

#262-12 (OAL Decision: Not yet available online)

SUSAN AMORIN, :

PETITIONER, : COMMISSIONER OF EDUCATION

V. : DECISION

BOARD OF EDUCATION OF THE CITY :  
 OF ELIZABETH, UNION COUNTY, :

RESPONDENT. :

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SYNOPSIS

Petitioner – a tenured special education teacher in respondent’s district – contended that she was involuntarily placed on an unpaid extension of her maternity leave in violation of her tenure rights, resulting in the loss of one month of salary at the end of the 2011-2012 school year. The Board asserted that it was not in the best interests of the students to allow a teacher to return to the classroom late in the school year.

The ALJ found, *inter alia*, that: the Board relied solely on its argument that it was not in the best interests of the children for a full-time, regular teacher to return to the classroom from an absence of six weeks when there were only two weeks remaining in the school calendar, but produced no factual demonstrations in support of its disruption argument; neither has the Board produced any written policies that notice and authorize an involuntary and unpaid extension to a maternity leave of a tenured faculty member, nor any collective bargaining agreements that might otherwise control this dispute; the Board’s disruption argument was a pretext for saving the district money; and the Board’s decision not to allow petitioner to return to her teaching position following her requested maternity leave amounted to a suspension of a tenured teacher on “flimsy” reasons and was in violation of *N.J.S.A. 18A:6-10*. The ALJ concluded that the Board had no legal authority to force the petitioner to stay on unpaid leave beyond the period she requested, and ordered the petitioner returned to her teaching position on June 1, 2012 with all the rights and benefits associated with that return date.

Upon a thorough and independent review of the record, the Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision as the final decision in this matter. The Commissioner additionally noted that because it was not possible to conclude the within litigation before June 1, 2012, the respondent shall pay petitioner the full salary and benefits that she would have received had she been allowed to return to the classroom on that date.

This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

June 25, 2012

OAL DKT. NO. EDU 4711-12  
AGENCY DKT. NO. 90-4/12

SUSAN AMORIN, :  
PETITIONER, : COMMISSIONER OF EDUCATION  
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Upon review of the record of this matter, the Initial Decision of the Office of Administrative Law (OAL), respondent's exceptions and petitioners replies thereto, the Commissioner adopts the Initial Decision in its entirety.

Petitioner should have been returned to her position on June 1, 2012, but it was not possible to conclude the litigation by that date. Consequently, respondent shall pay petitioner the full salary and benefits that she would have received had she been allowed to return to the classroom on June 1, 2012.

IT IS SO ORDERED.\*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 25, 2012

Date of Mailing: June 26, 2012

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\* This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*.