

320-00

S.G., on behalf of minor child, R.G., :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE : DECISION
BOROUGH OF FAIR LAWN,
BERGEN COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioner, the parent of a child who attended a magnet school operated by the Bergen County Technical School District, challenged the determination of the student's local district not to allow the student to apply for or receive scholarships donated to the district and administered by Fair Lawn High School.

After the case was transmitted to the Office of Administrative Law, the parties moved for summary decision. The ALJ granted summary decision in favor of the district, concluding that: 1) the case is moot because petitioner's child graduated from high school and is attending Rice University on full scholarship; 2) petitioner has no standing to prosecute the matter because petitioner's son cannot be affected by the decision in any way; and 3) the Board's policy regarding the administration of scholarships is not arbitrary, capricious or unreasonable.

The Commissioner affirmed the ALJ's grant of summary decision and dismissed the petition, concluding that, even assuming *arguendo* that petitioner has standing and that the case is not moot, the policy of the Board restricting the grant of scholarship funds it administers to students attending Fair Lawn High School is not arbitrary, capricious or unreasonable.

September 25, 2000

OAL DKT. NO. EDU 7469-99
AGENCY DKT NO. 131-5/99

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner's exceptions and the Board's reply thereto were timely filed pursuant to *N.J.A.C.* 1:1-18.4 and duly considered by the Commissioner in reaching his determination herein.

In her exceptions, petitioner disagrees with the Administrative Law Judge's (ALJ) conclusion: 1) that the Board's denial of eligibility for magnet school students' participation in scholarship programs which it administers is not arbitrary and capricious; 2) that the within matter is moot; and 3) that petitioner lacks standing to pursue this case. In so doing, petitioner essentially recasts and reiterates her arguments advanced below.

In reply, the Board recapitulates its position on each of these issues plead before the ALJ and urges that the Initial Decision be affirmed without modification.

Upon his careful and independent review of the record, the Commissioner determines to affirm the Initial Decision since, even assuming, *arguendo*, that petitioner has standing and that this matter is not moot, he agrees with the ALJ that the Board's restriction of

its scholarship funds to students attending Fair Lawn High School is not arbitrary, capricious or unlawful for the reasons stated in the Initial Decision.

Accordingly, the recommended Initial Decision is affirmed. Summary decision is hereby granted to the Board¹ and the within Petition of Appeal is dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: September 25, 2000

Date of Mailing: September 26, 2000

¹ It is noted that the parties are in agreement that no genuine issue of material fact exists with respect to this matter and, therefore, summary decision is appropriately granted.

² This decision, as the Commissioner's final determination, 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.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.