

#216-15 (OAL Decision: Not yet available online)

EDWARD SADLOCH, CHARLES MANZO,	:	
BRIAN GOGERTY, MICHAEL WEBER	:	
AND DAVID SINISI,	:	
PETITIONERS,		:
V.	:	COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE TOWNSHIP OF CEDAR GROVE, ESSEX COUNTY,	:	DECISION
RESPONDENT.		:

#### SYNOPSIS

The petitioners herein are football coaches who, during the 2013-2014 school year, coached students in the respondent Board's athletic program. Petitioners Sadloch and Manzo are the head football coach and assistant football coach, respectively; the remaining petitioners served as volunteer assistant coaches for the team. Petitioners challenged a determination by the Board that they engaged in conduct that constituted harassment, bullying and intimidation (HIB) as that term is defined under *N.J.S.A. 18A:37-14*. This matter arose out of a complaint from a Cedar Grove student athlete that the petitioning coaches engaged in a pattern of conduct that made the high school football program uncomfortable for this particular student. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: the matter is ripe for summary decision, as the evidence is overwhelming that the petitioners must prevail as a matter of law; regarding petitioners Sadloch, Manzo, and Sinisi, it was learned during discovery that there was never any finding by the Board or school district administration that they had engaged in conduct that constituted HIB under *N.J.S.A. 18A:37-14*; regarding volunteer coaches Weber and Gogerty, the documents that accompanied the parties' submissions did not make clear the basis for the HIB charge against these volunteer coaches, and neither of them were afforded the due process guaranteed them under the statute, as the Board – among other things – failed to comply with the investigatory process contained in the statute. The ALJ concluded that there is no other remedy herein but the removal of any mention of HIB from petitioners' files. Accordingly, the ALJ ordered that any references to HIB be expunged from the personnel and/or volunteer files maintained by the Board in regard to the petitioning football coaches.

Upon comprehensive review of this matter, the Commissioner concurred with the ALJ's findings and conclusions. Accordingly, the Initial Decision of the OAL was adopted as the final decision and the Commissioner ordered that any reference to HIB be removed from all of the named petitioners' files.

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.

June 23, 2015

OAL DKT. NO. EDU 619-14  
AGENCY DKT. NO. 303-12/13

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AND DAVID SINISI, :  
  
PETITIONERS, :  
  
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\_\_\_\_\_

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the respective exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the petitioners and the Board of Education (Board), and the replies thereto.

Upon such review, the Commissioner concurs with the Administrative Law Judge (ALJ) – for the reasons stated in the Initial Decision – that the Board did not comply with the provisions contained in *N.J.S.A. 18A:37-15* for Harassment, Intimidation and Bullying (HIB) investigations. Notably the Board never issued a written decision affirming, rejecting or modifying the Superintendent's decision; the coaches were not afforded an opportunity to appear before the Board; and it was not until the parties exchanged discovery in the context of the within matter that three of the coaches ascertained that neither the Board nor the school administration found them to have engaged in HIB.<sup>1</sup> The Commissioner is also in accord with the ALJ's conclusion that in light of the lack of documentation and the state of the record, there

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<sup>1</sup> The school administration determined that only coaches Brian Gogerty and Michael Weber committed an act of HIB.

could not be a proper determination as to whether there was an act of HIB was committed. Finally, the Commissioner is not persuaded that the exceptions submitted by the parties dictate a different result, as the arguments advanced by the parties were considered and fully addressed by the ALJ in her Initial Decision.

Accordingly, the recommended decision of the ALJ is adopted for the reasons expressed therein and any reference to HIB must be removed from the coaches' files.

IT IS SO ORDERED.<sup>2</sup>

COMMISSIONER OF EDUCATION

Date of Decision: June 23, 2015

Date of Mailing: June 23, 2015

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<sup>2</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).