

C.G., on behalf of minor child, E.J.G., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
LAKELAND REGIONAL HIGH SCHOOL
DISTRICT, PASSAIC COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner filed a *pro se* residency appeal on behalf of her son, E.J.G., seeking a determination that E.J.G. is entitled to a free public education in the Lakeland Regional High School District. The respondent Board alleged that petitioner resides in Lincoln Park, which is not a part of the Lakeland Regional High School District. The matter was transmitted to the Office of Administrative Law (OAL) and a pre-hearing conference was scheduled for March 28, 2017. Petitioner failed to appear at the scheduled hearing. The OAL sent a notice of petitioner’s failure to appear to the Commissioner on March 30, 2017, and subsequently returned the file to this agency. Correspondence from petitioner explaining her failure to appear was received by the Commissioner on April 13, 2017. Subsequently, the matter was re-transmitted to the OAL for further disposition pursuant to *N.J.A.C.* 1:1-3.3(b).

The ALJ found that: a pre-hearing telephone conference was scheduled for June 6, 2017, and petitioner was timely notified of the date; when petitioner could not be reached by telephone on the scheduled date, an email was sent to petitioner requesting that she call at her earliest convenience and advising that the matter would be scheduled for hearing on August 2, 2017; petitioner was further advised that if she failed to appear on that date, her petition would be dismissed; petitioner subsequently contacted the ALJ’s office and stated that she intended to withdraw her petition, and would not appear at the hearing; however, petitioner did not subsequently submit a withdrawal, and – once again – failed to appear at the hearing; no explanation was provided for petitioner’s nonappearance. Accordingly, the ALJ concluded that the petitioner has abandoned this matter, and ordered that the file be returned to the transmitting agency.

Upon review, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter, and 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.

September 25, 2017

C.G., ON BEHALF OF MINOR CHILD, E.J.G., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE :
LAKELAND REGIONAL SCHOOL DISTRICT, :
PASSAIC COUNTY, :
RESPONDENT. :

DECISION

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 the Commissioner for appropriate disposition – in accordance with *N.J.A.C.* 1:1-14.4 – because petitioner failed to appear at the August 2, 2017 OAL hearing without providing an explanation. The Commissioner finds that since petitioner failed to appear at the August 2, 2017 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.

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

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: September 25, 2017

Date of Mailing: September 27, 2017

* 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 06767-17

AGENCY DKT. NO. 323-12/16

C.G. ON BEHALF OF MINOR CHILD E.J.G.,

Petitioner,

v.

BOARD OF EDUCATION OF THE LAKELAND

REGIONAL SCHOOL DISTRICT,

PASSAIC COUNTY,

Respondent.

C.G., petitioner, pro se

Marie-Laurence Fabian, Esq., for respondent (Porzio, Bromberg & Newman,
P.C., attorneys)

Record Closed: August 2, 2017

Decided: August 9, 2017

BEFORE **JOAN BEDRIN MURRAY**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, C.G., appealed the determination of respondent, the Board of Education of the Lakeland Regional School District (the Board), that her son, E.J.G.,

was ineligible to attend Lakeland Regional High School due to his residency outside the district. The matter was transmitted to the Office of Administrative Law (OAL) as Docket No. EDU 01924-17, and filed on February 7, 2017, as a contested case. A pre-hearing telephone conference was scheduled for March 28, 2017. On said date, the matter was dismissed for petitioner's failure to appear at the appointed time. On March 30, 2017, the OAL sent a notice to the Commissioner of Education (the Commissioner), reporting petitioner's failure to appear. The file was then returned to the Agency. In April 2017, petitioner contacted the Department of Education, providing an explanation for her non-appearance at the pre-hearing conference. The Commissioner then remanded the matter to the OAL as Docket No. 06767-17, where it was filed on May 11, 2017.

FINDINGS OF FACT

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

By notice to the parties dated June 6, 2017, a pre-hearing telephone conference was scheduled in this matter for June 26, 2017 at 3:30 p.m. The notice sent to petitioner was not returned to the OAL as undelivered. At the scheduled conference time, my assistant, Ms. Ramos, was unable to reach petitioner by telephone. Marie-Laurence Fabian, Esq., counsel for respondent, supplied Ms. Ramos with an email address for petitioner. I sent an email to petitioner asking her to call my assistant at her earliest convenience, and to advise if her address had changed to ensure that she received future mailings. In addition, petitioner was advised that the matter would be scheduled for a hearing on August 2, 2017, at 9:30 a.m. She was also advised that her petition would be dismissed if she failed to appear at that time.

On or about July 14, 2017, petitioner contacted Ms. Ramos, stating that she would not be appearing at the August 2, 2017, hearing. Further, she noted that she intended to withdraw her petition, but could not do so at the time because she had no access to a computer or a mailbox. No withdrawal was received by the OAL. On August 2, 2017, petitioner did not appear for the scheduled hearing. She has made no further contact with the OAL.

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 . . .

Here, petitioner advised the OAL that she intended to withdraw her petition, and would not be appearing for the hearing on August 2, 2017. As no withdrawal was received by the OAL, the hearing remained on the schedule for that day. 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.

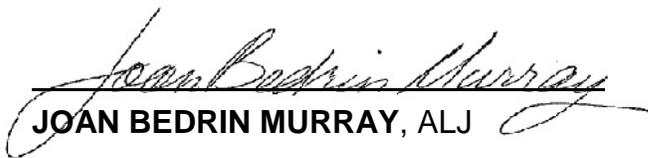
I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

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.

August 9, 2017
DATE


JOAN BEDRIN MURRAY, ALJ

Date Received at Agency: August 9, 2017

Date Mailed to Parties:
dr _____