

299-21

OAL Dkt. No. EDU 05323-21

Agency Dkt. No. 93-6/21

**New Jersey Commissioner of Education**

**Decision**

S.P., on behalf of minor children, J.P. and K.P.,

Petitioner,

v.

Board of Education of the City of Elizabeth, Union  
County,

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's determination – for the reasons stated in the Initial Decision – that no issues remain in dispute and that the petition of appeal should be dismissed. Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter for the reasons expressed therein, and the petition is hereby dismissed.

IT IS SO ORDERED.<sup>1</sup>

  
ANGELINA ALLEN McMILLAN, J.D.S.  
ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 29, 2021

Date of Mailing: November 30, 2021

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<sup>1</sup> This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



*State of New Jersey*

OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**DISMISSAL**

OAL DKT. NO. EDU 05323-21

AGENCY DKT. NO. 93-6/21

**S.P. ON BEHALF OF MINOR CHILDREN,  
J.P. AND K.P.,**

Petitioner,

v.

**BOARD OF EDUCATION OF THE CITY OF  
ELIZABETH, UNION COUNTY,**

Respondent.

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**S.P. on behalf of minor children J.P. and K.P., *pro se***

**Christina M. DiPalo**, Esq., for respondent, Elizabeth Board of Education (LaCorte,  
Bundy, Varady & Kinsella, attorneys)

Record Closed: October 13, 2021

Decided: October 20, 2021

BEFORE **ELISSA MIZZONE TESTA**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

On June 22, 2021, the above captioned matter was transmitted to the Office of Administrative Law (OAL) for a hearing as a contested case pursuant to N.J.A.C. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

On August 9, 2021, a telephone conference was held with the petitioner, S.P. on behalf of minor children, J.P. and K.P. (hereinafter, "Petitioner") and Christina M. DiPalo, counsel for the Board of Education of the City of Elizabeth, Union County (hereinafter, "Respondent" or "District"). At said time, counsel for respondent confirmed that the District has determined that the petitioner's minor children, J.P. and K.P. would be permitted to remain students in the Elizabeth Public Schools and thus were withdrawing its counterclaim for tuition. Petitioner was instructed to send to the undersigned a letter withdrawing her petition because it was moot.

On August 10, 2021, respondent submitted an email withdrawing its counterclaim. To date, petitioner has failed to submit a letter or email withdrawing her petition even after repeated attempts to contact petitioner by my chambers and counsel for respondent. On October 13, 2021, respondent submitted a Certification setting forth the basis of the withdrawal of the petition and counterclaim. See Attached. In light of same, it is concluded that this matter is moot and should be **DISMISSED**.

### **ORDER**

It is therefore **ORDERED** that this matter is hereby **DISMISSED**.

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.



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DATE

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**ELISSA MIZZONE TESTA, ALJ**

Date Received at Agency:

October 20, 2021

Date Mailed to Parties:  
sej

October 20, 2021