

#157-14 (OAL Decision: Not yet available online)

G.H. AND E.H., on behalf of minor child,	:	
K.H.,	:	
	:	
PETITIONERS,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
BOROUGH OF FRANKLIN LAKES,	:	
BERGEN COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

SYNOPSIS

The petitioners challenged the determination of the respondent Board that their son, K.H., engaged in behavior that fell under the school district’s policy against harassment, intimidation and bullying (HIB). This case stems from incidents which arose during the week of October 1, 2012, wherein K.H. – an eighth grader at the time – was among a group of boys who chanted “kool-aid” to tease and taunt an African-American classmate when he walked by in the school hallways and in the locker room. K.H. received a one-day, in-school suspension and counseling as discipline for violating the Board’s policy prohibiting HIB. Petitioners asked that their son’s “conviction under N.J.S.A. 18A:37-13.2 and the District’s policies be reversed and vacated”. The Board contended that its actions were at all times compliant with applicable statutes and regulations governing student conduct, and a reasonable and appropriate exercise of its authority.

The ALJ found, *inter alia*, that: pursuant to New Jersey’s Anti-Bullying Law, N.J.S.A. 18A:37-14, K.H.’s actions in October 2012 constituted HIB as that term is defined by law; K.H.’s use of the word “kool-aid” was directed at a fellow student because of his race, thereby insulting and demeaning him; petitioners’ argument that K.H.’s conduct was a single incident and thus cannot rise to HIB was unpersuasive, as it ignored the factual record and the explicit statutory definition of HIB; the actions of school personnel and the Board were consistent with the letter and spirit of N.J.S.A. 18A:37-14 and N.J.A.C. 6A:16-7.9; and the petitioners have failed to prove that the Board’s actions were arbitrary, capricious, or unreasonable. Accordingly, the ALJ recommended dismissal of the petition.

Upon review, the Commissioner concurred with the ALJ that the petitioners failed to sustain their burden to show that the Board’s actions regarding K.H.’s conduct in October 2012 were arbitrary, capricious or unreasonable. 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.

April 10, 2014

AGENCY DKT. NO. 206-9/13

G.H. AND E.H., on behalf of minor child, :  
K.H., :  
 :  
 PETITIONERS, :  
 :  
 V. : COMMISSIONER OF EDUCATION  
 :  
 BOARD OF EDUCATION OF THE : DECISION  
 BOROUGH OF FRANKLIN LAKES, :  
 BERGEN COUNTY, :  
 :  
 RESPONDENT. :  
 \_\_\_\_\_ :

The record of this matter and the Initial Decision of the Office of Administrative Law have been reviewed. The parties did not file exceptions to the Initial Decision.<sup>1</sup>

Upon review, the Commissioner concurs with the Administrative Law Judge that the Board's decision to impose a one-day suspension on K.H. for violating *N.J.S.A. 18A:37-14* and the Board's Harassment, Intimidation and Bullying policy was not arbitrary, capricious or unreasonable. Accordingly, the recommended decision of the ALJ is adopted as the final decision for the reasons expressed therein.

IT IS SO ORDERED.<sup>2</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: April 10, 2014

Date of Mailing: April 14, 2014

---

<sup>1</sup> The petitioners requested an extension of time to file exceptions; however, exceptions were never subsequently filed.

<sup>2</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).