

F.R.P., on behalf of minor child, A.D.P., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE CITY OF : DECISION
EAST ORANGE, ESSEX COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioner challenged the placement of her grandson, A.D.P., into the John Costly Middle School by the Board. Petitioner had requested that the respondent Board place her grandson into a school of her choice, allegedly because the John Costly Middle School did not meet adequate yearly progress (AYP) under the No Child Left Behind Act (NCLB). Petitioner contends that NCLB entitles her to enroll her grandson in a school within the East Orange district which did meet AYP requirements. The Board filed a motion for summary decision.

The ALJ found that there is no genuine issue of material fact and the matter is ripe for summary decision, and petitioner has no basis upon which she may bring an action under the NCLB Act against respondent. The ALJ granted the respondent Board's motion to dismiss.

The Commissioner concurred with the ALJ for the reasons presented in his decision, and dismissed the petition.

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.

December 8, 2008

OAL DKT. NO. EDU 9951-08
AGENCY DKT. NO. 261-8/08

F.R.P., on behalf of minor child, A.D.P., :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE CITY OF : DECISION
 EAST ORANGE, ESSEX COUNTY, :
 :
 RESPONDENT. :
 _____ :

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

Upon such review, the Commissioner concurs with the Administrative Law Judge – for the reasons presented in his decision – that summary decision is appropriately granted to the Board.

Accordingly, the recommended decision of the OAL is adopted and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: December 8, 2008

Date of Mailing: December 8, 2008

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.