

301-04 (Link to OAL Decision: http://lawlibrary.rutgers.edu/oal/html/initial/edu02356-03_1.html)

OAL DKT. NO. EDU 2356-03
AGENCY DKT. NO. 359-11/02

ARTI SAHNI, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 CITY OF TRENTON, MERCER COUNTY, :
 :
 RESPONDENT. :
 _____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions were submitted in accordance with *N.J.A.C.* 1:1-18.4 and were considered by the Commissioner in reaching his decision.

Upon careful and independent review of the record, the Commissioner finds that this matter turns on the credibility of the witnesses. In this regard, the Commissioner recognizes that the Administrative Law Judge’s (ALJ) credibility determinations are entitled to his deference. “The reason for this rule is that the administrative law judge, as a finder of fact, has the greatest opportunity to observe the demeanor of the involved witnesses, and, consequently, is better qualified to judge their credibility. *In the Matter of Tenure Hearing of Tyler*, 236 *N.J. Super.* 478, 485 (App. Div.) *certif. denied*, 121 *N.J.* 615 (1989).” *In the Matter of the Tenure Hearing of Frank Roberts*, 96 *N.J.A.R.* 2d (EDU) 549, 550. The Appellate Division has affirmed this principle, underscoring that “[u]nder existing law, the [reviewing agency] must recognize and give due weight to the ALJ’s unique position and ability to make demeanor based judgments.” *Whasun Lee v. Board of Education of the Township of Holmdel*, Docket No. A-5978-98T2, decided by the New

Jersey Superior Court, Appellate Division, August 7, 2000, slip op. at 14. Indeed, the Commissioner

may not reject or modify any findings of fact as to issues of credibility of lay witness testimony unless it is first determined from a review of the record that the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent and credible evidence in the record. (emphasis added) *N.J.S.A.* 52:14B-10(c).

Here, upon review of the full record,¹ the Commissioner finds that the ALJ's credibility assessments are not arbitrary, capricious or unreasonable, but, instead, are supported by sufficient, competent and credible evidence in the record. The Commissioner, therefore, finds no cause to disturb the factual findings, and he concurs with the legal conclusions of the ALJ.

Accordingly, the Initial Decision is adopted for the reasons expressed therein.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 14, 2004

Date of Mailing: July 15, 2004

¹ The parties did not provide the Commissioner with transcripts of the hearing before the ALJ.

² 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*.