

81-24
OAL Dkt. No. EDU 04579-23
Agency Dkt. No. 81-3/23

New Jersey Commissioner of Education
Final Decision

S.B., on behalf of minor child, E.B.,

Petitioner,

v.

Board of Trustees of the Kipp Cooper Norcross
Academy, Camden County,

Respondent.

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

The petitioner filed a *pro se* appeal challenging the discipline imposed by the respondent Board of Trustees upon his minor child in regard to an incident that occurred in January 2023 at Kipp Cooper Norcross Academy. The matter was transmitted to the OAL for a hearing in May 2023. The Administrative Law Judge (ALJ) scheduled three pre-conference hearings in this case, none of which were attended by the petitioner despite having received appropriate notice of each hearing date. Subsequently, petitioner communicated to the ALJ's assistant that he wanted no further involvement in his child's affairs. Accordingly, the ALJ concluded that the matter must be dismissed with prejudice, pursuant to *N.J.A.C. 1:1-14.4*, for petitioner's failure to appear three times for a court proceeding without explanation.

Upon review, the Commissioner concurs with the ALJ that the petition must be dismissed. Accordingly, the Initial Decision is adopted as the final decision in this matter. The petition of appeal is hereby dismissed.

IT IS SO ORDERED.


ANGELINA ALLEN McMILLAN, Ed. D.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 26, 2024
Date of Mailing: January 31, 2024



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

FAILURE TO APPEAR

OAL DKT. NO. EDU 04579-23

AGENCY DKT. NO. 81-3/23

S.B. ON BEHALF OF MINOR CHILD, E.B.,

Petitioner,

v.

KIPP COOPER NORCROSS ACADEMY

BOARD OF TRUSTEES, CAMDEN COUNTY,

Respondent.

S.B. on behalf of his minor child, pro se

Thomas O. Johnston, Esq., for respondent (Johnston Law Firm, LLC, attorneys)

Record Closed: September 21, 2023

Decided: January 12, 2024

BEFORE **KIM C. BELIN**, ALJ:

STATEMENT OF THE CASE

Petitioner S.B., on behalf of his minor child, E.B., challenged the discipline imposed by the KIPP Cooper Norcross Academy (KIPP or respondent).

PROCEDURAL HISTORY AND FACTUAL DISCUSSION

On May 22, 2023, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. A prehearing conference call was scheduled for August 15, 2023. Notice was sent out to all the parties, however, no one appeared for the conference call. Counsel for the respondent notified the undersigned by email on August 15, 2023, stating that he did not have the conference call on his calendar and requesting a new date and time.

Another conference call was scheduled for September 21, 2023. Notice of that conference call was sent to the petitioner and respondent on August 22, 2023. However, the petitioner failed to appear. A third conference call was scheduled for January 4, 2024, with notice of the conference call sent on October 18, 2023. However, the petitioner failed to appear for the scheduled conference call. Respondent's counsel attempted to contact the petitioner during the scheduled conference call, however, no one answered the phone. The petitioner told the undersigned's judicial assistant that he did not want any further involvement in his daughter's affairs.

LEGAL DISCUSSION AND CONCLUSIONS OF LAW

Pursuant to N.J.A.C. 1:1-14.4(a),

If, after appropriate notice, neither a party nor a representative appears at any proceeding scheduled by the Clerk or judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge shall . . . direct the Clerk to return the matter to the transmitting agency for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).

This matter was scheduled for three telephone conferences. Petitioner and the respondent were given notice of all telephone conferences. All telephone status conference notices contained the following language:

Failure to dial in for the telephone conference, will result in the file being returned to the transmitting agency for appropriate action which may include imposition of the proposed penalty or granting the relief requested by the other party.

The petitioner did not participate in the August 15, 2023, September 21, 2023, or January 4, 2024, telephone status conferences and did not contact the OAL to explain why he was unable to do so.

CONCLUSION

To date, the petitioner has not provided a request for an adjournment of the January 4, 2024, telephone conference or an explanation for his nonappearance for the same. Neither has this office received notice of legal representation on behalf of the petitioner. Therefore, I **CONCLUDE** that petitioner has failed to appear and abandoned his appeal.

For the above reasons, I **CONCLUDE** that the petitioner has abandoned his request for a hearing in this matter and has forfeited his right to further contest the actions complained of. Accordingly, this matter should be dismissed with prejudice for lack of prosecution and failure to appear.

ORDER

It is **ORDERED** that the petitioner's appeal be **DISMISSED WITH PREJUDICE** pursuant to N.J.A.C. 1:1-14.4, and I **DIRECT** the Clerk to return the matter to the agency for appropriate disposition.

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

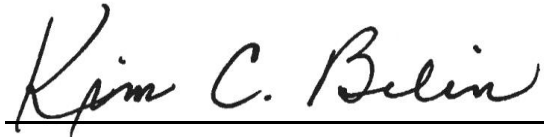
This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of

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.

January 12, 2024 _____

DATE



KIM C. BELIN, ALJ

Date Received at Agency:

Date Mailed to Parties:
