

#55-12 (OAL Decision: Not yet available online)

JAY J. CHOI, :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

THE NEW JERSEY JAPANESE SCHOOL, : DECISION

BOARD OF EDUCATION OF THE BOROUGH :  
OF OAKLAND, BERGEN COUNTY, AND :  
NEW JERSEY DEPARTMENT OF EDUCATION, :

RESPONDENTS. :

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SYNOPSIS

Petitioner – a resident of Rivervale, Bergen County, a taxpayer, and a Korean-American – challenged the provision of State funds to the New Jersey Japanese School (NJJS), a nonpublic school, by the Board of Education of Oakland and the New Jersey Department of Education (Department) for textbooks pursuant to *N.J.S.A.* 18A:58-37.3 and nursing services pursuant to *N.J.S.A.* 18A:40-25. Petitioner also challenged the designation of the NJJS as a nonpublic school recognized by the Department. Petitioner’s challenge is based upon a passage in a civics textbook used by NJJS which sets forth that a small group of islets in the Sea of Japan – sovereignty over which has historically been disputed between Japan and South Korea, but which is currently administered by South Korea – is part of territory that belongs to Japan and is being occupied illegally by Korea. Petitioner contends, *inter alia*, that this view of the Japanese-Korean dispute is inappropriate, biased, and a form of propaganda that teaches NJJS students only the political perspective of Japan. The respondents in this matter all filed motions to dismiss in lieu of an answer to the petition.

The ALJ found, *inter alia*, that: dismissal of a petition very early in litigation is warranted if there is no relief upon which this forum or the Department can act, or no relief to which petitioner is entitled as a matter of law; petitioner has only a tenuous, hypothetical personal interest in the offending paragraph from the NJJS civics textbook; granting petitioner standing to pursue this action to appeal the content of one sentence or paragraph in a textbook used by a private school – and from there to argue that NJJS should be deprived of recognition as a legitimate private school – would be to open a Pandora’s box of litigation whereby any general State taxpayer could assert the right to question every line of text in every textbook in any New Jersey school, public, private, or charter; and parents have a right to choose an education for their children which teaches different concepts than are taught in the public schools. The ALJ concluded that petitioner does not have standing to challenge the provision of textbooks and nursing funds to the NJJS, and fails as a matter of law to state a claim upon which relief can be granted. Accordingly, the ALJ granted respondents’ motions, and dismissed the petition.

The Assistant Commissioner, to whom this matter was delegated pursuant to *N.J.S.A.* 18A:4-34, fully concurred with the ALJ’s findings, and adopted the Initial Decision as the final decision in this matter. The petition was dismissed.

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.

February 17, 2012

OAL DKT. NO. EDU 13294-11  
AGENCY DKT. NO. 278-9/11

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Exceptions of petitioner and replies to these from each of the respondents – submitted in accordance with the dictates of *N.J.A.C.* 1:1-18.4 – were fully considered by the Assistant Commissioner, to whom this matter has been delegated pursuant to *N.J.S.A.* 18A:4-34, in reaching his determination herein.

Petitioner’s exceptions – in relevant part – recast and reiterate his arguments advanced below. In that it is determined that these were fully considered and addressed by the Administrative Law Judge (ALJ) in her Initial Decision, further elaboration on them is unnecessary here.

Upon careful review and consideration, the Assistant Commissioner fully concurs with the ALJ that the respondents’ Motions to Dismiss are appropriately granted as petitioner fails to meet the threshold requirements for standing and he fails as a matter of law to state a claim upon which relief can be granted.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter – for the reasons comprehensively stated therein – and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.\*

ASSISTANT COMMISSIONER OF EDUCATION

Date of Decision: February 17, 2012

Date of Mailing: February 21, 2012

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\* 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*).