

DONALD LEMMA, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
TOWNSHIP OF BRANCBURG,  
SOMERSET COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

SYNOPSIS

Petitioning parent contested the location of the bus stop for his minor children. Petitioner claimed said stop was arbitrary, capricious and unreasonable.

ALJ concluded that petitioner failed to show by a preponderance of evidence that the Board's refusal to change the bus stop location was arbitrary, capricious, unreasonable or discriminatory. The Board relied on current practice and policy and on its expert's analysis of traffic and hazardous driving conditions. Moreover, petitioner's children were not treated differently from children similarly situated and the Board was not required to locate the stop on petitioner's private road. Thus, the ALJ determined that absent a definitive showing of the Board's bad faith or arbitrary action taken without rational basis, the Board's action would stand.

Commissioner adopted findings and determination in initial decision as his own. Petition was dismissed.

OAL DKT. NO. EDU 8953-97  
AGENCY DKT. NO. 377-10/97

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The record in this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon careful and independent review of the record in this matter, the Commissioner concurs with the findings and conclusion of the Administrative Law Judge that petitioner has failed to sustain his burden of demonstrating, by a preponderance of the credible evidence, that the within Board's refusal to change his children's bus stop location was arbitrary, capricious, unreasonable or an abuse of its discretion.

Accordingly, the recommended decision of the OAL is affirmed for the reasons clearly stated therein and the instant Petition of Appeal is hereby dismissed.\*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

AUGUST 28, 1998

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\* This decision, as the Commissioner's final determination in the instant matter, 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. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.