

# 321-07 (OAL Decision: Not yet available on-line)

DAVID HERRON, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF : DECISION  
THE TOWNSHIP OF MONTCLAIR,  
ESSEX COUNTY, :  
RESPONDENT. :

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SYNOPSIS

Petitioner, a Montclair resident, contended that respondent Board's actions in hiring two new school principals in 2004 violated procedural requirements. The parties filed initial pre-hearing memoranda, and respondent filed a reply. The petitioner made no further submissions to the OAL; after one telephone communication in February 2005, the OAL's repeated attempts to contact petitioner by telephone and by mail were unsuccessful.

The ALJ found that, given the procedural history of this matter and petitioner's lack of response to final communications to the parties in June 2007, the petitioner has failed to reasonably prosecute his case. The ALJ concluded that the petition should be dismissed.

The Commissioner concurred with the ALJ, and 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.

August 13, 2007

OAL DKT. NO. EDU 11076-04  
AGENCY DKT. NO. 282-8/04

DAVID HERRON, :  
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 PETITIONER, :  
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 V. : COMMISSIONER OF EDUCATION  
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 BOARD OF EDUCATION OF : DECISION  
 THE TOWNSHIP OF MONTCLAIR, :  
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The record and Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The Commissioner adopts the Initial Decision as the final decision in this matter for the following reasons.

It appears that after his filing of a prehearing brief in December 2004, petitioner made no further submissions to the OAL. After one telephone communication on February 4, 2005, further attempts by the OAL to contact petitioner by telephone were unsuccessful. A letter dated March 11, 2005, to petitioner from the Administrative Law Judge (ALJ) assigned to the matter elicited no response. A letter to petitioner from the ALJ dated April 12, 2006, was returned unopened and marked "Forward Time Expired - Return to Sender."

No change of address was submitted by petitioner to the OAL. On June 29, 2007, the ALJ wrote once more to petitioner at his address of record advising that she had determined to issue a decision dismissing his case. No response from petitioner was forthcoming.

The Commissioner concurs with the ALJ that the petitioner has failed to properly prosecute his petition. Accordingly, the petition is hereby dismissed, pursuant to *N.J.A.C* 1:1-14.6(j) and (p). *See also, e.g., J.M.R., o.b.m. T.G. and K.G. v. Board of Education of the Township of Ewing, Mercer County*, OAL DKT. NO. EDU 6269-04, decided by the Commissioner October 13, 2005, where a petition was dismissed for lack of prosecution because the petitioner failed to attend a hearing, was advised by the ALJ in a July 18, 2005 letter that her petition could be dismissed for lack of prosecution, but failed to file any response with the OAL or Department of Education until September 2005, after the Initial Decision of the OAL dismissing her petition had been issued.

IT IS SO ORDERED.<sup>1</sup>

COMMISSIONER OF EDUCATION

Date of Decision: August 13, 2007

Date of Mailing: August 14, 2007

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<sup>1</sup> 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.*