

#414-08 (OAL Decision: Not yet available online)

L.L., on behalf of minor child, B.L., :
 PETITIONER, :
 V. : COMMISSIONER OF EDUCATION
 BOARD OF EDUCATION OF THE CITY : DECISION
 OF CLIFTON, PASSAIC COUNTY, :
 RESPONDENT. :
 _____ :

SYNOPSIS

Pro se petitioner sought to expunge a one-day suspension from her son’s pupil record, contending that during a physical altercation in the locker room, B.L. was not the aggressor; rather, he was punched in the face by a bigger child and pushed him away in self-defense. The Board alleges that: its investigation revealed that B.L. used force against another student; the district has a “zero-tolerance” policy against violence at school; and its decision to suspend B.L. was not arbitrary or capricious.

The ALJ found that the charge against B.L. is supported by the evidence and should be sustained. However, given the circumstances surrounding the incident, the penalty ascribed by the Board is unduly harsh. The ALJ ordered that the penalty be reduced from a one-day suspension to a written reprimand.

Upon a full and independent review, the Commissioner adopted the Initial Decision as the final decision in this matter and directed that B.L. receive a written reprimand for his role in the incident which occurred in the school locker room on October 1, 2004.

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.

October 15, 2008

OAL DKT. NO. EDU 5652-05
AGENCY DKT. NO. 90-4/05

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 PETITIONER, :
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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 filed no exceptions to this decision.

Upon review, the Commissioner concurs with the Administrative Law Judge that – for the reasons comprehensively detailed in his decision – the charge against B.L. is supported by the evidence and must, therefore, be sustained. The Commissioner further agrees with the ALJ’s determination that, under the particular circumstances of this matter, the Board-imposed penalty of a 1-day suspension is unduly harsh and should be reduced to a written reprimand.

Accordingly, the Initial Decision of the OAL is adopted for the reasons articulated therein. The Commissioner directs that B.L. should receive a written reprimand for his role in the incident which occurred in the school locker room on October 1, 2004.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: October 15, 2008

Date of Mailing: October 15, 2008

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.