

T.L., on behalf of minor child, T.L.,	:	
PETITIONER,	:	
V.	:	COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF THE	:	
TOWNSHIP OF MIDDLETOWN,	:	DECISION
MONMOUTH COUNTY,	:	
RESPONDENT.	:	

SYNOPSIS

Petitioning parent appealed Board’s policy requiring his son, T.L., who had been suspended for developing a “hit list” of teachers and friends, to undergo a psychiatric or psychological examination at Board expense before being allowed to return to the school population.

The ALJ concluded that neither the Board policy requiring psychological or psychiatric clearance within the context of assuring safe conditions in school, nor implementation of the policy under the circumstances of the record, has been shown to be arbitrary or capricious. The ALJ noted that T.L.’s return to classes is within the control reposing in his parents.

The Commissioner concurred that petitioner failed to prove that the Board’s policy or its application was arbitrary, capricious or unreasonable. 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.

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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.

Upon careful and independent review, the Commissioner concurs, for the reasons set forth in the Initial Decision, that petitioner has failed to prove that the Board’s policy requiring an examination of T.L. by a psychiatrist or psychologist prior to his return to school is improper.¹ Neither has petitioner demonstrated that the Board applied its policy in a manner that was arbitrary, capricious and unreasonable, under these circumstances.² As such, the Commissioner may not legally substitute his judgment for that of the Board. *Kopera, supra*.

Accordingly, the Petition of Appeal is dismissed. The Commissioner underscores that T.L.’s return to school is “within the control reposing in his parents***.” (Initial Decision at 11)

IT IS SO ORDERED.³

COMMISSIONER OF EDUCATION

Date of Decision: June 13, 2002

Date of Mailing: June 13, 2002

¹ T.L. has been receiving home instruction since his removal from school and, apparently, has not fallen behind his grade level work.

² In *T.L. and R.K., on behalf of minor T.L. v. Middletown Township Board of Education*, OAL Dkt. No. EDS 6990-01, ALJ Lavery determined that the Individuals with Disabilities Education Act (IDEA) does not apply in this case, as petitioner had no intent “to characterize his son as disabled, or to initiate the IDEA process of establishing (or not) the presence of any impairment” and the Board similarly maintains it has no intention of referring T.L. for an evaluation and classification. Slip op. at 3.

³ 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.