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DEPARTMENT OF EDUCATION  
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Acting Commissioner

January 12, 2023

**VIA EMAIL ONLY**

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Re: Laurie Weber v. Board of Education of the Village of Ridgewood, Bergen County, Agency Dkt. No. 114-7/21, Commissioner Decision No. 233-22

Dear Parties,

I have reviewed the materials filed in connection with the Infant Toddler Development Center Parent Group's (ITDCPG) Motion for Reconsideration of the Commissioner's September 19, 2022 decision.

Initially, the Commissioner notes that the ITDCPG was granted participant status in this matter by virtue of Commissioner Decision No. 46-22L, dated March 7, 2022. *N.J.A.C. 1:1-16.6* limits the nature and extent of participation to the right to argue orally, file statements or briefs, and file exceptions to the Initial Decision. Furthermore, *N.J.A.C. 6A:3-1.15(b)* provides that a "party" may make a motion for reconsideration. The ITDCPG is not a "party" to these proceedings, but a participant. Nothing in the applicable rules permits a participant to file a motion for reconsideration.

Furthermore, the motion was not timely filed. Commissioner Decision No. 233-22, which is the subject of the motion for reconsideration, was mailed to the parties on September 19, 2022. Pursuant to *N.J.A.C. 6A:3-1.14(c)*, the filing date is three days following the date of mailing; in this matter, the filing date is therefore September 22, 2022. Pursuant to *N.J.A.C. 6A:3-1.15*, a party may make a motion for reconsideration within 10 days of the filing of the Commissioner's decision. Here, that deadline expired

on October 3, 2022, but the ITDCPG's motion was not filed until October 6, 2022. No extension of time was requested or granted.

Nonetheless, the Commissioner has reviewed the motion for reconsideration. Pursuant to *N.J.A.C. 6A:3-1.15(b)(2)*, a motion for reconsideration shall be determined based upon the following:

- i. claim(s) of mistake, provided, however, that disagreement with the outcome of a decision, or with the analysis upon which it is based, shall not constitute "mistake" for purposes of this section;
- ii. newly discovered evidence likely to alter the outcome of a matter, where such evidence could not have been previously discovered by due diligence;
- iii. newly ascertained misrepresentation or other misconduct of an adverse party, where such misrepresentation could not have been previously known; or
- iv. reversal of a prior judgment on which the present matter is based.

Upon review and consideration of the submissions, I find that the ITDCPG has failed to satisfy the factors set forth in *N.J.A.C. 6A:3-1.15(b)(2)*. The ITDCPG contends that, because children as young as six weeks old are capable of learning, the ITDC is a lawful use of school facilities pursuant to *N.J.S.A. 18A:30-34(a)*. However, this argument was previously made by respondent, and rejected. Respondent's submission expresses disagreement with the outcome of the decision, but that is not a sufficient basis for reconsideration.

The Ridgewood Board of Education (Board) filed a brief in support of the ITDCPG's motion for reconsideration. The Board does not address the grounds for reconsideration raised by the ITDCPG, but instead focuses entirely on its arguments related to mootness, which have also previously been considered and rejected.

Accordingly, the Motion for Reconsideration is hereby DENIED.<sup>1</sup>

Sincerely,



Angelica Allen-McMillan, Ed.D.  
Acting Commissioner of Education

AAM/JS

c: State Law Library

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<sup>1</sup> 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)*.