

MARGARET FERGESON, :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION

BOROUGH OF HAWTHORNE, :

PASSAIC COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioner alleged that the Board violated *N.J.S.A.* 18A:30-2.1 when it charged her sick days for a work-related injury/illness. Petitioner’s appeal was filed in the Office of Administrative Law (OAL) in June of 2002.

The ALJ found, *inter alia*, that: this matter had remained dormant at the OAL for nearly 16 years; ALJ Celentano was assigned the case subsequent to the retirement of the original ALJ; in October 2013, the petitioner’s counsel was contacted regarding the status of the case; the OAL was advised that an update would be provided; however, despite subsequent repeated inquiries, no response was forthcoming. The ALJ concluded that this matter should be dismissed with prejudice.

Upon review, the Commissioner concurred with the ALJ that the petitioner has failed to prosecute this matter. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and 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.

March 1, 2018

OAL DKT. NO. EDU 5472-02
AGENCY DKT. NO. 135-5/02

MARGARET FERGESON, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 BOROUGH OF HAWTHORNE, :
 PASSAIC COUNTY, :
 :
 RESPONDENT. :

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

Upon such review, the Commissioner concurs with the Administrative Law Judge's determination that the petition of appeal should be dismissed for failure to prosecute. Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is dismissed.

IT IS SO ORDERED.¹

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 1, 2018

Date of Mailing: March 2, 2018

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 05472-02

AGENCY DKT. NO. 135-5/02

MARGARET FERGESON,

Petitioner,

v.

BOARD OF EDUCATION OF THE BOROUGH

OF HAWTHORNE, PASSAIC, COUNTY,

Respondent.

Gail Oxfeld Kanef, Esq., for petitioner (Oxfeld Cohen, attorneys)

Ellen M. Walsh, Esq., for respondent (Fogarty & Hara, attorneys)

Record Closed: January 18, 2018

Decided: January 18, 2018

BEFORE **LESLIE Z. CELENTANO**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner alleges the Board's action to charge her sick days for work related injury/illness violates N.J.S.A. 18A:30-2.1. The matter was filed on June 18, 2002 and initially assigned another Administrative Law Judge, and was reassigned to the undersigned upon the retirement of the prior ALJ.

On October 3, 2013, a judicial assistant at the Office of Administrative Law spoke with counsel for petitioner, inquiring as to the status of this matter, and was advised that an update would be provided. Nothing was heard thereafter.

On May 6, 2015, a voice mail was left for counsel for petitioner, however no return call was received as to the status of the matter.

On June 22, 2016, counsel for petitioner was emailed regarding the status of this matter, however no reply was received to that email.

On August 9, 2016, a voice message inquiring as to the status of this matter was left for counsel for petitioner in this matter, however no reply was received.

On August 6, 2017, counsel for petitioner was emailed and also left a voice mail, however there was no response received relative to the status of this matter.

On January 12, 2018, counsel for petitioner was emailed and a read receipt was requested. A confirmation read receipt was received however there has been no reply to the email.

Nearly sixteen years have elapsed since the filing and transmittal of this matter. Accordingly, based upon all of the foregoing I **FIND** that this matter should 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.

January 18, 2018

DATE



LESLIE Z. CELENTANO, ALJ

Date Received at Agency: January 18, 2018

Date Mailed to Parties:

dr