

#433-13 (OAL Decision: Not yet available online)

G.T.S., on behalf of minor child, S.A.S., :

PETITIONER, : COMMISSIONER OF EDUCATION

V. : DECISION

BOARD OF EDUCATION OF THE :
UNION COUNTY VOCATIONAL :
SCHOOL, UNION COUNTY, :

RESPONDENT. :

SYNOPSIS

The petitioner filed an appeal seeking to expunge his then-minor child S.A.S.’s student disciplinary record in connection with an investigation of a harassment, intimidation or bullying (HIB) incident which occurred in March 2012. The respondent Board filed a motion for summary decision, contending that its actions were in compliance with *N.J.S.A. 18A:37-15*, which requires school districts to adopt comprehensive policies prohibiting HIB; further, the HIB investigation was never made a part of S.A.S.’s disciplinary record and accordingly, petitioner’s request to have his daughter’s records expunged should be deemed moot. During the pendency of this case, S.A.S. has reached the age of majority and is now attending college.

The ALJ found, *inter alia*, that: there are no material facts in dispute, and the matter is ripe for summary decision; the respondent Board properly enacted an HIB policy in response to the requirements of the New Jersey Anti-Bullying Law; the Board’s actions in investigating the March 2012 incident and subsequently requiring S.A.S. to participate in sensitivity and awareness training were in compliance with the district HIB policy, and were not arbitrary or capricious; the issues presented by the petitioner on appeal are moot, as there is no disciplinary record in S.A.S.’s educational file to expunge; S.A.S. is currently attending college, and there is no evidence to suggest that the respondent formally or informally conveyed any finding related to the underlying incident to any higher educational institution. The ALJ concluded that a determination of whether S.A.S. engaged in the alleged HIB incident is moot, as resolution would not further a remedy, and dismissed the petition.

Upon review of the record, the Commissioner concurred with the ALJ that the Board is entitled to summary decision. Accordingly, the Commissioner adopted the Initial Decision as the final decision in this matter.

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.

December 2, 2013

OAL DKT. NO. EDU 12505-12
AGENCY DKT. NO. 229-8/12

G.T.S., on behalf of minor child, S.A.S., :
PETITIONER, : COMMISSIONER OF EDUCATION
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BOARD OF EDUCATION OF THE :
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Upon consideration of the record, the Initial Decision of the Office of Administrative Law and petitioner's exceptions thereto, the Commissioner adopts the Initial Decision as the final decision in this case.

The petition calls for 1) a reversal of respondent's determination that petitioner's daughter, S.A.S., violated its anti-bullying and harassment policy, and 2) expungement of any associated disciplinary record. The record reveals that S.A.S. has graduated from respondent's school district, has entered college and has reached the age of majority. It appears undisputed that no record of the challenged discipline was entered into S.A.S.'s school record or transmitted to the colleges to which S.A.S. applied.

It is settled law that "[A]n issue is moot when the decision sought in a matter, when rendered, can have no practical effect on the existing controversy." *Betancourt v. Trinitas Hosp.*, 415 N.J. Super. 301, 311 (App. Div. 2010) (citation omitted). Continuation of this controversy serves no practical purpose, since S.A.S. has suffered no tangible damages and there

is no disciplinary record to be expunged. Further, the Commissioner will not order a hearing to adjudicate a matter where he has no jurisdiction over the complaining party.

Accordingly, respondent's motion for summary disposition is granted, the petition is dismissed, and the Initial Decision is adopted.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: December 2, 2013

Date of Mailing: December 5, 2013

¹ 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)