

O.W., ON BEHALF OF MINOR CHILD, I.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
STATE-OPERATED SCHOOL DISTRICT : DECISION
OF THE CITY OF NEWARK, ESSEX COUNTY :
AND BOARD OF EDUCATION OF THE :
TOWNSHIP OF WEST ORANGE, :
ESSEX COUNTY, :
RESPONDENT, :

SYNOPSIS

Pro se petitioner, O.W., filed a petition on September 1, 2016 on behalf of her minor daughter, I.W., who transferred from Newark Public Schools to West Orange Public Schools in March of 2012. The respondent Boards filed separate motions to dismiss in October 2016, asserting, *inter alia*, that the petition is time barred as it was filed outside of the 90 day limitation period set forth in *N.J.A.C.* 6A:3-1.3(i).

The ALJ found, *inter alia*, that: it appears petitioner feels that some inappropriate actions were taken by Newark and West Orange school officials with respect to her daughter, I.W., while she was a student in the respondents' school districts; however, the incoherent nature of the petition in the instant case makes it impossible to discern exactly what petitioner's claims are, or what relief she requests; petitioner lists fourteen separate New Jersey statutes under which she requested a declaratory ruling; the dates of the violations alleged by petitioner are also difficult to discern, but all of the claims appear to reference incidents that allegedly occurred between 2008 and 2012; of the fourteen statutes cited by petitioner, six are not school laws; therefore, the Commissioner has no jurisdiction to hear cases arising under them; as to the remaining statutes, the incidents alleged by petitioner occurred well past the 90 day time limitation on such claims. Accordingly, the ALJ concluded that the petition should be dismissed.

Upon review, the Commissioner concurred with the ALJ's findings and conclusions, and adopted the Initial Decision of the OAL as the final decision in this matter for the reasons stated therein. 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.
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OAL DKT. NO. EDU 16479-16
AGENCY DKT. NO. 243-9/16

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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 such review, the Commissioner concurs with the Administrative Law Judge (ALJ) that the Commissioner does not have jurisdiction over any of the allegations that do not arise out of the school laws of this State. *N.J.S.A.* 18A:6-9. The Commissioner further agrees with the ALJ that petitioner's claims are time-barred, as the petition references events that took place between 2008 and 2012, while this petition was filed on September 12, 2016. As such, the matter is appropriately dismissed because it was filed outside the 90-day limitation period set forth in *N.J.A.C.* 6A:3-1.3(i).

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter for the reasons expressed therein and the petition is hereby dismissed.

IT IS SO ORDERED.¹

ASSISTANT COMMISSIONER OF EDUCATION

Date of Decision: June 20, 2017

Date of Mailing: June 20, 2017

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36 (*N.J.S.A.* 18A:6-9.1).



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

GRANTING MOTION TO DISMISS

OAL DKT. NO. EDU 16479-16

AGENCY DKT. NO. 243-9/16

O.W. ON BEHALF OF MINOR CHILD, I.W.,

Petitioner,

v.

**CITY OF NEWARK STATE-OPERATED
SCHOOL DISTRICT, ESSEX COUNTY AND
TOWNSHIP OF WEST ORANGE BOARD OF
EDUCATION, ESSEX COUNTY.**

Respondent.

O.W., petitioner, pro se

Arsen Zartarian, Esq., for respondent City of Newark

Frances L. Febres, Esq. for respondent West Orange BOE (Cleary, Giacobbe,
Alfieri, Jacobs, LLC, attorneys)

Record Closed: May 9, 2017

Decided: May 9, 2017

BEFORE **LESLIE Z. CELENTANO**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

The petition in this matter was filed on September 12, 2016. Petitioner O.W. is the mother of the minor student, I.W., who transferred from the Newark Public Schools, to the West Orange Public School System, in March of 2012.

Respondent City of Newark filed a Motion for Dismissal of the petition on October 6, 2016. Respondent Board of Education of the Township of West Orange filed a Motion for Dismissal of the petition on October 20, 2016.

