

409-04

OAL DKT. NO. EDU 5343-03

(OAL Decision: [http://lawlibrary.rutgers.edu/oal/html/initial/edu05343-03\\_1.html](http://lawlibrary.rutgers.edu/oal/html/initial/edu05343-03_1.html))

AGENCY DKT. NO. 133-4/03

C.G., on behalf of minor child, T.G., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE CITY : DECISION  
OF EAST ORANGE, ESSEX COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions and the Board's reply thereto<sup>1</sup> were timely filed in accordance with *N.J.A.C.* 1:1-18.4, and were considered by the Commissioner in reaching his decision.<sup>2</sup>

Upon a careful and independent review of the record in this matter, and mindful that the ALJ's credibility determinations are entitled to the Commissioner's deference, *N.J.S.A.* 52:14B-10(c), the Commissioner determines to adopt the ALJ's conclusions that: 1) petitioner has failed to prove by a preponderance of the evidence that she was denied admission to the District's high schools; 2) petitioner has not demonstrated a violation of due

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<sup>1</sup> Petitioner's exceptions were filed on September 17, 2004. On October 12, 2004, the Bureau of Controversies and Disputes received a letter accompanying a reply brief stating that the Board's reply to petitioner's exceptions, dated September 23, 2004, had been previously submitted, but returned for an insufficient address. Counsel for the Board also included the envelope containing the September 23 reply brief, which was postmarked September 23, 2004 and marked insufficient address by the post office. Given these circumstances, the Board's reply has been considered by the Commissioner in making his determination herein.

<sup>2</sup> Both the exceptions and the reply thereto essentially reiterate arguments which were presented in papers previously considered by the Administrative Law Judge (ALJ).

process under the Fourteenth Amendment of the United States Constitution; and 3) the education program requested by petitioner appears equivalent to an individualized education program (IEP) and there is no authority requiring the District to comply with petitioner's demands to create an IEP for T.G. in the absence of a special education classification.

Accordingly, the Initial Decision of the OAL is adopted for the reasons expressed therein and the petition in this matter is dismissed.

IT IS SO ORDERED.<sup>3</sup>

COMMISSIONER OF EDUCATION

Date of Decision: October 18, 2004

Date of Mailing: October 20, 2004

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<sup>3</sup>This decision, as the Commissioner's final determination, may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*