

New Jersey Commissioner of Education
Final Decision

C.H. and S.H., on behalf of minor children,
C.H., S.H., and S.H.,

Petitioners,

v.

Board of Education of the Township of
Alloway, Salem County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C.* 1:1-18.4 by the petitioners. The Administrative Law Judge dismissed the petition finding that the petitioners failed to appear at the February 3, 2020 status conference and that they did not provide an explanation for their nonappearance.

Based upon the petitioner's timely written explanation stating that they did not appear at the February 3, 2020 conference call because they did not receive adequate notice of the call, this matter is being retransmitted to the OAL for further disposition, pursuant to *N.J.A.C.* 1:1-3.3(b).

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: March 9, 2020

Date of Mailing: March 9, 2020



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION – DISMISSAL

FAILURE TO APPEAR

OAL DKT. NO. EDU 02929-18

AGENCY DKT. NO. 30-1/18

C.H. AND S.H. ON BEHALF OF

C.H., S.H. AND S.H.,

Petitioners,

v.

BOARD OF EDUCATION OF

THE TOWNSHIP OF ALLOWAY,

SALEM COUNTY,

Respondent.

C.H. and S.H., petitioners, pro se

William Morlok, Esq., for respondent (Parker McCay, P.A., attorneys)

Record Closed: February 3, 2020

Decided: February 5, 2020

BEFORE **JEFFREY R. WILSON,** ALJ:

STATEMENT OF THE CASE

Petitioners allege that the respondent denied access to the student records of their three children. Petitioners request that the records be released at no cost to the petitioners.

PROCEDURAL HISTORY AND FACTUAL DISCUSSION

The petitioners filed an appeal of the denial of access to the student records of their three children and requested a hearing before the Office of Administrative Law (OAL). The matter was transmitted to the OAL, where it was filed on February 26, 2018, as a contested case. N.J.S.A. 52:14B-1 to 15 and N.J.S.A. 52:14F-1 to 13. The petitioners filed a motion for summary decision on June 10, 2018. (P-1.) The respondent filed its cross-motion for summary decision and response on June 21, 2018. (R-1.) The petitioners filed a reply brief on July 2, 2018. (P-2.) On October 1, 2018, the petitioners filed a motion to supplement the record. (P-3.) On October 8, 2018, the respondent filed its brief in opposition to the motion to supplement the record. (R-2.) Those cross-motions for summary decision were denied by Order dated June 12, 2019.

By Order dated September 24, 2019, petitioners' attorney was relieved as counsel. Since that date, the petitioners continue self-represented. On October 21, 2019, a telephone status conference was held and this matter was scheduled to be heard on February 18 and February 19, 2020.

At the request of the parties, an in-person settlement conference was held on December 26, 2019. At that time, the parties reached a settlement agreement that was placed on the record. During *voire dire*, the pro se petitioners, C.H. and S.H., affirmed that they understood the terms of the agreement and entered into the agreement freely, voluntarily and without coercion or duress. Counsel for the respondent was directed to reduce the agreement to a writing and provide it to the petitioners to execute.

By letter, dated January 14, 2020, counsel for the respondent informed this Administrative Law Judge that the petitioners returned the signed agreement with additions and deletions unilaterally made by them. (R-3.) Counsel for the respondent did not agree with the petitioners' amendments.

On January 16, 2020, this Administrative Law Judge sent a letter to the parties and acknowledged that clearly there was no meeting of the minds and that there was no

settlement of the case. (C-1.) In said letter, the parties were directed to participate in a telephone conference on January 23, 2020, to address outstanding issues. During the January 23, 2020, telephone conference, the parties still could not reach an agreement as to the petitioners' amendments and the petitioners were directed to provide respondent's counsel with a draft of their understanding of the agreement on or before January 27, 2020. The petitioners complied however; respondent's counsel was not in agreement with their submission.

On January 28, 2020, counsel for the respondent filed a motion to enforce the December 26, 2019, settlement agreement. (R-4.) The petitioners acknowledged receipt of the motion on January 30, 2020. (C-2.) By Letter Order, dated January 30, 2020, the respondent's motion was denied and it was ordered that the matter would proceed to a fair hearing, as scheduled, on February 18 and February 19, 2020. (C-3.) It was further ordered that a mandatory telephone conference would be held on February 3, 2020, at 4:00 p.m. to address prehearing issues. It was noted that if any party failed to participate in this telephone conference, the file would be returned to the transmitting agency for the appropriate action which may include imposition of the proposed penalty or granting the relief requested by the opposing party.

CONCLUSION

To date, the petitioners have not provided a request for an adjournment of the February 3, 2020, status conference or an explanation for their nonappearance for the same. Neither has this office received notice of legal representation on behalf of the petitioners. Therefore, I **CONCLUDE** that petitioners have failed to appear and abandoned their appeal.

ORDER

It is hereby **ORDERED** that this matter is **DISMISSED**.

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.



February 5, 2020

DATE

JEFFREY R. WILSON, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

JRW/tat

APPENDIX

EXHIBITS

For Petitioners:

- P-1 Petitioners' motion for summary decision, filed June 10, 2018
- P-2 Petitioners' response to respondent's motion opposition and cross-motion, filed July 2, 2018
- P-3 Petitioners' motion to supplement the record, filed October 1, 2018

For Respondent:

- R-1 Respondent's motion for summary decision, brief in opposition to petitioners' motion for summary decision and in support of respondent's motion for summary decision, filed June 21, 2018
- R-2 Respondent's brief in opposition to petitioners' motion to supplement the record, filed October 8, 2018
- R-3 Respondent's letter, dated January 14, 2020
- R-4 Respondent's motion to enforce settlement, dated January 28, 2020

Judge's Exhibits:

- C-1 Administrative law Judge's letter to the parties, dated January 16, 2020
- C-2 Petitioner's acknowledgement of receipt of respondent's motion to enforce settlement, dated January 30, 2020
- C-3 Letter Order (with confirmation of delivery), dated January 30, 2020