

G.C., on behalf of minor child, C.C., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF MONTGOMERY, :
SOMERSET COUNTY, :
RESPONDENT. :

SYNOPSIS

The petitioner challenged the determination of the respondent Board that his son, C.C., engaged in behavior that fell under the school district’s policy against harassment, intimidation and bullying (HIB). This case stems from an incident between two eleven-year-old sixth graders, which occurred in the cafeteria of the school district’s Lower Middle School in October 2014. In accordance with the provisions of the New Jersey Anti-Bullying Bill of Rights Act, *N.J.S.A. 18A:37-13.2 et seq.* (the Act), an investigation was conducted by the school’s anti-bullying specialist. The investigation concluded that C.C. had committed acts of HIB stemming from comments he made regarding his classmate’s vegetarian lifestyle, including C.C.’s self-admitted statement that “vegetarians are idiots”. The HIB investigation report concluded that C.C.’s conduct met the statutory definition of HIB, as set forth in *N.J.S.A. 18A:37-14*, as C.C. made verbal comments that were reasonably perceived as motivated by a distinguishing characteristic, and had the effect of insulting and demeaning a classmate who is vegetarian. C.C. was assigned five lunch-time detentions. A Board-level hearing took place in February 2015 at the request of C.C.’s parents, after which the Board affirmed the initial finding of HIB. Thereafter, G.C. filed the within petition. The parties filed cross motions for summary decision.

The ALJ found, *inter alia*, that: the parties stipulated that there are no material facts in dispute and the matter is ripe for determination by summary decision depending on the resolution of the sole legal issue in dispute herein, namely whether the state of being a vegetarian can constitute “any other distinguishing characteristic” within the meaning of the Act; in this case, C.C. admitted making comments regarding his classmate’s vegetarianism, including “it’s not good to not eat meat” and a statement asserting that people who eat meat are “smarter and have bigger brains”; these comments are reasonably perceived to be motivated by the classmate’s distinguishing characteristic of being a vegetarian; and the fact that C.C.’s classmate is a vegetarian is an identifiable motivation. The ALJ concluded that C.C.’s comments in October 2014 constituted a violation of HIB, and petitioner has not met the burden of proof that the Board acted in an arbitrary manner in concluding that C.C.’s conduct constituted HIB under the New Jersey Anti-Bullying Bill of Rights Act. Accordingly, the Board’s motion for summary decision was granted, the petitioner’s cross motion was denied, and the petition was dismissed.

Upon review, the Assistant Commissioner – to whom this matter has been delegated pursuant to *N.J.S.A. 18A:4-34* – concurred with the ALJ that the petitioner failed to sustain his burden to show that the Board’s actions regarding C.C.’s conduct in October 2014 were arbitrary, capricious or unreasonable. Accordingly, the Assistant Commissioner adopted the Initial Decision as the final decision in this matter.

<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>

OAL DKT. NO. EDU 12103-15
AGENCY DKT. NO. 149-6/15

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

Upon such review, the Assistant Commissioner – to whom this matter has been delegated pursuant to *N.J.S.A. 18A:4-34* – concurs with the Administrative Law Judge (ALJ) that the Board’s decision in connection with C.C. was not arbitrary, capricious or unreasonable. Accordingly, the recommended decision of the ALJ is adopted for the reasons expressed therein and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

ASSISTANT COMMISSIONER OF EDUCATION

Date of Decision: April 22, 2016

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* This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).