

D.V., ON BEHALF OF MINOR CHILD, N.V., :
 PETITIONER, :
 V. : COMMISSIONER OF EDUCATION
 :
 : DECISION
 BOARD OF EDUCATION OF THE TOWNSHIP :
 OF EDISON, MIDDLESEX COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner D.V. filed an appeal contending that the respondent Board had allowed various incidents of harassment, intimidation, and bullying (HIB) against her grandson, N.V., a special needs student who had been placed by the Board at the Rugby School in Neptune, New Jersey by way of an Individualized Education Program. Petitioner alleged that the incidents of HIB occurred during N.V.'s participation in a lacrosse program operated by the Edison Township Recreation Department – a program the Board asserts is not affiliated with Edison Township Public Schools. The Board filed a motion to dismiss in lieu of an answer to the petition.

The ALJ conducted a telephone pre-hearing conference with the parties, during which petitioner stated that she would be withdrawing her petition of appeal. Petitioner was instructed to submit a letter confirming the withdrawal of this matter. When no such letter was received, multiple attempts were made to contact petitioner, to no avail. Ultimately, the matter was scheduled for a hearing on December 21, 2016. Petitioner did not attend the hearing, and has offered no explanation for her failure to appear. Accordingly, the ALJ concluded that the petitioner has abandoned this matter and that the file must therefore be returned to the agency pursuant to *N.J.A.C. 1:1-14.4(a)*.

Upon review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter. Accordingly, the petition was dismissed with prejudice.

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.

OAL DKT. NO. EDU 12094-16
AGENCY DKT. NO. 186-7/16

D.V., ON BEHALF OF MINOR CHILD, N.V.,	:	
	:	
PETITIONER,	:	COMMISSIONER OF EDUCATION
	:	
V.	:	DECISION
	:	
BOARD OF EDUCATION OF THE TOWNSHIP	:	
OF EDISON, MIDDLESEX COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

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 notes that the Administrative Law Judge (ALJ) returned this matter to Commissioner for appropriate disposition – in accordance with *N.J.A.C.* 1:1-14.4 – because petitioner failed to appear at the December 21, 2016 OAL hearing without providing an explanation. The Commissioner finds that since petitioner failed to appear at the December 21, 2016 hearing – after having indicated to the ALJ that she intended to withdraw her petition of appeal, but failing to submit a letter to that effect – the petition of appeal shall be dismissed with prejudice.

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed with prejudice.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 13, 2017

Date of Mailing: February 13, 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

DISMISSAL

OAL DKT. NO. EDU 12094-16

AGENCY DKT. NO. 186-7/16

D.V. ON BEHALF OF MINOR CHILD N.V.,

Petitioner,

v.

**TOWNSHIP OF EDISON BOARD OF
EDUCATION, MIDDLESEX COUNTY,**

Respondent.

D.V., petitioner, pro se

Adam S. Weiss, Esq., for respondent (The Busch Law Group L.L.C.)

Record Closed: December 21, 2016

Decided: December 30, 2016

BEFORE **JOAN BEDRIN MURRAY**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, D.V., charged respondent, the Township of Edison Board of Education (the Board), with allowing various incidents of harassment, intimidation, and bullying against her grandson, N.V., to take place. In response, the Board filed a Motion to

Dismiss, or in the alternative, Motion for Summary Decision in lieu of an Answer. The matter was transmitted to the Office of Administrative Law (OAL), and filed on August 10, 2016, as a contested case.

FINDINGS OF FACT

The following **FACTS** are undisputed; therefore, I **FIND** that they are the **FACTS** of this case:

On September 26, 2016, I conducted a telephone pre-hearing conference with the parties in this matter, which concluded with petitioner stating that she would be withdrawing her petition of appeal. She was directed to submit a letter to that effect within the next few days. When no such letter was received, my judicial assistant, Ms. Ramos, placed two telephone calls to petitioner to ascertain her intention in this matter. Although she left two voice messages for petitioner, the telephone calls went unreturned. On October 17, 2016, Ms. Ramos emailed petitioner, again receiving no response. On November 29, 2016, I sent a letter to the parties advising that if I did not receive a letter of withdrawal from petitioner by December 2, 2016, I would schedule the matter for a hearing on December 21, 2016. As no letter was forthcoming, the matter was scheduled for a hearing on said date. Petitioner failed to appear on December 21, 2016. She has not since made any contact with the OAL to explain her failure to appear.

CONCLUSIONS OF LAW

Based on the foregoing facts and the applicable law, I **CONCLUDE** that respondent has abandoned this matter and it should be returned to the agency.

N.J.A.C. 1:1-14.4(a) provides as follows:

If, after appropriate notice, neither a party nor a representative appears at any proceeding scheduled by the Clerk or judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge shall . . . direct the Clerk to return the matter to the transmitting agency

Petitioner failed to appear at the scheduled proceeding, and failed to provide an explanation for her nonappearance within the allotted time for doing so. Accordingly, the Clerk should return this matter to the New Jersey Department of Education, Bureau of Controversies and Disputes.

ORDER

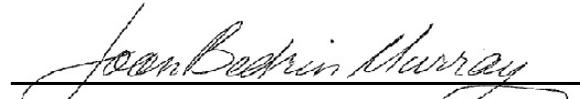
It is **ORDERED** that the Clerk return this matter to the New Jersey Department of Education, Bureau of Controversies and Disputes, for appropriate disposition.

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.

December 30, 2016
DATE


JOAN BEDRIN MURRAY, ALJ

Date Received at Agency:

December 30, 2016

Date Mailed to Parties:
dr
