

#80-06 (OAL Decision: not yet available on-line)

J. M-P. on behalf of minor child T.P., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
SOUTH ORANGE-MAPLEWOOD :
SCHOOL DISTRICT, ESSEX COUNTY :
RESPONDENT. :

SYNOPSIS

Petitioner appealed her minor child, T.P.'s, long-term suspension following an incident in September 2005 in which the child allegedly threatened and verbally abused a teacher. She contended that the respondent Board did not consider the child's medical condition when imposing the penalty of a suspension for the balance of the school year, and she requested that T.P. be returned to school. An application for emergent relief was filed, and a hearing scheduled.

Settlement discussions apparently took place on or prior to the hearing date although the record is unclear in this regard. The ALJ issued an Order of Dismissal of the emergent application and an Initial Decision dismissing the petition, stating that the case had been settled, and that T.P. had been returned to school on December 19, 2005.

Having received no exceptions stating to the contrary, the Commissioner is constrained to find that the petition and the application for emergent relief are moot, and accordingly adopts the Order of Dismissal of the emergent application and the Initial Decision dismissing the petition as the final decision in this matter.

<p>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.</p>

February 27, 2006

OAL DKT. NO. EDU 12344-05
AGENCY DKT. NO. 321-11/05

J. M-P. on behalf of minor child T.P., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
SOUTH ORANGE-MAPLEWOOD :
SCHOOL DISTRICT, ESSEX COUNTY :
RESPONDENT. :

The Commissioner has reviewed the record of this matter, the Order of Dismissal issued by the Office of Administrative Law (OAL) on January 11, 2006, and the Initial Decision dated January 17, 2006. No exceptions were filed.

The petition and application for emergent relief were submitted to the Bureau of Controversies and Disputes on November 10, 2005, requesting that petitioner's minor child, T.P., be returned to school. T.P. had been suspended for the balance of the school year, with the possibility of returning to school sooner, provided certain conditions were met, including a mental health evaluation. The case was immediately transmitted to the OAL for a hearing.

A hearing on the emergent application was scheduled for November 21, 2005, and on November 18, 2005, respondent submitted its papers opposing the requested emergent relief. In both the above referenced Order of Dismissal and the Initial Decision, it states that "[d]uring the hearing, the parties requested that the case be continued to another date because they were discussing settlement terms."

Correspondence dated November 29, 2005, from respondent's counsel advised the Administrative Law Judge (ALJ) that respondent had agreed to meet to reconsider T.P.'s disciplinary case. Respondent asked that petitioner provide a medical report/evaluation, including information

about T.P.'s medication and treatment, and an opinion about whether she posed a danger to herself or others. After the submission of that information, petitioner and respondent's superintendent would meet, the superintendent would make a recommendation to the respondent Board of Education (Board), and the Board would make a decision. It states in both the Order of Dismissal and Initial Decision that the OAL hearing was consequently adjourned to December 14, 2005.

On December 13, 2005, the day before the scheduled hearing, respondent's counsel submitted a letter brief and certifications urging that petitioner had neither sustained her burden to justify a grant of emergent relief, nor shown that respondent had acted arbitrarily or capriciously in imposing the suspension upon T.P.

Notwithstanding this indication that the issues in this matter were still unresolved on December 13, 2005, the ALJ reported in both the Order of Dismissal and the Initial Decision that the hearing date of December 14, 2005 "was adjourned because the case had been settled. T.P. was returned to school on December 19, 2005." Having received no exceptions stating to the contrary, the Commissioner is constrained to find that the petition and the application for emergent relief are moot.

Accordingly, the Commissioner adopts the Order of Dismissal of the emergent application and the Initial Decision dismissing the petition.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 27, 2006

Date of Mailing: February 27, 2006

¹ This decision may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A: 4-1.1 et seq.*