed to the State Board from the Commissioner's decision, arguing that the Commissioner's finding that the tenure charges were moot constituted an unreasonable abuse of discretion. The Association contends that the seriousness of the charges and the evidence supporting them require a hearing on the tenure charges notwithstanding that respondent is no longer employed by the Pascack Board. In the alternative, it argues that the matter should be referred to the State Board of Examiners.

¹ N.J.A.C. 6:11-3.6(a)3 provides that "any person" may file a petition with the State Board of Examiners for the revocation or suspension of the certification held by another individual.

After reviewing the matter, we concur with the Commissioner that the tenure charges filed against respondent with the Pascack Board are moot because respondent is no longer employed by that board. We therefore affirm the Commissioner's determination to dismiss the Association's petition. However, we further find that the charges and the supporting evidence are such that, given respondent's continued employment in the public school system, it is appropriate for us to refer the matter to the State Board of Examiners for its consideration. We therefore direct that this matter be transmitted to the Board of Examiners.

We do not retain jurisdiction.

September 3, 2003

Date of mailing _____