

#23-12 (OAL Decision: Not yet available online)

JAMES SCOTT REID, :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF :
THE TOWNSHIP OF JEFFERSON, :
MORRIS COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner – a physical education teacher and head lacrosse coach for respondent, who served as head soccer coach for the 2008-2009 and 2009-2010 school years – asserted that the Board voted to reappoint him to the position of head soccer coach for the 2010-2011 school year because four of the nine Board members voted in his favor and five members abstained from voting. Petitioner contends that to abstain is to not contest the votes in favor of his reappointment, and therefore the final vote with five abstentions must be considered as nine votes in favor of the soccer coach reappointment. The Board argued that the motion to reappoint failed because the appointment required the affirmative vote of five members of the Board of Education, which would be a majority vote of a board of nine members.

The ALJ found, *inter alia*, that: petitioner was employed by respondent as a tenured teaching staff member and head lacrosse coach when he was hired in 2008 as head soccer coach after the previous coach left the district and a replacement could not be found; petitioner had no prior soccer playing or coaching experience; *N.J.S.A. 18A:27-4.1* requires the recommendation of the chief school administrator and a recorded roll call majority vote of the full membership of the board in order to reappoint a certificated or non-certificated employee; and the respondent Board's bylaws also provide that a majority vote of the full board is required for appointment of a staff member. The ALJ concluded that the affirmative vote of only four members of the nine-member board was not sufficient to reappoint petitioner to the position of soccer coach for the 2010-2011 school year, and the actions of the Board were not arbitrary and capricious. Accordingly, the ALJ affirmed the determination of the Board not to reappoint petitioner as soccer coach for the 2010-2011 school year.

Upon full consideration, the Commissioner accepted the findings and conclusions of the ALJ that petitioner is not entitled to reappointment as the head soccer coach based on applicable laws and regulations, and affirmed the Initial Decision. 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.

January 23, 2012

OAL DKT. NO. EDU 12521-10
AGENCY DKT. NO. 603-10/10

JAMES SCOTT REID, :
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 PETITIONER, : COMMISSIONER OF EDUCATION
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 V. : DECISION
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 RESPONDENT. :

The record of this matter and the initial decision of the Office of Administrative Law have been reviewed. Neither party filed exceptions pursuant to *N.J.A.C. 1:1-18.4*.

Upon a careful and independent review, the Commissioner determines to accept the findings and conclusions of the ALJ that petitioner is not entitled to reappointment to the position of Head Soccer Coach based on the applicable laws and regulations which permit school districts to hire qualified, certified and non-certified applicants for its coaching positions.¹ The Commissioner observes that testimony during the hearing on the merits revealed that the petitioner's failure to take part in the programs and courses necessary to improve his knowledge and instruction in the sport, as directed, left him vulnerable to non-renewal.

Finally, the Commissioner concurs with the ALJ that the Board's actions were not arbitrary, capricious or unreasonable when it accepted the decision of the full membership and determined that four "yes" votes and five abstentions were insufficient to reappoint the petitioner to his former coaching position, resulting in his non-renewal.

¹ The Commissioner notes that the ALJ states that petitioner "...is already a tenured head Lacrosse [sic] coach, but is not a tenured soccer coach." (Initial Decision at 15) To clarify, coaches do not acquire tenure or seniority; consequently, they do not enjoy any superior rights over their successors.

Accordingly, for the reasons expressed therein, the Commissioner affirms the initial decision of the Office of Administrative Law and dismisses the within Petition of Appeal.

IT IS SO ORDERED.²

ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 23, 2012

Date of Mailing: January 24, 2012

² This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*.