

P.E.R.C. NO. 2016-21

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

FELICIA GONZALEZ  
AND BARBARA DEAN,

OAL DKT. NOS. EDU-10085-13  
EDU-10092-13

Petitioners,

AGENCY DKT. NOS. 129/6/13  
130/6/13

v.

VINELAND BOARD OF EDUCATION,

Respondent.

-and-

FELICIA GONZALEZ  
AND BARBARA DEAN,

Petitioners,

PERC DKT. NOS. TI-2013-004  
TI-2013-005

v.

VINELAND BOARD OF EDUCATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission adopts the Initial Decision of an Administrative Law Judge designated to hear a contested case pursuant to a Joint Order of Consolidation and Predominant Interest (P.E.R.C. No. 2014-36, 40 NJPER 274 (¶105 2014)) that consolidated a contested transfer petition filed by Gonzalez and Dean, and petitions of appeal before the Commissioner of Education. The Initial Decision finds that a settlement agreement between the parties meets the requirements of N.J.A.C. 1:1-19.1.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For Respondent/Respondent, Gruccio, Pepper,  
De Santo & Ruth, attorneys (Robert A.  
DeSanto, of counsel)

For Petitioner Felicia Gonzalez, Zeller &  
Wieliczko, attorneys (Matthew B. Wieliczko,  
of counsel)

For Petitioner Barbara Dean, Law Office of Ned P.  
Rogovoy, attorneys (Ned P. Rogovoy, of counsel)

DECISION

This case comes to us to issue a final decision after an Administrative Law Judge issued an Initial Decision on July 14, 2015.

On or about June 12, 2013, Petitioners Barbara Dean and Felicia Gonzalez filed petitions of appeal with the Commissioner of Education (Commissioner) contesting the determination of the Vineland Board of Education (Board) that they committed an act of bullying in violation of State law and were denied a due process hearing.

On June 12, 2013, Gonzalez and Dean filed contested transfer petitions with the Public Employment Relations Commission (PERC). Both petitions assert that petitioners were transferred from the elementary school to the high school for disciplinary reasons in violation of N.J.S.A. 34:13A-25.<sup>1/</sup>

The Board denies the allegations in all cases and has asserted affirmative defenses. In July 2013, petitioners' Commissioner of Education petitions were transferred to the Office of Administrative Law (OAL) for hearings as contested cases. On October 10, Gonzalez filed a motion to consolidate the Commissioner of Education case and the PERC case and for a determination of predominant interest. Dean joined the request

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1/ This provision of the New Jersey Employer-Employee Relations Act provides: "Transfers of employees by employers between work sites shall not be mandatorily negotiable except that no employer shall transfer an employee for disciplinary reasons."

by letter of the same date. On October 24, the Board filed opposition objecting to the request for consolidation and predominant interest.

On November 26, 2013, Administrative Law Judge Todd W. Miller issued an Order For Consolidation and Determination of Predominant Interest finding the matters should be consolidated and that the Commissioner of Education has the predominant interest. A Joint Order of Consolidation and Predominant Interest was issued by the Commissioner and the Chair of PERC accepting the ALJ's recommendations regarding consolidation and predominant interest. P.E.R.C. No. 2014-36, 40 NJPER 274 (¶105 2014).

During the course of the proceedings before the ALJ, the parties engaged in settlement discussions and ultimately entered into a settlement agreement. As part of the settlement agreement, the petitions for contested transfers were withdrawn.

The Initial Decision finds that the settlement agreement meets the requirement of N.J.A.C. 1:1-19.1. On August 12, 2015 the Commissioner of Education adopted the Initial Decision. We also adopt the Initial Decision.

ORDER

The Initial Decision of the Administrative Law Judge is hereby adopted.

BY ORDER OF THE COMMISSION

Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Voos and Wall voted in favor of this decision. None opposed. Commissioner Boudreau was not present.

ISSUED: September 24, 2015

Trenton, New Jersey