

#241-13 (OAL Decision: Not yet available online)

G.A., on behalf of minor child, K.A., :  
PETITIONER, : COMMISSIONER OF EDUCATION  
V. : DECISION  
BOARD OF EDUCATION OF THE :  
TOWNSHIP OF MANSFIELD, :  
BURLINGTON COUNTY, :  
RESPONDENT. :

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SYNOPSIS

Petitioner challenged the determination of the respondent Board that her son, K.A., engaged in behavior that is prohibited under the school district’s policy against harassment, intimidation and bullying (HIB). The case stems from an incident on a school bus in October 2011, wherein K.A. – a sixth grader at the time – was alleged to have been one of several students who called a fellow classmate names, including “faggot”, and suggested that the student engaged in sexual aggression. K.A. received four days of lunch and recess detention and reassignment of his bus seat as consequence for his behavior. The Board contended that its actions were at all times compliant with applicable statutes and regulations governing student conduct.

The ALJ found, *inter alia*, that: pursuant to New Jersey’s Anti-Bullying Law, *N.J.S.A. 18A:37-14*, K.A.’s actions in October 2011 were verbal acts motivated by distinguishing characteristics, i.e., gender and sexual orientation; K.A.’s conduct accordingly constituted HIB as that term is defined by law; K.A. was not a chronic troublemaker, but his actions were hurtful and unkind; the school district’s response of assigning him to lunch and recess detention was designed to redirect K.A.’s behavior in a manner that was consistent with his age and that recognized that this was his first offense; the actions of school personnel relative to this incident were consistent with the letter and spirit of *N.J.S.A. 18A:37-14* and *N.J.A.C. 6A:16-7.9*; petitioner failed to carry her burden to prove that the actions of the Board were arbitrary, capricious, unreasonable or otherwise inconsistent with the law; there is no evidence that suggests that the actions of the Board or any of its personnel were taken in bad faith or in disregard of the circumstances; and school personnel promptly responded to the HIB complaint and handled the process consistent with the law, *N.J.S.A. 18A:37-15(a)(6)(a)*. Accordingly, the ALJ ordered the petition dismissed.

Upon review, the Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision as the final decision in this matter. The petition was dismissed.

<p>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.</p>
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June 24, 2013

OAL DKT. NO. EDU 8816-12  
AGENCY DKT. NO. 147-5/12

G.A., on behalf of minor child, K.A., :  
PETITIONER, : COMMISSIONER OF EDUCATION  
V. : DECISION  
BOARD OF EDUCATION OF THE :  
TOWNSHIP OF MANSFIELD, :  
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Upon review of the record<sup>1</sup> and Initial Decision of the Office of Administrative Law, and in consideration of the credibility findings<sup>2</sup> of the Administrative Law Judge, the Commissioner adopts the Initial Decision for the reasons set forth therein. The petition is accordingly dismissed.

IT IS SO ORDERED.<sup>3</sup>

COMMISSIONER OF EDUCATION

Date of Decision: June 24, 2013

Date of Mailing: June 25, 2013

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<sup>1</sup> The record of this matter does not include a transcript of the January 8, 2013 hearing.

<sup>2</sup> The ALJ's credibility findings were reasonable and supported by the record. Thus, the Commissioner is obliged to defer to them. *N.J.S.A. 52:14B-10(c); D.L. and Z.L. on behalf of minor children T.L. and K.L. v. Board of Education of the Princeton Regional School District*, 366 N.J. Super. 269, 273 (App. Div. 2004).

<sup>3</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)*.