

#18-14 (OAL Decision: Not yet available online)

ERIK TRACY, :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
THOMAS DEMAIO, PRINCIPAL OF :
THE PASCACK VALLEY REGIONAL :
HIGH SCHOOL, BERGEN COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed an appeal in July 2013 which sought to impose disciplinary action and mandatory policy education training on Thomas DeMaio, the principal of petitioner's former high school, in connection with DeMaio's actions which barred the petitioner from attending his senior prom on June 1, 2012. Petitioner had been among a group of approximately 25 students who arrived at the prom location in a mini-bus, and who were denied admission to the prom after DeMaio determined that the bus occupants had been using alcohol prior to arriving at the prom. Petitioner also sought reimbursement for his expenses related to the prom. The respondent filed a motion for summary decision, arguing that the petition was untimely filed and that the relief sought cannot be granted by the Commissioner.

The ALJ found, *inter alia*, that: there are no material facts at issue, and the matter is ripe for summary decision; the within dispute is now moot because the petitioner's prom occurred in June 2012; further, the relief sought by the petitioner is not within the jurisdiction of the Commissioner to order. Accordingly, the ALJ concluded that the petition should be dismissed.

Upon full consideration, the Commissioner concurred with the findings and conclusions of the ALJ, and adopted the Initial Decision as the final decision in this matter. 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.

January 15, 2014

OAL DKT. NO. EDU 11189-13
AGENCY DKT. NO. 160-7/13

ERIK TRACY, :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
THOMAS DEMAIO, PRINCIPAL OF :
THE PASCACK VALLEY REGIONAL :
HIGH SCHOOL, BERGEN COUNTY, :
RESPONDENT. :

The instant appeal was precipitated by respondent's actions in barring petitioner from attending the June 1, 2012 school prom. The disciplinary action was, in turn, the result of respondent's discovery of evidence of alcohol usage by students on a minibus in which petitioner and others arrived for the prom. As it is undisputed that the experience of attending the prom cannot be restored, petitioner asks for reimbursement of prom expenses, and for training and discipline of respondent.

In the Initial Decision of the Office of Administrative Law (OAL) the Administrative Law Judge (ALJ) recommends dismissal of the petition on jurisdictional grounds. First, the ALJ points out that petitioner filed his appeal on July 19, 2013. This was over a year after the prom incident and, consequently, far outside the time allowed by *N.J.A.C. 6A:3-1.3(i)* for the filing of appeals to the Commissioner of Education. Second, the ALJ correctly advises that the Commissioner does not have jurisdiction to award consequential money damages of the nature that petitioner requests. Third, the ALJ rightly asserts that the Commissioner does not impose upon local school administrators the type of discipline which petitioner demands. A

request for discipline or training of a school administrator is, rather, properly made to the superintendent or board of education of the relevant school district, *i.e.* the administrator's employer.

In sum, the Commissioner adopts the Initial Decision as the final decision in this case. Accordingly, the petition is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: January 15, 2014

Date of Mailing: January 16, 2014

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