

#26-12 (OAL Decision: Not available online)

R.W. on behalf of minor child J.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF WASHINGTON,
GLOUCESTER COUNTY, :
RESPONDENT. :

SYNOPSIS

In May 2011, the petitioner filed an appeal challenging her son’s suspension from general education classes and his assignment to an alternative school. Petitioner also sought homebound instruction for J.W. pending a determination on the suspension. The parties executed a settlement agreement in June 2011 which disposed of the homebound instruction issue. At an October 2011 hearing regarding the issue of suspension, petitioner moved to rescind the settlement and litigate homebound instruction; the motion was opposed by the respondent Board. The ALJ issued an order in November 2011 denying the motion. A second hearing date on the suspension issue was set for December 5, 2011. Petitioner received appropriate notice of the hearing, but failed to appear and offered no explanation for her non-appearance. Accordingly, the ALJ dismissed the petition.

Upon review of the file, the Commissioner noted that petitioner filed hand-written exceptions to the ALJ’s decision dismissing the matter, in which she explained that her failure to appear was beyond her control and that she was waiting for an attorney to assist her. Accordingly, the Commissioner determined to remand the matter to the OAL for further disposition pursuant to *N.J.A.C. 1:1-3.3(b)*.

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.

January 23, 2012

OAL DKT. NO. EDU 5274-11
AGENCY DKT. NO. 115-5/11

R.W. on behalf of minor child J.W., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF WASHINGTON,
GLOUCESTER COUNTY, :
RESPONDENT. :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) advising of petitioner's failure to attend the second day of the scheduled hearing on December 5, 2011 have been reviewed.

Petitioner filed hand-written exceptions, which have also been thoroughly reviewed and considered. In her exceptions, the petitioner explains that her failure to appear was beyond her control and that she was waiting for an attorney to assist her. She also asserts that she has been cooperative when the respondent needed to change a date during the pendency of the case.

Given that R.W. has provided an explanation for her nonappearance, this matter is being returned to the OAL for further disposition, pursuant to *N.J.A.C. 1:1-3.3(b)*.

Accordingly, this matter is hereby remanded to the OAL for further disposition as indicated herein.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 23, 2012

Date of Mailing: January 24, 2012

* This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*.