

J.G. and D.G., on behalf of minor child, H.M., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
OF LAKEWOOD, OCEAN COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioners sought restoration of passing grades in three classes in which minor child H.M. was assigned failing marks based on tardiness, and damages for alleged failure of the respondent Board to provide a hearing prior to the banning of H.M. from participating in high school interscholastic wrestling competition. H.M. graduated from the District's schools in June 2004. The ALJ advised petitioner on October 20, 2003 of the option of an accelerated proceeding in order to hear the matter before petitioner's scheduled graduation date; respondent Board consented to the accelerated proceeding option, but petitioner declined to request same. Respondent Board filed a motion to dismiss the matter.

The ALJ granted respondent's motion to dismiss, finding the matter moot given the fact that petitioner declined the accelerated hearing which would have allowed timely consideration of the issues prior to petitioner's graduation date. The ALJ additionally found that petitioner had not met the burden of proof in this matter, failing to support allegations of lack of notice of suspension from extra-curricular activities, lack of due process, arbitrary application of student regulations, and bias.

The Commissioner concurred with the ALJ for the reasons clearly stated in her decision, and dismissed the petition.

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.

OAL DKT. NO. EDU 2894-03
AGENCY DKT. NO. 120-4/03

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioners' exceptions -- dated January 25, 2006 and filed January 30, 2006, in response to an Initial Decision mailed to the parties on January 11, 2006 -- are untimely pursuant to *N.J.A.C. 1:1-18.4* and, therefore, are not considered herein.

Upon a full and independent review of the record, which included transcripts of the hearing conducted at the OAL on April 26, 2004, the Commissioner concurs with the Administrative Law Judge, for the reasons clearly stated in her decision, that the Board's motion to dismiss is appropriately granted.

Accordingly, the Initial Decision of the OAL is adopted and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 6, 2006

Date of Mailing: February 6, 2006

* This decision may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C 6A:4-1.1 et seq.*