

HENRY AKIN-MARTINS, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
STATE-OPERATED SCHOOL DISTRICT : DECISION  
OF THE CITY OF NEWARK, ESSEX :  
COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

SYNOPSIS

Petitioner, provisional teaching staff member, alleged his termination was arbitrary and capricious. Petitioner sought reinstatement as a provisional teaching staff member, subject to Alternative Route Program (ARP) certification; restoration of all benefits and salary; and reimbursement of tuition and costs to maintain his enrollment in College in order to obtain required educational certification.

ALJ concluded that the District's action terminating petitioner, based upon reports of the use of unjustified and inappropriate methods of physical intervention with students, was not improper. Moreover, ALJ concluded that equitable estoppel and laches should not be applied against respondent. Petition was dismissed.

Commissioner adopted findings and determination in initial decision as his own.

OCTOBER 1, 1997

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The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon careful and independent review of the record in this matter, which included transcripts from the two days of hearing at the OAL, the Commissioner concurs with the Administrative Law Judge (ALJ) that petitioner has failed to establish by a preponderance of credible evidence that the District's decision to terminate his employment contract was in any manner contrary to law. The Commissioner further concurs that petitioner's claims that the District's actions should be barred in equity are not persuasive.

Accordingly, the initial decision of the ALJ is adopted for the reasons expressed therein.\*  
The Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

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\* The Commissioner herein clarifies, however, that, contrary to the ALJ's statement on page 13 of the initial decision, any teaching staff member receiving notice that a teaching contract for the succeeding year school year will not be offered by the local board, may, within 15 days thereafter, request in writing a statement of reasons for such nonemployment which shall be given to the teaching staff member within 30 days after receipt of such request. N.J.S.A. 18A:27-3.2 An informal appearance before the board may also be requested pursuant to *N.J.S.A. 18A:27-4.1* and *N.J.A.C. 6:3-4.2*.

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