

EDU # 9917-05
C # 401-07
SB # 30-07

LEON VARJIAN ,	:	
	:	
PETITIONER-APPELLANT,	:	STATE BOARD OF EDUCATION
V.	:	DECISION ON MOTION
	:	
BOARD OF EDUCATION OF THE	:	
BOROUGH OF MIDLAND PARK,	:	
BERGEN COUNTY,	:	
	:	
RESPONDENT-RESPONDENT.	:	

Decided by the Commissioner of Education, October 15, 2007

For the Petitioner-Appellant, Hope A. Lang, Esq.

For the Respondent-Respondent, Winne, Banta, Hetherington, Basralian
& Kahn, P.C. (Robert M. Jacobs, Esq., of Counsel)

In a decision issued on October 15, 2007, the Commissioner of Education adopted the Initial Decision of the Office of Administrative Law which granted respondent's motion to dismiss for failure to state a cause of action upon which relief could be granted. Petitioner-appellant, a tenured math teacher, alleged that the school administration acted in a discriminatory manner and created a hostile work environment by assigning him a different combination of mathematics courses to teach upon his return from a medical leave. He also claimed his role as a student advisor was diminished upon his return. Petitioner-appellant sought to have his pre-medical leave teaching schedule reinstated and be allowed to return to the same level of participation

in his student mentoring activities and charity projects as he had prior to his medical leave. Upon conclusion of petitioner-appellant's testimony and presentation of evidence, respondent made a motion to dismiss asserting that petitioner had no entitlement to the relief sought. The Administrative Law Judge granted the motion and issued a decision recommending dismissing the petition of appeal. The Commissioner agreed with the Initial Decision and dismissed the petition for failure to state a cause of action upon which relief could be granted.

On December 10, 2007, the appellant filed the instant appeal to the State Board, and on December 13, 2007, he filed a motion to supplement the record on appeal with two documents and appellant's certification. The appellant contends that "[t]hese documents are proof that the reduction in the number assigned Advanced Placement and feeder courses only applied to Mr. Varjian and to no other teacher, and that the school administration's reduction in the numbers of Mr. Varjian's assigned Advanced Placement and feeder courses was not the imposition of general policies and procedure. The administration only changed Mr. Varjian's, and the change was not a systemic change throughout the school." Appellant's Brief on the Motion, at 1 (capitalization in original).

After a thorough review of the papers filed, we deny the appellant's motion. We agree with the respondent that the documents appellant seeks to include now "could have been presented to the Administrative Law Judge who presided over the proceeding and, as such, could have been fully explored not only during Petitioner's direct examination but during cross-examination as well." Brief in Opposition to Motion,

at 2. There is “no suggestion that the information which he now seeks to include in the record was unknown to him at the time of the Administrative hearing . . .” Ibid.

We therefore deny the appellant’s motion to supplement the record.

February 20, 2008

Date of mailing _____