

#216-12 (OAL Decision: Not yet available online)

L.G., on behalf of minor child, D.G.,

PETITIONER,

V.

COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE  
TOWNSHIP OF NORTH BRUNSWICK,  
MIDDLESEX COUNTY,

DECISION

RESPONDENT.

SYNOPSIS

Petitioner asserted that the determination of the respondent Board that her son, D.G., did not meet the age requirement to enter kindergarten in September 2011 was arbitrary, capricious and unreasonable because the child missed the cutoff date for entry into the current kindergarten class by one day. It is the respondent Board’s policy that a child must turn five years old no later than the cutoff date of October 1 for entry into kindergarten during that academic year. D.G. turned five on October 2, 2011. Petitioner contended that her son is ready for public school kindergarten because he attended private pre-kindergarten and only missed the age deadline by one day; therefore, the respondent Board should allow a waiver or modification of its admission policy for D.G.

The ALJ found that: the weight of the evidence indicates that respondent adhered to the North Brunswick Township Policy 5112 pertaining to school entrance age and to the New Jersey State statutes governing school admission in determining that D.G. was not eligible for kindergarten admission in 2011; respondent provided petitioners with an opportunity to appeal their concerns by explaining all of the circumstances of the case at a meeting of the Board of Education in November 2011, but the Board declined to change their determination; and D.G. maintains an opportunity to advance to first grade should his assessment test scores and other criteria indicate that such advancement is in his interest upon entry into kindergarten in September 2012. Accordingly, the ALJ concluded that petitioner failed to sustain her burden of proving that the Board’s determination to deny D.G. admission to kindergarten for the 2011-2012 school year was arbitrary, capricious or unreasonable.

Upon a full and independent review, the Commissioner concurred with the findings and conclusion of the ALJ. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this case.

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.

May 23, 2012

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

Upon full consideration, the Commissioner concurs with the Administrative Law Judge that petitioner has failed to sustain her burden of establishing – relevant to minor child D.G. – that the Board’s refusal to waive its policy requiring students entering kindergarten to reach the age of five by October 1 is arbitrary, capricious or unreasonable. In so determining, the Commissioner finds that it is evident from the record that the Board has taken a clear position with respect to its entry age requirements, duly adopted a policy in furtherance of its position, published that policy, enforced its rule in a consistent manner, and afforded petitioner the opportunity to appeal its determination to the Board, notwithstanding that the appeal was ultimately unsuccessful.<sup>1</sup> Having found no arbitrary,

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<sup>1</sup> As noted by the ALJ, however, “D.G. maintains an opportunity to advance to first grade should his assessment test scores and other criteria indicate that such advancement is in his interest upon entry in kindergarten in September 2012.” (Initial Decision at 6)

discriminatory or unlawful action on the part of the Board, there is no basis for the Commissioner to overturn the Board's decision.

Accordingly, the recommended decision of the OAL is adopted for the reasons comprehensively detailed therein and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.<sup>2</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 23, 2012

Date of Mailing: May 23, 2012

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<sup>2</sup> 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*).