

S.S. AND W.S., ON BEHALF OF :
MINOR CHILD, J.S., :
 : COMMISSIONER OF EDUCATION
 PETITIONERS, :
 : DECISION
 V. :
 :
 BOARD OF EDUCATION OF THE :
 BOROUGH OF HASBROUCK :
 HEIGHTS, BERGEN COUNTY, ET AL. :
 :
 RESPONDENTS. :
 _____ :

SYNOPSIS

Petitioners seek to have a one-day suspension expunged from their son’s record; suspension was imposed for violation of the Board’s written policy against harassment, intimidation and bullying after J.S. added a yarmulke and curls to a portrait of another student while in art class. Petitioners contend that the penalty imposed was excessive, and a verbal or written warning would be a sufficient disciplinary action. Respondent Board maintains that the penalty is appropriate, and the Commissioner cannot set aside its determination unless she finds that the action was “arbitrary, capricious and unreasonable.”

The ALJ found that: the target of J.S.’s hazing was a special education student with multiple disabilities; the intent of his action was to belittle and ridicule a classmate; the fact that J.S. shares a Jewish identity with the targeted student does not excuse his behavior or lessen its severity; educators and administrators in the school district took the incident very seriously, and determined that it violated the district policy against “defamation of a cultural, racial or religious group”; and both the building principal and the superintendent of schools agreed that a one-day suspension was a fitting penalty under district guidelines. The ALJ concluded that the nature of the offense, its foreseeable effect on the victim and the failure of petitioner to apologize for his actions are more than sufficient to warrant imposition of the one-day suspension. Therefore, the school administration did not act arbitrarily, capriciously or unreasonably by following its own guidelines and imposing a one-day suspension.

The Commissioner fully concurs with the ALJ that, under the circumstances, the respondent Board’s imposition of a one-day suspension upon J.S. is properly upheld. The Initial Decision of the OAL dismissing the petition is adopted 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.

OAL DKT. NO. EDU 3683-04
AGENCY DKT. NO. 70-2/04

S.S. AND W.S., ON BEHALF OF :
MINOR CHILD, J.S., :
 : COMMISSIONER OF EDUCATION
PETITIONERS, :
 :
 : DECISION
V. :
 :
 :
BOARD OF EDUCATION OF THE :
BOROUGH OF HASBROUCK :
HEIGHTS, BERGEN COUNTY, ET AL. :
 :
RESPONDENTS. :
_____ :

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 careful and independent review, the Commissioner fully concurs with the Administrative Law Judge that, under the circumstances here present, the Board of Education's imposition of a one-day suspension upon J.S. is properly upheld.

Accordingly, for the reasons expressed therein, the Initial Decision of the OAL dismissing the Petition of Appeal is adopted as the final decision in this matter.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 13, 2005

Date of Mailing: October 13, 2005

* This decision may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6A:4-1.1 et seq.*