

ELIGIO CASTRO, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE CITY : DECISION
OF ATLANTIC CITY, ATLANTIC :
COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioning nontenured teacher contested the Board's nonrenewal of his contract, asserting that the Board failed to provide him with the required number of teaching evaluations and that the Board discriminated against him because he was a cancer patient.

The ALJ determined that the Board complied with *N.J.A.C.* 6:3-4.1, providing petitioner with three evaluations, including one which petitioner requested be set aside upon learning that he had cancer but which the Board was unable to repeat because petitioner never returned to school. The ALJ also found that petitioner abandoned his discrimination claim because petitioner reported that his claim had been filed in federal district court.

The Commissioner concurred with the findings and conclusions of the ALJ that respondent evaluated petitioner in conformity with applicable law and affirmed the recommended decision for the reasons expressed therein.

March 15, 2000

OAL DKT. NO. EDU 8008-99
AGENCY DKT. NO. 267-8/99

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties filed no exceptions to the Initial Decision.

Upon his independent and careful review, the Commissioner concurs with the findings and conclusions of the Administrative Law Judge that respondent evaluated petitioner in conformity with the applicable law. Since it is a well-established legal principle that a district board of education has virtually unlimited discretion in hiring or renewing non-tenured teachers, the Commissioner concurs that respondent acted within its lawful discretion in not renewing petitioner's employment in the school district.

Accordingly, the recommended decision of the OAL is affirmed for the reasons expressed therein.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: March 15, 2000

* This decision, as the Commissioner's final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.