

M.A., ON BEHALF OF MINOR CHILD, J.A., :
 PETITIONER, :
 V. : COMMISSIONER OF EDUCATION
 BOARD OF EDUCATION OF THE TOWNSHIP: DECISION
 OF VERONA, ESSEX COUNTY,
 RESPONDENT. :
 _____ :

SYNOPSIS

On June 28, 2016, petitioner M.A. filed an appeal seeking an order directing the respondent Board to allow his daughter J.A. – who completed her junior year in high school in June 2016 – to attend a summer recovery program to improve her low passing grades during her sophomore year, including a D in one subject and a D- in three other subjects. A motion for emergent relief in this matter was denied in July 2016, subsequent to the July 8 start date of the summer recovery program in question. On October 24, 2016, the Board filed a motion to dismiss the petition as moot.

The ALJ found, *inter alia*, that: in the instant case, emergent relief was necessary to allow J.A. to attend the summer recovery program, but the application for this relief was denied in July 2016; a case is moot when the determination sought cannot have any practical effect on the existing controversy; the summer program sought by petitioner for her daughter is now in the past, and a decision at this point would have not practical purpose. Accordingly, the ALJ concluded that the case is now moot, and the petition should be dismissed.

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

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.

March 2, 2017

OAL DKT. NO. EDU 09554-16
AGENCY DKT. NO. 179-6/16

M.A., ON BEHALF OF MINOR CHILD, J.A., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP: DECISION
OF VERONA, ESSEX COUNTY, :
RESPONDENT. :
_____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon such review, the Commissioner is in accord with the ALJ's conclusion – for the reasons set forth in the Initial Decision – that the issues raised by the petitioner are moot. This matter involves a request for petitioner's daughter to attend a summer recovery program during the summer of 2016. As the program has since ended, the relief sought by petitioner is no longer available.

Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is hereby dismissed as moot.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 2, 2017
Date of Mailing: March 2, 2017

¹ 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)*.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 09554-16

AGENCY DKT. NO. 179-6/16

M.A. ON BEHALF OF MINOR CHILD J.A.,

Petitioner,

v.

**BOARD OF EDUCATION OF THE TOWNSHIP
OF VERONA, ESSEX COUNTY,**

Respondent.

M.A., father of J.A., pro se

Michael J. Gross, Esq., for respondent (Kenny Gross Kovats & Parton, attorneys)

Record Closed: January 18, 2017

Decided: January 18, 2017

BEFORE **RICHARD McGILL**, ALJ:

M.A. ("petitioner") filed a petition with the Commissioner of Education seeking an order directing the Board of Education of the Township of Verona ("respondent") to allow his daughter, J.A., who completed her junior year in high school in June 2016, to attend a summer recovery program to improve her low passing grades including a D in one subject and D- in three others during her sophomore year. Respondent now moves to dismiss the petition as moot.

PROCEDURAL HISTORY

Petitioner filed the petition with the Commissioner of Education on June 28, 2016, pursuant to the Commissioner's authority to hear and determine controversies and disputes arising under the school laws. In conjunction with the petition, petitioner filed a motion for emergent relief.

The matter was transmitted to the Office of Administrative Law on June 29, 2016, for determination as a contested case. An oral argument in regard to petitioner's motion for emergent relief was conducted on July 6, 2016, at the Office of Administrative Law in Newark, New Jersey. An Order issued by the undersigned on July 7, 2016, denying petitioner's request for emergent relief, was adopted by the Commissioner in a Decision on Application for Emergent Relief dated July 14, 2016.

On October 24, 2016, respondent filed a motion to dismiss the petition as moot. Petitioner did not submit a response to the motion.

MOTION TO DISMISS

In support of the motion to dismiss the petition, respondent set forth the following undisputed facts. J.A. is currently enrolled in the Verona Public Schools for her senior year. During the 2014-2015 school year, J.A. received grades of D or D- in multiple subjects in her sophomore year. In the petition filed on June 28, 2016, at the end of J.A.'s junior year, petitioner sought to give J.A. an opportunity to improve her grades from her sophomore year.

Respondent does not offer a summer credit recovery program in the District. Students seeking to participate in such classes (i.e., supplemental, remedial, advancement or enrichment classes) must do so outside the District. Summer school courses, even if taken, do not alter a student's grade. They simply allow the student to satisfy a core curriculum requirement. The summer credit recovery program in question was scheduled to begin on July 8, 2016. Petitioner's motion for emergent

relief was denied initially on July 7, 2016, and a Final Decision was issued on July 14, 2016.

Respondent contends that the petition in this matter should be dismissed as moot. A case is moot when the determination sought cannot have any practical effect on the existing controversy. Greenfield v. New Jersey Dep't of Corrections, 382 N.J. Super. 254, 257-58 (App. Div. 2006).

Here, petitioner sought an order compelling respondent to allow his daughter, who has completed her junior year in high school, to attend a summer recovery program to improve low passing grades that she received during her sophomore year. For his daughter to attend a summer program, petitioner would have needed emergent relief, but his application therefore was denied in July 2016. The summer program is now in the past, and a decision at this point would not have any practical effect in relation to petitioner's request. Therefore, I **CONCLUDE** that the case is now moot and that the petition in this matter should be dismissed.

Accordingly, it is **ORDERED** that the petition in this matter be dismissed.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

January 18, 2017

Richard McGill

DATE

RICHARD MCGILL, ALJ

Date Received at Agency:

January 18, 2017

Date Mailed to Parties:

ljb
