

New Jersey Commissioner of Education
Decision

Joyce Cason,

Petitioner,

v.

New Jersey Department of Education, Criminal
History Review Unit,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions.

Upon review, the Commissioner agrees with the Administrative Law Judge that petitioner has abandoned her appeal by failing to appear at telephone conferences on July 22 and November 5, 2020, and failing to respond to discovery requests. Accordingly, the Initial Decision is adopted as the final decision in this matter, and the petition is hereby dismissed with prejudice.

IT IS SO ORDERED. ¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 4, 2021
Date of Mailing: January 4, 2021

¹ 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).



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. EDU 03248-19

AGENCY DKT. NO. 6-1/19

JOYCE CASON,

Petitioner,

v.

**NEW JERSEY DEPARTMENT OF
EDUCATION, CRIMINAL HISTORY
REVIEW UNIT,**

Respondent.

Joyce Cason, petitioner, pro se

Jaclyn M. Frey, Deputy Attorney General, for respondent (Gurbir S. Grewal,
Attorney General of New Jersey, attorney)

Record Closed: November 17, 2020

Decided: November 17, 2020

BEFORE **MARGARET M. MONACO**, ALJ:

STATEMENT OF THE CASE

Petitioner, Joyce Cason, challenges the determination by the Department of Education, Criminal History Review Unit (the CHRU), that she is permanently

disqualified from employment with an educational institution under the supervision of the Department of Education based upon her criminal record.

PROCEDURAL HISTORY

On or about January 11, 2019, petitioner filed a Petition of Appeal with the Commissioner of Education challenging her employment disqualification. On or about February 21, 2019, respondent filed a motion to dismiss in lieu of an Answer. The Department of Education transmitted the matter to the Office of Administrative Law, where it was filed for determination as a contested case. A telephone conference was held on April 10, 2019, after which respondent withdrew its motion to dismiss and filed an answer on or about April 18, 2019. A prehearing conference was held on June 14, 2019, during which the hearing was scheduled for December 20, 2019, and a Prehearing Order was issued on June 17, 2019. The hearing was adjourned at the parties' joint request and rescheduled for June 17, 2020 and later adjourned to August 11, 2020. During a telephone conference on December 18, 2019, petitioner was directed to respond to respondent's discovery requests by January 31, 2020. The undersigned later extended the time for petitioner to respond to the discovery requests to March 16, 2020. By letter dated July 1, 2020, Ms. Frey advised that petitioner had not provided discovery by the extended deadline and requested a telephone conference. By e-mail dated July 20, 2020, petitioner was informed that a telephone conference would be held on July 22, 2020 at 3:00 p.m. Although Ms. Frey attended that telephone conference, there was no appearance by petitioner. Subsequently, the August 11, 2020 hearing was adjourned, and respondent filed a motion to compel discovery on or about August 19, 2020. Petitioner did not file a response or opposition to that motion, which I granted by Order dated September 2, 2020. Pursuant to that Order, petitioner was ordered to provide discovery responses within twenty days of the date of the Order or by September 22, 2020. By letter dated October 1, 2020, Ms. Frey advised that petitioner had not provided any discovery responses as ordered and requested a telephone conference. By letter dated October 20, 2020, the undersigned informed petitioner that "a **MANDATORY** telephone conference in this matter will be held on November 5, 2020 at 3:00 p.m." The letter further informed petitioner that "a failure by her to participate in this conference will result in the dismissal of her Petition."

Although Ms. Frey attended that telephone conference, there was no appearance by petitioner.

FINDINGS OF FACT

I **FIND** the following uncontested **FACTS**:

1. Petitioner was afforded proper notice of the telephone conferences on July 22 and November 5, 2020.
2. Neither petitioner nor a representative on petitioner's behalf appeared for the July 22 and November 5, 2020 telephone conferences.
3. Petitioner did not contact the undersigned to request an adjournment of the scheduled telephone conferences or to advise that she could not appear for the telephone conferences on July 22 and November 5, 2020.
4. To date, petitioner has not contacted the undersigned in writing or by telephone concerning her failure to appear for the scheduled proceedings on July 22 and November 5, 2020 or to explain the reason for her failure to appear.
5. Petitioner has failed to respond to respondent's discovery requests.
6. Petitioner has failed to comply with the Order dated September 2, 2020.

CONCLUSIONS OF LAW

Petitioner failed to appear at the scheduled proceedings on July 22 and November 5, 2020, and she failed to provide an explanation for nonappearance. See N.J.A.C. 1:1-14.4(a) (providing that if, after appropriate notice, a party does not appear at a scheduled proceeding, the judge shall direct the Clerk to return the matter to the transmitting agency if the judge does not receive an explanation for the nonappearance

within one day). Petitioner has also failed to comply with established discovery deadlines, including the September 2, 2020 Order requiring her to provide discovery responses within twenty days of the date of the Order. Based upon the foregoing, I **CONCLUDE** that petitioner has failed to prosecute, and has abandoned, her appeal. Accordingly, I **CONCLUDE** that petitioner's Petition of Appeal should be dismissed.

ORDER

I **ORDER** that petitioner's Petition of Appeal be and hereby is **DISMISSED WITH PREJUDICE**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

November 17, 2020
DATE


MARGARET M. MONACO, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

jb