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SCHOOLS - NEW YORK

Gervais v. Board of Educ. of East Aurora Union Free School Dist.

Supreme Court, Appellate Division, Fourth Department, New York - September 26, 2014 - 120 A.D.3d 1556 - 992 N.Y.S.2d 593 - 2014 N.Y. Slip Op. 06414

Former teachers initiated Article 78 proceeding, seeking, inter alia, a judgment requiring school district to place them on the preferred eligibility list for their respective areas of tenure. The Supreme Court, Erie County, determined that denial of teachers' rights of placement on preferred eligibility list was arbitrary and capricious, and reinstated teachers to preferred eligibility list. School district appealed.

The Supreme Court, Appellate Division, held that:

- Teachers' claims accrued when school board terminated employment and determined that they would not be placed on preferred eligibility list, and School district was required to place teachers on preferred eligibility list.

School district was required to place teachers on preferred eligibility list for possible reemployment in a full-time position after reducing their full-time teaching positions to part-time positions. By reducing their full-time teaching positions to part-time positions, school district effectively abolished full-time positions and created new part-time positions, and teachers' rejection of part-time positions, which resulted in termination of their employment with school district, did not render teachers ineligible for placement on preferred eligibility list.