

201-20

OAL Dkt. No. EDU 11438-19

Agency Dkt. No. 167-7/19

**New Jersey Commissioner of Education**

**Final Decision**

D.W., on behalf of minor child, S.D.,

Petitioner,

v.

Board of Education of the Bridgewater-  
Raritan Regional School District,  
Somerset 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.

Upon review, the Commissioner concurs with the ALJ that petitioner's claim is moot because the suspension imposed by the Board on S.D. has been expunged. Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the petition is hereby dismissed.

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

INTERIM COMMISSIONER OF EDUCATION

Date of Decision: September 11, 2020

Date of Mailing: September 11, 2020

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<sup>1</sup> 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 GRANTING**

**MOTION TO DISMISS**

**D.W. ON BEHALF OF MINOR CHILD, S.D.,**

Petitioner,

v.

**BRIDGEWATER-RARITAN REGIONAL  
SCHOOL DISTRICT BOARD OF  
EDUCATION, SOMERSET COUNTY,**

Respondents.

OAL DKT. NO. EDU 11438-2019

AGENCY DKT. NO. 167-7/19

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**Moshood Muftau, Esq.,** for petitioner

**Nicholas Celso ,III, Esq.,** for respondent (Busch Law Group, LLC, attorneys)

Record Closed: July 24, 2020

Decided: July 29, 2020

BEFORE **CARL V. BUCK III, ALJ:**

**STATEMENT OF THE CASE**

Petitioner D.W. filed this petition on behalf of her minor child S.D., a student who attended schools within the within the purview of Respondent, the Bridgewater-Raritan School District Board of Education (Board), in April 2019. The petition was filed challenging the suspension of S.D. imposed by the Board for a ten day period on April 3, 2019.

**PROCEDURAL HISTORY**

Petitioner appealed the decision of the Board and the matter was transmitted by the New Jersey Department of Education, Office of Controversies and Disputes as a contested case on August 8, 2019.

During prehearing conferences held with the parties, a hearing was scheduled for April 27, 2020 and April 28, 2020. These dates were subsequently adjourned due to COVID-19 issues. On June 11, 2020 respondent filed a Notice of Motion to Dismiss with Prejudice, averring that the subject matter of the appeal (that being the ten day suspension of S.D. of April 3, 2019) was expunged by action of the Board on June 9, 2020.

Respondent Bridgewater-Raritan School District Board of Education filed a Motion for Dismissal of the petition on June 11, 2020.<sup>2</sup>

Subsequent to this action by the Board, a telephone conference in this matter was held on June 22, 2020. Counsel for the Board provided to the Court a copy of a of the resolution expunging the suspension made at the Board's meeting of June 9, 2020. Counsel for petitioner was queried on why the petition had not been withdrawn, considering the subject of the appeal no longer existed. Petitioner's counsel stated that his client did not wish to withdraw her appeal, notwithstanding that she understood that the underlying issue on which the appeal was based was now moot.

Counsel for respondent stated to the Court that as his filing was made on June 11, 2020, and that no response was received by petitioner's counsel, that petitioner's counsel was foreclosed from any filing due to time bar of N.J.A.C. §1:1-12.2. The Court provided petitioner's counsel with an additional ten day period should he wish to make a filing.

No filing from petitioner's counsel was received.

### **FACTUAL DISCUSSION AND FINDINGS**

On April 1, 2019 S.D. was alleged to be under the influence of drugs while in school. On April 3, 2019 the school suspended S.D. for ten days. A manifestation hearing was held and the District upheld the suspension.

On June 9, 2020 the Board expunged the suspension of S.D. as evidenced by the Board Resolution signed on June 10, 2020.

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<sup>2</sup> Due to technical issues, this filing was not received by the Court until June 23, 2020.

## LEGAL ANALYSIS AND CONCLUSIONS

Respondent's counsel lists as a cause of action for their motion the fact that the Board expunged the suspension at its meeting of June 9, 2020. That fact was not challenged by petitioner's counsel. Nor did petitioner's counsel challenge that fact that the issue is now moot.

The Court will not entertain a case where a controversy no longer exists and the issues in dispute have become moot. DeVesa v. Dorsey, 134 N.J. 420, 428 (1993). The case is moot where the original issue presented has been resolved. Ibid. Likewise, an issue is moot when the decision sought and the matter can have no practical effect on the existing controversy. Greenfield v. N.J. Dep't of Corr., 382 and. J. Super. 254, 257 – 58; Commissioner of Education, E. G., Price v. Bd. of Educ. of Washington Twp., OAL Dkt. No. EDU 6121-07, Initial Decision (December 7, 2007), adopted Comm'r, (January 23, 2008, [https://njlaw.rutgers.edu/collections/oal/html/initial/edu06121-07\\_1.html](https://njlaw.rutgers.edu/collections/oal/html/initial/edu06121-07_1.html)).

In light of this information I **FIND** that any claims petitioner might have against the Bridgewater-Raritan School District that are subject to the jurisdiction of the Commissioner of Education are moot as the suspension of student S.D. has been expunged. Further, any other decision that the Court might render following a plenary hearing would have no practical effect on the outcome. I **CONCLUDE** therefore that petitioner's appeal must and should be **DISMISSED**.

Therefore, I **CONCLUDE** that petitioner's claim against the Bridgewater-Raritan School District should be **DISMISSED**.

The petition warrants dismissal on the count that the underlying issue on which the appeal is based has been expunged by Respondent Board. The claim must be dismissed considering this fact.

For the reasons stated herein, I **FIND** that the petition filed by petitioner does not comply with the appropriate rules and administrative guidelines as the underlying

suspension no longer exists in the record of student S.D. Therefore, I **CONCLUDE** that petitioner’s claim should be **DISMISSED**.

**ORDER**

Based upon all of the foregoing, it is hereby **ORDERED** that the petition in this matter be and hereby is **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.

July 29, 2020  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
**CARL V. BUCK III, ALJ**

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

CVB/nd

**APPENDIX**

**EXHIBITS**

**For Petitioner:**

None

**For Respondent:**

R-1 Petitioner's letter to the Commissioner of Education (undated)

R-2 Board Resolution adopted June 9, 2020, dated June 10, 2020