

MAYOR TRANSPORTATION, :  
T/A SALEH TRANS, INC., :  
PETITIONER, : COMMISSIONER OF EDUCATION  
V. : DECISION  
STATE-OPERATED SCHOOL DISTRICT :  
OF THE CITY OF PATERSON, :  
PASSAIC COUNTY, PASSAIC COUNTY :  
EXECUTIVE SUPERINTENDENT OF :  
SCHOOLS, AND COMMISSIONER OF :  
EDUCATION, :  
RESPONDENTS. :

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SYNOPSIS

Petitioner – a school bus transportation provider – challenged the respondent school district’s rejection of its low bids for various transportation routes. In rejecting the bids, the respondent district advised the petitioner that, because of multiple violations of prior contracts with the Paterson school district, Mayor Transportation (Mayor) was disqualified from receiving contract awards for the 2014-2015 school year and would not be permitted to bid on school bus routes in the district for a period of three years. Petitioner alleged that the district violated *N.J.S.A. 18A:39-11.3(b)(1)* by not holding a hearing before the executive county superintendent (ECS) and obtaining a finding of prior “nonperformance” from the ECS before disqualifying Mayor for “prior negative experience.” Subsequently, Paterson requested such a hearing with the Passaic County ECS, which hearing was followed by a determination that petitioner had, in fact, “nonperformed,” and petitioner was once again notified that it was disqualified from bidding on district contracts. Respondents then moved for dismissal of the case on the grounds that the issues raised in the petition had been mooted by the ESC hearing and subsequent outcome. Petitioner never responded to the respondents’ motions for summary disposition.

The ALJ found that because petitioner failed to respond to the motions for summary disposition, it is in default. Accordingly, the ALJ granted the respondents’ motions and ordered the petition dismissed.

Upon a comprehensive review of the record of this matter, the Commissioner concurred with the findings and conclusions of the ALJ and adopted the Initial Decision as the final decision in this matter. The petition was dismissed.

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 10676-14  
AGENCY DKT. NO. 227-8/14

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The instant controversy is a challenge by the petitioning transportation vendor to the respondent Paterson school district's (Paterson) rejection of petitioner's bids on several transportation routes. More specifically, petitioner submitted the lowest bid on 41 school bus routes for the 2014-2015 school year, but did not receive the awards for said routes. Instead, respondent advised petitioner, by letter dated August 15, 2014, that because of petitioner's multiple violations of the terms of its prior contracts with Paterson, it would be disqualified from receiving awards for the 2014-2015 school year and would not be permitted to bid on school bus transportation routes in the future – for a period of three years.

Petitioner's appeal to the Commissioner, filed on August 21, 2014, alleged that by disqualifying its bids, Paterson was violating *N.J.S.A. 18A:39-11.3(b)(1)* – which requires that disqualification for “prior negative experience” must be preceded by 1) a hearing before the

executive county school superintendent (ECS), and 2) a finding of prior “nonperformance” by the ECS. Parallel proceedings ensued.

On August 22, 2014, the petition was transmitted to the Office of Administrative Law (OAL) for a hearing.<sup>1</sup> On the same date, respondent Paterson applied to the Passaic County ECS for a hearing, pursuant to *N.J.S.A.* 18A:39-11.3(b)(1), concerning the issue of petitioner’s alleged prior nonperformance. That hearing was held on August 29, 2014, and was followed by 1) a September 3, 2014 determination by the ECS that petitioner had, in fact, ‘nonperformed,’ and 2) a September 4, 2014 letter from respondent to petitioner disqualifying it – once again – from bidding on district transportation contracts. After the ECS issued the ‘nonperformance’ determination, petitioner amended its petition to add the ECS and the Commissioner of Education as respondents.

Both the State respondents (the Commissioner and the ECS) and the Paterson school district moved for dismissal of the case<sup>2</sup> on the grounds that the ultimate issues raised in the petition were moot. More specifically, respondents urged that since the hearing and determination – which petitioner had alleged was required before Paterson could disqualify it from bidding – had taken place, the grounds for the petition were no longer extant. Petitioner never responded to the summary disposition motions.

After the regulatory period for answering a dispositive motion had passed, the Administrative Law Judge (ALJ) assigned to the case in the OAL found petitioner in default and issued an Initial Decision granting respondents’ motions and dismissing the petition. The Commissioner adopts the Initial Decision.

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<sup>1</sup> Petitioner applied for injunctive relief, but that application was denied by OAL order dated September 15, 2014. Said order was adopted by the Commissioner on October 29, 2014.

<sup>2</sup> The State respondents filed their motion on October 27, 2014 and the Paterson school district filed its motion on November 6, 2014.

As noted in the Initial Decision, on December 9, 2014, petitioner submitted to the ALJ a “Stipulation of Dismissal Without Prejudice.” The ALJ properly rejected the “Stipulation,” as there were no signatures or other indicia of respondents’ concurrence with same.

Accordingly, respondents’ summary disposition motions are granted and the petition is herewith dismissed.

IT IS SO ORDERED.<sup>3</sup>

COMMISSIONER OF EDUCATION

Date of Decision: March 6, 2015

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<sup>3</sup> This decision, as the final decision of the State administrative agency, may be appealed to the Superior Court, Appellate Division pursuant to *N.J.S.A.* 18A:11-3 and *N.J.A.C.* 6A:3-7.6.