

ELIZABETH JIMENEZ, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 CITY OF JERSEY CITY, :
 HUDSON COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner challenged the respondent Board's elimination of her non-tenured position as Supervisor of Special Education in March 2010, as part of a reduction in force (RIF). Petitioner was employed by the district under separate one-year contracts for the 2007-2008, 2008-2009 and 2009-2010 school years. The Board contended that petitioner was properly terminated for reasons of economy. Petitioner asserted that she was terminated without a vote of the school board in violation of *N.J.S.A. 18A:27-4.1(a)*, and without receipt of a formal statement of reason for her termination; accordingly, she maintained that she was wrongfully terminated. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: there are no genuine issues of material fact in this case, and the matter is ripe for summary decision; petitioner's arguments regarding the Board's failure to follow the dictates of *N.J.S.A. 18A:27-4.1(a)* are overly simplistic given the complexity of the situation, wherein Jersey City was under partial State intervention at the time of the RIF; under the unique circumstances, the process used to terminate petitioner's employment was proper; pursuant to *N.J.S.A. 18A:28-9*, the Board had every right to terminate petitioner as part of a reduction in force; petitioner failed to establish an entitlement to back pay; petitioner's claim to tenure is without merit, as she was discharged from employment prior to working the full length of time required by law to achieve tenure in Jersey City; and petitioner had no entitlement to a statement of reasons for her termination nor a hearing, as she was discharged mid-contract and therefore not protected under *N.J.S.A. 18A:27-4.1(b)*. The ALJ granted the Board's motion for summary decision, and dismissed the petition.

Upon comprehensive review, the Commissioner concurred with the ALJ's findings and conclusions, and adopted the Initial Decision of the OAL as the final decision in this matter. The petition was dismissed.

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.

OAL DKT. NO. EDU 5926-12
AGENCY DKT. NO. 123-5/12

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the petitioner, Elizabeth Jimenez, and the Board of Education's (Board) reply thereto.

The respondent's exceptions substantially reiterated the substance of her submissions at the OAL, recasting the arguments therein to support the contention that the Administrative Law Judge (ALJ) erroneously granted summary decision in favor of the Board. Specifically, the petitioner maintains that the ALJ wrongfully found that the Board acted properly and was not required to vote to terminate petitioner's employment. The petitioner also takes exception to the ALJ's determination that the Board was not required to provide the petitioner with a statement of reasons for her termination and a hearing before the Board. Therefore, the petitioner asserts that the ALJ erroneously dismissed the petition. In reply the Board also reiterated the positions advanced in its submissions at the OAL, and stressed that the petitioner offered nothing in her exceptions to justify the modification of the Initial Decision.

Upon a comprehensive review of the record in this matter, the Commissioner concurs with the ALJ that the Board is entitled to summary decision for the reasons thoroughly

set forth in the Initial Decision. The objections raised in the exceptions filed by the petitioner mimic the arguments previously raised before the ALJ and clearly taken into account by her in determining that the Board was entitled to summary decision. Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the petition is hereby dismissed.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: March 4, 2014

Date of Mailing: March 5, 2014

¹ Pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*, Commissioner decisions are appealable to the Superior Court, Appellate Division.