

119-22
OAL Dkt. No. EDU 09324-21
Agency Dkt. No. 207-11/21

New Jersey Commissioner of Education

Final Decision

L.B., on behalf of minor child, E.Y.,

Petitioner,

v.

Board of Education of the Monmouth Regional
High School District, Monmouth 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 review, the Commissioner agrees with the Administrative Law Judge's determination – for the reasons stated in the Initial Decision – that no issues remain in dispute and that the petition of appeal should be dismissed. Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter for the reasons expressed therein, and the petition is hereby dismissed.

IT IS SO ORDERED. ¹


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

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

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

L.B. on behalf of E.Y.,

Petitioner,

v.

**BOARD OF EDUCATION OF THE
MONMOUTH REGIONAL HIGH SCHOOL
DISTRICT, MONMOUTH COUNTY,**

Respondent.

OAL DKT. NO. EDU 09324-21

AGENCY DKT. NO. 207-11/21

L.B., on behalf of E.Y., petitioner, pro se

Martin M. Barger, Esq., for respondent (Barger & Gaines, attorneys)

Record Closed: May 2, 2022

Decided: May 4, 2022

BEFORE **KIM C. BELIN**, ALJ:

STATEMENT OF THE CASE

This matter concerns the decision by the Acting Commissioner of the New Jersey Department of Education (Acting Commissioner). The November 30, 2021, decision modified the Administrative Law Judge's (ALJ) order which granted the petitioner's application for emergent relief returning E.Y. to the high school. The Acting Commissioner directed the respondent to determine, at the next regularly scheduled school board meeting, if E.Y.'s long-term suspension should continue, or if a meeting was not scheduled within ten days of the date of the decision, that a special meeting be scheduled to determine if E.Y.

should return to the general education program. In addition, the respondent was directed to ensure that E.Y. was provided with the appropriate educational programs or services using home instruction services. The Acting Commissioner further directed that the matter continue at the OAL with such actions or proceedings that the parties and ALJ deemed necessary to bring the matter to closure.

PROCEDURAL HISTORY

On November 1, 2021, the petitioner filed a petition of appeal challenging respondent's determination that E.Y. engaged in behavior warranting temporary removal from the high school. On November 9, 2021, the Director of the Office of Controversies and Disputes within the Department of Education transmitted the petition and motion for emergent relief to the Office of Administrative Law (OAL). N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13; N.J.A.C. 1:1-8.2. Oral argument was held on the emergent application on November 12, 2021. An order was issued on November 15, 2021, granting emergent relief. On November 30, 2021, the Acting Commissioner issued a decision modifying the order and directing that the matter "continue at the OAL with such proceedings as the parties and the ALJ deem necessary to bring it to closure."

On April 7, 2022, the undersigned sent a letter to the parties requesting an update on whether E.Y.'s long-term suspension was continued and whether she had returned to the high school. In a letter dated April 8, 2022, counsel for respondent stated that E.Y. returned to the high school on November 15, 2021, and that E.Y. signed out of the school district on February 4, 2022. Petitioner did not respond to the email requests from my office on April 8, and April 13, 2022, to confirm counsel's statements and to clarify if petitioner wished to pursue her appeal or withdraw.

On April 25, 2022, a letter was emailed to the petitioner directing her to contact this office and advise whether she wished to pursue this matter and that if she did not respond by May 2, 2022, her appeal would be dismissed.

As of the date of this decision, the petitioner has not responded. Accordingly, the petition must be **DISMISSED** for failure to pursue a claim of action under N.J.A.C. 1:1-14.4.

ORDER

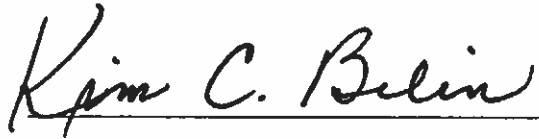
I **ORDER** that the petition be **DISMISSED**.

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 4, 2022
DATE


KIM C. BELIN, ALJ

Date Received at Agency: May 4, 2022

Date Mailed to Parties: May 4, 2022

KCB/sm