FACTUAL DISCUSSION²

O.W. ("Petitioner") filed this petition on behalf of I.W., who has been a West Orange student since 2012. The Petition ("Pet.") was filed against both Newark and West Orange. Petitioner has requested a declaratory ruling with respect to the following statutes:

1. N.J.S.A. 18A:3A-2;
2. N.J.S.A. 18A:6-1;
3. N.J.S.A. 26:14-5;
4. N.J.S.A. 52:17B-210;
5. N.J.S.A. 2C:34-3;
6. N.J.S.A. 2C:13-4;
7. N.J.S.A. 2C:13-9;
8. N.J.S.A. 9:2-4.2;
9. N.J.S.A. 18A:38-2;
10. N.J.S.A. 18A:38-25;
11. N.J.S.A. 18A:38-29;
12. N.J.S.A. 18A:20-17;
13. N.J.S.A. 18A:40-5;
14. N.J.S.A. 18A:40A-19.

[See generally, Pet.]

At best, it is possible to gather that the Petitioner feels that some inappropriate actions were taken, in violation of the statutes she cites to, by both Newark and/or West Orange officials with respect to her daughter I.W. while she was a student in the Newark and/or West Orange School Districts. However, due to the incoherent nature of the

² It is imperative to note that O.W.'s petition is incoherent. As such, the factual discussion presented here is merely an effort to decipher her petition, an attempt aided by Respondent's counsel's similar effort.

petition, it is impossible to discern what exactly those inappropriate actions are alleged to have been, or whether they were committed by representatives of Newark or West Orange. For example, the petitioner alleges the following with regard to her accusation of a violation of N.J.S.A. 18A:38-29, a statute that addresses truancy:

Principal Wanda B.-Long noticed Spring 2006 parent habit standing at main entrance beneath posted clock showing correct time, four days alongside entrance meeting with Security. Principal asserted, a call to police to give warning and/or arrest of parent intent continue habitual hourly visits. Principal Long would have exercise right to place child/student with relative(s). The Principal in office on phone for an hour.
[Pet. 13]

The relief Petitioner requests is as follows:

WHEREFORE, petitioner requests educators power do not abuse public school student having adequate care in aspiration of bad faith arrange an experience of hardship. The educators' courteous and polite professional mannerism on a daily educational experience is civil and a good. Retiree, experienced and young educators offer public school students professional etiquette as a good deciding whom will receive educator's professional mannerism. Employer regarding placement of professionals in child care should have assessed applicants' personal manner is compatible in public schools attends an educational community for a happening of harm and irresponsible care among attendee. Explain interest is in an employee courteous and polite daily for a school year. Instead, please supervise the school as employee approve, then employee should be complaints to N.J. School Laws and United States laws for citizens. The educators' personal character in control perceive laws a good to public school students and attendee so, who will the laws apply an uninformed citizen, a qualified invitation to terrorism. Educators should work toward the future not rescind to times of retiree no free education supplies, bell ring (300) children in school the parents' responsibility, no DYFS agencies no Union Rights grace period on attendance rights and medical leave rights this is for reindulgement on implementing, employee is initiating dispute. The attendee overseeing child's responsible care and employee charges with instability of family, evident is young educator(s) reciprocated instability on employer's provisions. Parent will continue to restore civil stability in family.

[Pet. 15 (errors in original).]

Petitioner offers descriptions of similar clarity and construction for all of the statutes she alleges Newark and/or West Orange have violated. Moreover, the dates of

these alleged violations are equally difficult to discern, but all of Petitioner's claims appear to reference incidents that allegedly occurred between 2008 and 2012. See generally, Pet.³

Petitioner's daughter I.W. was a Newark student until approximately March of 2012, when she transferred to West Orange. See Newark Memorandum in Support of its Motion to Dismiss Dated October 5, 2016 ("Newark Memo"), Page 2; West Orange District's Letter Brief in Support of its Motion to Dismiss Dated October 20, 2016 ("West Orange Brief"), Page 2.

