

P.E.R.C. NO. 93-79

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
AND
COMMISSIONER OF EDUCATION

In the Matter of	:	
	:	OAL DOCKET NO. EDU 6112-92
BARBARA BRENNER,	:	EDU DOCKET NO. 314-7/90
	:	PERC DOCKET NO. TI-93-1
Petitioner,	:	
	:	JOINT ORDER
-v-	:	
	:	CONSOLIDATION AND
MIDDLESEX TOWNSHIP	:	PREDOMINANT INTEREST
BOARD OF EDUCATION,	:	DETERMINATION
	:	
Respondent.	:	
	:	

SYNOPSIS

The Chairman of the Public Employment Relations Commission, in a joint decision with the Commissioner of Education, finds that a petition for contested transfer determination and a petition filed with the Commissioner should be consolidated.

The Chairman and the Commissioner order that the Commissioner has the predominant interest in the conduct and outcome of the consolidated matter and will first issue a final decision. If resolution of the issues over which the Commissioner has the predominant interest does not moot the issues raised by the petition for contested transfer determination, the Commission will thereafter issue a final decision on that matter.

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MIDDLESEX TOWNSHIP	:	PREDOMINANT INTEREST
BOARD OF EDUCATION,	:	DETERMINATION
	:	
Respondent.	:	
	:	

Appearances:

For the Petitioner before the Commissioner of Education,
Kenney, Gross & McDonough, attorneys (Carol Scott Stevens,
of counsel)

For the Petitioner before the Public Employment Relations
Commission, Wayne J. Oppito, attorney

For the Respondent, Rand, Algeier, Tosti & Woodruff,
attorneys (Ellen S. Bass, of counsel)

Barbara Brenner petitioned to the Commissioner of Education seeking an order declaring her tenured in the position of principal in the Township of Middlesex school district, assigning her to the position of principal at Hazelwood School for 1992-93, and retroactively compensating her for the Middlesex Board of Education's failure to assign her to that position pursuant to N.J.S.A. 18A:6-10. The matter was transmitted to the Office of Administrative Law for determination as a contested case. In addition, Brenner filed a petition for contested transfer determination with the Public Employment Relations Commission. Brenner alleges that she was

transferred from principal at Hazelwood to director of Project Climb in violation of N.J.S.A 34:13A-25.

The parties jointly moved to consolidate the petitions and for designation of the Commissioner as having the predominant interest pursuant to N.J.A.C. 1:1-17.5. The parties agreed that the Commissioner's determination could serve to either moot the questions raised by the petition before the Commission or substantially affect the resolution of those questions.

The Administrative Law Judge concluded that the two matters should be consolidated pursuant to the terms of an executed consent order.

Having considered the record and the Administrative Law Judge's order, and having made an independent evaluation of the record, the Commissioner of Education on MARCH 1, 1993 and the Chairman of the Public Employment Relations Commission, acting pursuant to authority granted to him by the full Commission, on February 19, 1993 made the following determination in the matter.

ORDER

The Commissioner of Education and the Chairman of the Public Employment Relations Commission ORDER that EDU Docket No. 314-7/92 OAL Docket No. EDU 6112-92 and PERC Docket No. TI-93-1 be consolidated for hearing; and it is

FURTHER ORDERED that the predominant interest in the conduct and outcome of the consolidated matter rests with the Commissioner of Education; and it is


FURTHER ORDERED that the Administrative Law Judge shall conduct a hearing on this matter and issue a recommended decision; and it is

FURTHER ORDERED that the Commissioner of Education has the authority to issue a final decision on all issues raised by the prehearing order dated December 2, 1992; and it is

FURTHER ORDERED that if resolution of the issues over which the Commissioner of Education has the predominant interest does not moot the issues raised by the petition for contested transfer determination, the Public Employment Relations Commission shall thereafter be granted 45 days to render a final decision on that matter.

DECISION RENDERED BY THE COMMISSIONER OF EDUCATION ON MARCH 1, 1993

DECISION RENDERED BY THE PUBLIC EMPLOYMENT RELATIONS COMMISSION ON FEBRUARY 19, 1993



Mary Lee Fitzgerald, Commissioner



James W. Mastriani, Chairman

DATED: Trenton, New Jersey
MARCH 1, 1993

DATED: Trenton, New Jersey
February 19, 1993

MARCH 1, 1993

DATE OF MAILING - MARCH 1, 1993