

C.W., on behalf of minor child, A.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
NORTH STAR ACADEMY,
ESSEX COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner challenged the Board's decision to give her child a one day and a five day suspension. Petitioner's appeal was transmitted to the Office of Administrative Law (OAL) in July 2016. Hearing dates were scheduled, but later adjourned based on the joint requests of the parties.

The ALJ found, *inter alia*, that: discovery demands were served on the petitioner in October 2017; during a conference call on November 8, 2017, counsel for petitioner represented that she had been unable to reach her client and had not been in touch with her for two months; counsel agreed to advise the petitioner that if discovery was not forthcoming by November 30, 2017, the case would be dismissed; on December 4, 2017, correspondence from petitioner's counsel advised that no response to the discovery requests had been received. Accordingly, the ALJ concluded that this matter should be dismissed with prejudice.

Upon review, the Commissioner concurred with the ALJ that the petitioner has failed to prosecute this matter. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and 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 1, 2018

OAL DKT. NO. EDU 9857-16
AGENCY DKT. NO. 169-6/16

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PETITIONER, :
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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.

Upon such review, the Commissioner concurs with the Administrative Law Judge's determination that the petition of appeal should be dismissed for failure to prosecute. Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is dismissed.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 1, 2018

Date of Mailing: March 2, 2018

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*).



State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. EDU 09857-16

AGENCY DKT. NO. 169-6/16

C.W., ON BEHALF OF MINOR CHILD, A.W.,

Petitioner,

v.

BOARD OF EDUCATION OF THE NORTH

STAR ACADEMY, ESSEX COUNTY,

Respondent.

Julie Warshaw, Esq., for petitioner (Warshaw Law Firm, LLC, attorneys)

Cherie L. Adams, Esq., for respondent (Adams, Gutierrez & Lattiboudere, LLC,
attorneys)

Record Closed: January 18, 2018

Decided: January 18, 2018

BEFORE **LESLIE Z. CELENTANO**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner challenged the Board's decision to give her child a one day and a five-day suspension. The petitioner's request for a hearing was granted and the matter was

transmitted to the Office of Administrative Law (OAL) on July 5, 2016, for a hearing as a contested case. Hearing days were scheduled and adjourned based on the joint requests of the parties to permit opportunities for resolution.

Discovery demands were served on petitioner on October 16, 2017. Thereafter a conference call was held on November 8, 2017, wherein petitioner's counsel represented that she had been unable to reach her client and had not been in touch with her for two months. The parties were advised that petitioner's failure to provide responses to discovery would result in dismissal of the within matter. Petitioner's counsel agreed that she would attempt to notify her client via certified and regular mail that the case would be dismissed if responses to the previously propounded discovery were not forthcoming by November 30, 2017. The parties agreed in that conference call that the hearing scheduled for November 13, 2017 would be adjourned.

On December 4, 2017, correspondence was received from counsel from respondent advising that no responses to discovery requests had been received, and requesting that the matter be dismissed. On January 2, 2018, counsel for respondent again corresponded with the undersigned, asking that the matter filed more than a year and a half ago be dismissed for failure to produce answers to discovery or otherwise prosecute the claims.

Based upon the foregoing, I **FIND** that this matter should be and is hereby **DISMISSED** with prejudice.

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, 2018 _____

DATE



LESLIE Z. CELENTANO, ALJ

Date Received at Agency:

January 18, 2018 _____

Date Mailed to Parties:

dr _____