

DESTINY JACKSON, :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF THE :
MORRIS SCHOOL DISTRICT, MORRIS :
COUNTY, AND THOMAS FICARRA, :
RESPONDENTS. :

SYNOPSIS

Petitioner challenged the discipline imposed upon her by the respondent Board as a result of an altercation that she was involved in on school grounds. Specifically, petitioner sought an order reversing the discipline and allowing her to participate in her senior prom and graduation activities in June 2014. Her original petition for emergent relief was denied following a hearing at the Office of Administrative Law (OAL), and petitioner subsequently filed an amended petition which included, *inter alia*, a request to have her disciplinary record cleared. The Board filed a motion to dismiss, contending that the relief sought by petitioner could not be granted and that the discipline that had been imposed was appropriate because petitioner had been involved in a fight at school in January 2014, which behavior was contrary to the school's code of conduct. On September 11, 2014, the ALJ issued an Initial Decision which found that the relief petitioner sought is unavailable, that the issues are moot, and that petitioner is barred by collateral estoppel and res judicata; the ALJ granted the Board's motion to dismiss. Subsequently, in a decision dated November 20, 2014, the Commissioner rejected the ALJ's Initial Decision and remanded the matter to the OAL for consideration of the petitioner's request to have her disciplinary record cleared.

On remand, the ALJ considered the issue of whether the Board's decision to give petitioner a long-term suspension was arbitrary, capricious or unreasonable. The ALJ found, *inter alia*, that: petitioner misbehaved and exhibited inappropriate behavior multiple times from October 2013 through February 2014, acting as the perpetrator and/or aggressor in five separate incidents during that time period; the Board's decision to impose the long-term suspension was based on valid and reasonable concerns about petitioner's tendency to be aggressive and pugnacious, placing herself and others at risk of harm or serious injury; and the Board's determination to suspend petitioner was appropriate. The ALJ concluded that the Board's action was supported by evidence properly adduced and presented and was not arbitrary, capricious or unreasonable. Accordingly, the ALJ ordered that petitioner's claim be dismissed.

Upon review, the Commissioner concurred with the ALJ's findings and conclusions. Accordingly the Initial Decision was 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.
--

August 7, 2015

OAL DKT. NO. EDU 16026-14
(EDU 5934-14 ON REMAND)
AGENCY DKT. NO. 116-5/14

DESTINY JACKSON, :
 :
 PETITIONER, : COMMISSIONER OF EDUCATION
 :
 V. : DECISION
 :
 BOARD OF EDUCATION OF THE :
 MORRIS SCHOOL DISTRICT, MORRIS :
 COUNTY, AND THOMAS FICARRA, :
 :
 RESPONDENTS. :

The record of this matter and the Initial Decision on Remand of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the petitioner, Destiny Jackson – a former student in respondent’s school district – and the Board of Education’s (Board) reply thereto. This matter was remanded to the OAL for a hearing to determine whether the Board’s decision to give the petitioner a long-term suspension was arbitrary, capricious or unreasonable, and if her disciplinary record should be modified. After a hearing at the OAL, the Administrative Law Judge (ALJ) determined that the Board’s decision to give her a long-term suspension was not arbitrary, capricious or unreasonable.

Upon review of the record, the Commissioner concurs – for the reasons stated in the Initial Decision – with the ALJ’s determination that the Board’s decision to give the petitioner a long term suspension was not arbitrary, capricious or unreasonable, and as a result the petitioner’s disciplinary record should continue to reflect the long-term suspension. The record clearly demonstrates that the petitioner exhibited inappropriate behavior on various

occasions between October 2013 and February 2014, and that her aggressive tendencies placed herself and others at risk of harm or serious injury. Notwithstanding petitioner's contentions to the contrary, the Commissioner finds no basis in the record – which includes a transcript from the hearing held on May 11 and 12, 2015 – to reject either the ALJ's recitations of testimony or her factual findings. The ALJ had the opportunity to assess the credibility of the various witnesses who appeared before her and made findings of fact based upon their testimony and the evidence in the record.

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

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: August 7, 2015

Date of Mailing: August 7, 2015

* 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).