

172-99

RUBEN GONZALEZ, PAUL J. O'DONOHUE,;
CLAUDE CRAIG AND STEVEN G. BLOCK,

PETITIONERS,

V.

STATE-OPERATED SCHOOL DISTRICT
OF THE CITY OF NEWARK, ESSEX
COUNTY,

RESPONDENT.

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COMMISSIONER OF EDUCATION

DECISION

SYNOPSIS

Petitioners, employees of the Newark Board prior to takeover, argued they were terminated without notice, contrary to *N.J.S.A.* 18A:7A-44b and c. They sought reinstatement with back pay.

ALJ determined that petitioners' employment was terminated by the discretionary action of the State superintendent rather than abolishment of their positions pursuant to the takeover statute and, as at-will employees, they are not entitled to relief.

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

June 1, 1999

RUBEN GONZALEZ, PAUL J. O'DONOHUE, :
CLAUDE CRAIG AND STEVEN G. BLOCK, :
 :
 PETITIONERS, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 STATE-OPERATED SCHOOL DISTRICT :
 OF THE CITY OF NEWARK, ESSEX : DECISION
 COUNTY, :
 :
 RESPONDENT. :
 :

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 careful and independent review of the record in this consolidated matter, the Commissioner concurs with the findings and conclusions in the initial decision.¹ Accordingly, the initial decision is adopted as the final decision in this matter, for the reasons expressed therein. The within matter is dismissed.²

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

June 1, 1999

¹ In the Initial Decision, the Administrative Law Judge (ALJ) indicates that the Commissioner's February 11, 1997 interlocutory decision recognized that the pertinent statute "does not specifically address the status of employees in positions which are abolished as a result of the reorganization of a State-operated district ***." (Initial Decision at p. 21) However, the Commissioner herein clarifies that the aforementioned decision distinguished between employees whose positions were *abolished* upon the establishment of a state-operated school district, or as a result of reorganization, and those whose employment is terminated upon state-operation. The Commissioner therein noted that the *latter circumstance*, termination of employment, "is neither expressly addressed nor implicitly encompassed in the special statutory scheme governing establishment and operation of State-operated school districts ***." (*Ruben Gonzalez et al. v. State-Operated School District of the City of Newark*, Essex County, Commissioner Decision 69-97M, slip. op. at p. 16) However, in her analysis, the ALJ mistakenly indicates that the aforementioned decision recognized that the pertinent statute "does not specifically address the status of employees in positions which are abolished as a result of the reorganization of a State-operated district ***." (Initial Decision at p. 21)

² This decision, as the Commissioner's final determination in the instant matter, 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. 6:2-1.1 et seq.* within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.