

CATHERINE BONICA, :
PETITIONER, : COMMISSIONER OF EDUCATION

V. : DECISION

BOARD OF EDUCATION OF THE RIVER:
DELL REGIONAL HIGH SCHOOL
DISTRICT, BERGEN COUNTY, :

RESPONDENT. :
:
:

SYNOPSIS

Petitioner, who is tenured and worked two-fifths as a teacher of handicapped, and three-fifths as a teacher and coordinator of the district's cooperative education program (CIE), challenged the Board's assignment of her to an additional teacher of the handicapped period for the 2001-2002 school year, and concomitant one fifth reduction in her time as coordinator of the CIE program, but not her duties as coordinator. The Board argued petitioner suffered no loss of compensation and its action was within its administrative authority.

The ALJ determined that, considering that petitioner's CIE coordinator workload did not change from previous years, and recognizing that case law would generally prohibit a partial transfer of a tenured teacher without consent, the reduction of her CIE time and addition of one teacher of handicapped course without her consent constituted an impermissible violation of petitioner's tenure rights. The ALJ recommended reversal of the Board's action.

The Commissioner adopted the decision of the ALJ for the reasons set forth therein.

August 2, 2002

OAL DKT. NO. EDU 5985-01
AGENCY DKT. NO. 259-7/01

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_____ :

The record and Initial Decision in this matter have been reviewed. Exceptions were not filed by the parties.

Based on his review of the record, the Commissioner adopts the Initial Decision, recommending dismissal of the Petition of Appeal, as the final decision in this matter for the reasons set forth therein and hereby dismisses the Petition of Appeal.* **

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: August 2, 2002

Date of Mailing: August 7, 2002

* This decision 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. 6A:4-1.1 et seq.* within 30 days of filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.

** Clarified by letter dated August 16, 2002 (appended below).

313-02L

August 16, 2002

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Dear Parties:

I am in receipt of the motion of petitioner seeking reconsideration of my August 2, 2002 decision in the matter captioned *Catherine Bonica v. Board of Education of the River Dell Regional High School District, Bergen County*, OAL Docket No. EDU 5985-01, Agency Docket No. 259-7/01. Petitioner's motion seeks clarification of the intent of my August 2, 2002 decision wherein the determination of the Administrative Law Judge (ALJ) was adopted and the petition in this matter dismissed. Because the decision of the ALJ was in favor of petitioner, affirming same and dismissing the petition created confusion as to the intent of my decision and satisfies the criteria for a grant of reconsideration in *N.J.A.C. 6A:3-1.15* and I so determine.

The June 13, 2002 decision of the ALJ found in favor of petitioner and determined that her tenure rights were violated when her assignment was changed from three-fifths teacher/coordinator of the district's cooperative education program (CIE) and two-fifths special education teacher, to two-fifths CIE teacher/coordinator and three-fifths special education teacher. The ALJ recommended reversal of petitioner's transfer to three-fifths special education teacher and two-fifths CIE teacher and coordinator because it was contrary to her tenure rights. My August 2, 2002 decision adopted the ALJ's determination as set forth above. However, the decision also dismissed the petition. This determination was erroneous, as the intent of my decision was to adopt the decision of the ALJ. As such, I hereby clarify that my August 2, 2002 decision adopted the recommended decision of the ALJ for the reasons set forth therein and the Board's improper transfer of petitioner was reversed.

Sincerely,

William L. Librera, Ed.D.
Commissioner

c. County Superintendent

Date of Mailing: August 19, 2002