

200-17 (OAL Decision: Not yet available online)

M.V., on behalf of minor child, F.H., :
PETITIONER, : COMMISSIONER OF EDUCATION
V. : DECISION
BOARD OF EDUCATION OF THE :
BOROUGH OF MANVILLE, SOMERSET :
COUNTY, :
RESPONDENT. :

SYNOPSIS

In November 2016, petitioner M.V. filed an appeal seeking to have her son, F.H., immediately returned to enrollment at Manville High School. Petitioner argued that the respondent Board overreacted to materials for a school project found on her son's flash drive. The Board maintained that the school took no action, and that petitioner withdrew F.H. from school. In December 2016, the petitioner filed a motion for emergent relief, which was denied following a hearing; the matter was retained in the Office of Administrative Law (OAL) for a hearing on the merits. Subsequently, petitioner's counsel advised that there had been no communication from petitioner for some time. The OAL scheduled a hearing in the matter in June 2017. In May 2017, prior to the hearing date, petitioner gave written notice of a breakdown in the attorney-client relationship, and advised that she had permanently moved out of New Jersey.

The ALJ found, *inter alia*, that: petitioner's correspondence and representation that she and her son have moved out of state and do not anticipate a return is an implicit withdrawal of their appeal; petitioner's relationship with her counsel deteriorated to the point that he can no longer represent petitioner's interests; and petitioner did not appear for a hearing on June 9, 2017 after receiving notice of same. The ALJ concluded that petitioner's removal from the State of New Jersey renders her petition moot, and her non-appearance at the hearing should be treated as a failure to appear without good cause. Accordingly, the ALJ ordered that the petitioner's appeal is denied for failure to appear and as a result of petitioner's removal from the jurisdiction; the petition will be treated as withdrawn pursuant to correspondence from the petitioner dated May 13, 2017.

Upon review, the Commissioner concurred with the ALJ's findings and conclusions, and adopted the Initial Decision of the OAL as the final decision in this matter. The petition was dismissed as withdrawn.

<p>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.</p>

July 18, 2017

OAL DKT. NO. EDU 18223-16
AGENCY DKT. NO. 304-12/16

M.V., on behalf of minor child, F.H., :
PETITIONER, : COMMISSIONER OF EDUCATION
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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 adopts the Administrative Law Judge's recommended decision for the reasons expressed therein. Accordingly, the petition is hereby dismissed as withdrawn.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: July 18, 2017

Date of Mailing: July 19, 2017

*This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).