

167-22

OAL Dkt. No. EDU 01694-22

Agency Dkt. No. 20-2/22

## New Jersey Commissioner of Education

### Final Decision

R.C. and B.C., on behalf of minor child, A.C.,

Petitioner,

v.

Board of Education of the Township of  
Galloway, Atlantic County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), and the exceptions filed by petitioners pursuant to *N.J.A.C. 1:1-18.4* have been reviewed and considered.<sup>1</sup>

Petitioners challenge a harassment, intimidation, and bullying (HIB) decision made by the Board. The Administrative Law Judge (ALJ) scheduled a telephone conference for May 26, 2022. Petitioners did not participate in the telephone prehearing conference; accordingly, the ALJ dismissed the matter based on petitioners' apparent abandonment of their appeal.

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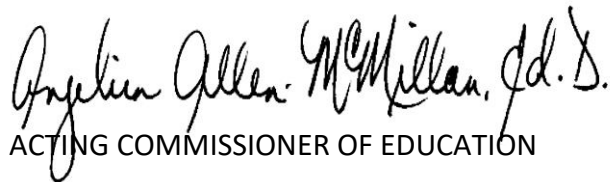
<sup>1</sup> The Board did not file a reply to petitioners' exceptions. Petitioners also filed a motion to vacate the Initial Decision, making the same arguments included in their exceptions. As there is no statutory or regulatory provision for the filing of a motion to vacate an Initial Decision, neither the motion nor the Board's reply thereto were considered. Petitioners also filed a motion to vacate the Initial Decision on the grounds that the ALJ had a conflict. Again, neither this motion nor the Board's reply thereto were considered, although petitioners are free to raise the issue of conflict should the same ALJ be assigned on remand.

In their exceptions, petitioners indicate that they did not see the email scheduling the telephone conference, nor did opposing counsel contact them when they failed to appear for the conference. They state that they would have attended if they had they been aware that it was scheduled. Accordingly, they urge the Commissioner to overturn the Initial Decision.

Upon review, the Commissioner finds that petitioners did not abandon this matter. Petitioners offered a reason why they failed to appear for the May 26, 2022 telephone prehearing conference, namely that the email – which, according to the Initial Decision, is the only method by which the OAL sent the scheduling notice – was not received.

Accordingly, this matter is remanded to the OAL for further proceedings necessary to reach a determination on the merits.

IT IS SO ORDERED.

  
ANGELINA ALLEN McMILLAN, J.D.S.  
ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 8, 2022  
Date of Mailing: July 8, 2022



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**DISMISSAL**

OAL DKT. NO. EDU 01694-22

AGENCY DKT. NO. 20-2/22

**R.C. AND B.C. ON BEHALF OF  
MINOR CHILD, A.C.,**

Petitioners,

v.

**TOWNSHIP OF GALLOWAY  
BOARD OF EDUCATION,  
ATLANTIC COUNTY,**

Respondent.

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**R.C. and B.C.**, petitioners on behalf of minor, child A.C., pro se

**Amy Houck Elco, Esq.**, for respondent (Cooper Levenson, P.A., attorneys)

Record Closed: May 31, 2022

Decided: May 31, 2022

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

**STATEMENT OF THE CASE**

Petitioners challenge the respondent's, Township of Galloway Board of Education's (Board or respondent) harassment, intimidation, and bullying (HIB) decision.

## PROCEDURAL HISTORY AND FACTUAL DISCUSSION

This matter was transmitted to the Office of Administrative Law (OAL), where it was filed on March 4, 2022. A telephone prehearing conference was scheduled to be heard on April 25, 2022. Notice of that that telephone conference was emailed to the petitioners on March 29, 2022. The notice included the following language:

If you do not participate in the telephone conference, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party.

Petitioners did not participate in the April 25, 2022, telephone conference. However, the petitioners did send an email later that day apologizing for not participating in the call and requesting that the matter be rescheduled.

Another telephone prehearing conference was scheduled to be heard on May 26, 2022. Notice of that that telephone conference was emailed to the petitioners on April 26, 2022. The notice included the following language:

**If you do not participate in the telephone conference, the file will be returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party. (emphasis included.)**

The petitioners did not participate in the May 26, 2022, telephone conference and did not contact the OAL to explain why they were unable to do so.

## CONCLUSION

To date, the petitioners have not provided a request for an adjournment of the May 26, 2022, telephone 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.



May 31, 2022  
DATE

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**JEFFREY R. WILSON, ALJ**

Date Received at Agency:

May 31, 2022 (email)

Date Mailed to Parties:

May 31, 2022 (email)

JRW/tat