

#265-08 (OAL Decision: Not yet available online)

C.W. & S.W., on behalf of minor child, K.W., :
PETITIONERS, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE BOROUGH : DECISION
OF BUTLER, MORRIS COUNTY, :
RESPONDENT. :
_____ :

SYNOPSIS

Petitioners appealed the respondent Board's decision not to invite their son into the National Honor Society, contending that the decision – which was based upon a single incident of alleged cheating – was arbitrary and capricious, as no determination has ever been made that K.W. cheated on his final chemistry exam during his sophomore year. The Board argues that it is the

based upon a single incident of suspected cheating initially sought emergent relief to have disciplinary charges against his son – B.G., III – dismissed, and to have a Child Study Team assessment and related development of an Individual Education Program to address B.G.'s needs; he subsequently amended his petition to request monetary compensation for, *inter alia*, the expenses of childcare and possible future attorney fees. An emergent relief hearing was held, at which the ALJ determined that certain of petitioner's initial issues had been mooted by the Board's actions prior to the hearing date, and others were not conducive to determination on an emergent basis; the ALJ denied the application for emergent relief. Subsequently, the Board moved to dismiss the petition for failure to state a claim upon which relief could be granted.

The ALJ found that the Commissioner has no statutory authority to grant reimbursements for costs and legal fees, and the remaining issues in the petition were determined to be moot. Accordingly, the ALJ recommended dismissal of the petition in its entirety, with prejudice.

Upon a full and independent review, the Commissioner adopted the Initial Decision as the final decision in this matter. The petition was dismissed.

<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>

June 13, 2008

OAL DKT. NO. EDU 7665-07
AGENCY DKT. NO. 187-7/07

C.W. & S.W., on behalf of minor child, K.W., :
PETITIONERS, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE BOROUGH : DECISION
OF BUTLER, MORRIS COUNTY, :
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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. In that the relief sought by the instant petition of appeal – which was transmitted to the OAL in July 2007 – would be rendered moot subsequent to K.W.’s graduation on June 19, 2008, pursuant to a telephone conference call between the parties and the Director of the Bureau of Controversies and Disputes, it was agreed that the Commissioner’s review of this matter would be conducted on an expedited basis. Consequently, it was similarly agreed that the parties would necessarily have a significantly abbreviated schedule for the submission of exceptions and reply exceptions to the Initial Decision (*i.e.*, close of business on June 10 and close of business on June 12, 2008, respectively). Exceptions of the Board and petitioners’ reply thereto were filed in accordance with this schedule and were fully considered by the Commissioner in making her determination herein.

Upon her review of the record – which included transcripts of the hearing conducted at the OAL on February 25 and March 27, 2008 – and after full consideration of

exception submissions, the Commissioner agrees with the Administrative Law Judge's (ALJ) conclusion that – under the particular circumstances in this matter – the Board's determination that K.W. was ineligible to apply to the National Honor Society (NHS) in the spring semester of his junior year was arbitrary, capricious and unreasonable and that K.W. should have been allowed to apply.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter for the reasons comprehensively detailed therein. The Commissioner directs that K.W. be invited to immediately apply to the NHS and that an ultimate determination as to his application be made no later than 12:00 p.m. on Monday, June 16, 2008.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: June 13, 2008

Date of Mailing: June 13, 2008

* This decision 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.*