LEGAL DISCUSSION

A. Claims subject to dismissal for lack of jurisdiction:

N.J.S.A. 6A:3-2.1(a) establishes the Commissioner of Education's authority to issue declaratory rulings:

Pursuant to [statutory authority], any interested persons may petition the Commissioner for a declaratory ruling with respect to rights, responsibilities and status arising from any statute or rule *within the jurisdiction of the Commissioner*.

[Id. (emphasis added).]

N.J.S.A. 6A:3-1.1(a) establishes the Commissioner of Education's authority to hear cases:

This chapter sets forth the rules of procedure established by the Department of Education for the filing of petitions with the Commissioner of Education to hear and decide controversies and disputes *arising under school laws*.

[Id. (emphasis added).]

³ There is one reference to September 1, 2016 which reads: "parent on September 01, -2016 West Orange Board of Education request the names of employee dismissed for specific respondent information, Mr. D. Zacwocki requested student's name to enter in computer." Pet. 10 (errors in original). It is not at all clear what this means. Moreover, this quoted portion of the petition is found under the following heading: "7. N.J.S.A. 2C:13-9. Human trafficking as a crime of second degree: elements; proof; penalties." Pet. 9.

I **FIND** that statutes 3 through 8 cited by Petitioner are not “school laws” and thus the Commissioner of Education has no jurisdiction to issue declaratory rulings regarding them or hear cases arising under them. Therefore, I **CONCLUDE** that Petitioner’s claims 3 through 8 should be dismissed.

B. Claims subject to dismissal for timeliness:

N.J.A.C. 6A:3-1.3(i) address time limitations on petitions to the Commissioner of Education:

The petitioner shall file a petition no later than the 90th day from the date of receipt of the notice of a final order, ruling or other action by the district board of education, individual party, or agency, which is the subject of the requested contested case hearing.

[Id.]

N.J.A.C. 6A:3-2.1(b) makes the timeliness standard from petitions to appeal found at N.J.A.C. 6A:3-1.3(i) applicable to petitions for declaratory rulings:

[T]he rules pertaining to filing, service and answer of petitions as set forth in this chapter shall apply to petitions for declaratory ruling.

[N.J.A.C. 6A:3-2.1(b).]

Of the statutes Petitioner lists that are within the jurisdiction of the Commissioner of Education, the Petition references events taking place between the years of 2008 and 2012. In light of I.W.’s transfer to West Orange in 2012, I **FIND** that any claims Petitioner might have against West Orange that are subject to the jurisdiction of the Commissioner of Education are plainly time-barred by N.J.A.C. 6A:3-1.3(i) and I **CONCLUDE** therefore that they should be dismissed.

Moreover, Newark and West Orange both state that I.W. transferred from Newark to West Orange on March 6, 2012. Newark Memo 4; West Orange Brief 2. The Petitioner’s submission also appears to reference March 6, 2012, more specifically as the date I.W. was subjected to “a dishonorable order,” as well as “corporal punishment.”

Pet. 3, 5. Therefore, I **CONCLUDE** that all of Petitioner's claims against Newark are time-barred as well and should be dismissed.

CONCLUSION

The petition warrants dismissal for a multitude of reasons, not the least of which is the fact that it appears that all of the behavior her "claims" address took place in 2008 at the earliest, and in 2012 at the latest. These incidents are well past the 90 day time limitation on such claims.

Of even greater significance is the fact that the Petitioner's submission is incoherent and incomprehensible. Even if the petition did reference actions by Newark or West Orange that were alleged to have occurred within the past 90 days, it remains impossible to decipher what exactly those actions were.

Finally, I **FIND** that the majority of the statutes cited by Petitioner are not school laws, and thus are not within the jurisdiction of the Commissioner of Education. Therefore, I **CONCLUDE** that all of Petitioner's claims should be dismissed.

ORDER

Based upon all of the foregoing, it is hereby **ORDERED** that the petition in this matter be and hereby is **DISMISSED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless

such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

May 9, 2017

DATE



LESLIE Z. CELENTANO, ALJ

Date Received at Agency:

May 9, 2017

Date Mailed to Parties:
dr
