

105-18

VITO NUFRIO, RONALD MATLOSZ AND :
LOUIS ALT, :
 :
 PETITIONERS, :
 : COMMISSIONER OF EDUCATION
V. :
 :
 : DECISION
BOARD OF EDUCATION OF THE :
CITY OF ELIZABETH, UNION COUNTY, :
AND PABLO MUNOZ, :
 :
RESPONDENTS. :
_____ :

SYNOPSIS

The petitioners in this case had been employed under tenure in the position of Vice Principal or equivalent, such as Assistant House Principal, for at least ten years when their positions were eliminated in a reduction in force (RIF) in June 2010; petitioners were then reassigned as teaching staff members based on their tenure and seniority. Petitioners appealed the action of the respondent Board in eliminating the vice principal positions, alleging that the Board failed to make the appropriate analysis of the school budget in so doing; petitioners claimed that the elimination of the vice principal positions was improper and contrary to state law and regulations.

The ALJ found, *inter alia*, that: pursuant to *N.J.S.A. 18A:28-9*, a local board of education has broad authority and discretion to implement RIFs for reasons of economy, reduction in the number of students enrolled, or other legitimate educational reasons; in the instant case, there were sound educationally-based reasons for implementing the RIF; and the 2010 RIFs implemented by the Board were valid and comported with the requirements of *N.J.S.A. 18A:28-9*. Accordingly, the ALJ ordered the petition dismissed.

The Commissioner concurred with the ALJ that – based on the parties stipulated facts – the RIFs conducted by the Board in 2010 complied with *N.J.S.A. 18A:28-9*. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and 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.
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April 5, 2018

OAL DKT. NO. EDU 10859-15
AGENCY DKT. NO. 151-7/15

VITO NUFRIO, RONALD MATLOSZ AND :
LOUIS ALT, :
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 PETITIONERS, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 : DECISION
 BOARD OF EDUCATION OF THE :
 CITY OF ELIZABETH, UNION COUNTY, :
 AND PABLO MUNOZ, :
 :
 RESPONDENTS. :
 _____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon such review, the Commissioner agrees with the Administrative Law Judge that – based on the stipulated facts set forth in the Initial Decision – the reductions in force conducted by the Board in the Spring of 2010 complied with *N.J.S.A. 18A:28-9*.

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

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 5, 2018

Date of Mailing: April 6, 2018

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36* (*N.J.S.A 18A:6-9.1*).



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 10859-15

AGENCY REF. NO. 151-7/15

VITO NUFRIO, RONALD MATLOSZ AND LOUIS

ALT,

Petitioners,

v.

BOARD OF EDUCATION OF THE CITY OF

ELIZABETH, UNION COUNTY AND PABLO MUNOZ,

Respondents.

Robert B. Woodruff, Esq., for Petitioner (Schiller & Pittenger, P.C., attorneys)

John E. Croot, Esq., for Respondent (Adam, Gutierrez & Lattiboudere, LLC, attorneys)

Record Closed: December 20, 2017

Decided: February 21, 2018

BEFORE: **THOMAS R. BETANCOURT**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioners, Vito Nufrio, Ronald Matlosz and Louis Alt, filed a Petition of Appeal with the Commissioner of the Department of Education (DOE) on July 1, 2015 seeking an order that the Reduction in Force (RIF) performed by Respondent was invalid.

This matter was transferred to the Commissioner of the Department of Education by order of the Honorable Kenneth Grispin, JSC, dated October 31, 2014, in a matter pending before the Superior Court of New Jersey, Union County, Docket No. UNN-L-2832-11.

The matter was transferred to the Office of Administrative Law (OAL) from the Department of Education, where it was filed on July 23, 2015, as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

A prehearing conference was held on August 27, 2015, and a prehearing Order was entered on the same date. An amended prehearing order was entered on November 25, 2015.

Robert B. Woodruff, Esq., filed a substitution of attorney, dated August 30, 2016, substituting for Phillip B. Linder, Esq., as Petitioners' counsel.

A hearing was held on December 11, 2017.

A telephone conference was held on December 20, 2017, wherein the parties agreed to certain stipulated facts and requested the undersigned issue an Initial Decision based upon those facts.

ISSUE

Whether the RIFs were valid.

STIPULATED FACTS

1. The RIFs undertaken by Respondent Board of Education in the Spring of 2010 for the 2010-2011 school year were valid.
2. There were sound educationally based reasons for implementing the RIFs, and for the choice of the affected positions.

3. The Respondent Board of Education's actions in implementing the RIFs complied with N.J.S.A. 18A:28-9.

LEGAL ANALYSIS AND CONCLUSION

N.J.S.A. 18A:28-9 states:

Nothing in this title or any other law relating to tenure of service shall be held to limit the right of any board of education to reduce the number of teaching staff members, employed in the district whenever, in the judgment of the board, it is advisable to abolish any such positions for reasons of economy or because of reduction in the number of pupils or of change in the administrative or supervisory organization of the district or for other good cause upon compliance with the provisions of this article.

A Board has broad discretion to implement RIFs. In Carpenito v. Board of Educ. of Borough of Rumson, Monmouth County, 322 N.J. Super. 530 (App. Div. 1999) the court states "If done for proper reasons, such as 'economy' or because of a reduction in the number of pupils enrolled, the effectuation in force is entirely within the authority and discretion of the board."

Based upon the above analysis, and the stipulated facts, I **CONCLUDE** that the RIFs conducted by the Respondent Board of Education in the Spring of 2010 were valid and comported with N.J.S.A. 18A:28-9, and that Petitioner's petition should be **DISMISSED**.

ORDER

It is hereby **ORDERED** that Petitioners' petition is **DISMISSED**.

This Initial Decision does not address any elements of the matter presently pending before the Superior Court of New Jersey, Union County, Docket No. UNN-L-2832-11, which is solely the jurisdiction of said Court.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

February 21, 2018



DATE

THOMAS R. BETANCOURT, ALJ

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Date Received at Agency: _____

Date Mailed to Parties: _____

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