

R.G.B., on behalf of minor child, E.B., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
VILLAGE OF RIDGEWOOD,  
BERGEN COUNTY, :  
RESPONDENT. :

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SYNOPSIS

The petitioner challenged the determination of the respondent Board that his son, E.B., engaged in behavior that fell under the school district’s policy against harassment, intimidation and bullying (HIB), and sought an order removing any reference to the alleged incident from E.B.’s student records. This case relates to a May 2012 complaint from a female student at one of the Board’s middle schools, wherein E.B. – a seventh grader at the time – allegedly insulted and demeaned his classmate by calling her names, including “fat”, “fat ass” and “horse”. The Board determined that E.B.’s conduct constituted harassment, intimidation and bullying (HIB) under New Jersey’s Anti-Bullying Law, *N.J.S.A. 18A:37-14*, and imposed two after-school detentions as consequence for his behavior. Petitioner asserted that the Board inappropriately applied the HIB law. The Board contended that its actions were at all times compliant with applicable statutes and regulations governing student conduct.

The ALJ found, *inter alia*, that: on more than one occasion during the 2011-2012 school year, E.B. called a female classmate “horse”, “a horse”, “fat”, and/or “fat ass”; E.B. additionally referred to the same classmate by using the name of another student after the classmate dyed her hair; the Board’s witnesses at hearing were credible and compelling, while the testimony of E.B. was contrived and not convincing; pursuant to New Jersey’s Anti-Bullying Law, *N.J.S.A. 18A:37-14*, E.B.’s actions were verbal acts motivated by distinguishing characteristics, i.e., appearance and body type; E.B.’s conduct accordingly constituted HIB as that term is defined by law; E.B. was not a chronic troublemaker, but his actions were hurtful and extremely upsetting to his classmate; the school district’s response of assigning him to detention was designed to redirect E.B.’s behavior in a manner that was consistent with his age and that recognized that this was his first offense; the actions of school personnel relative to this incident were consistent with the letter and spirit of *N.J.S.A. 18A:37-14*; and petitioner failed to carry his burden to prove that the actions of the Board or any of its personnel were arbitrary, capricious or unreasonable. Accordingly, the ALJ ordered the petition dismissed.

Upon review, the Commissioner concurred with the ALJ that the petitioner failed to show that the Board’s actions regarding E.B.’s conduct in May 2012 were arbitrary, capricious or unreasonable. Accordingly, the Commissioner adopted the Initial Decision as the final decision in this matter, and dismissed the petition.

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.

June 24, 2013

OAL DKT. NO. EDU 14213-12  
AGENCY DKT. NO. 293-9/12

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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 Commissioner concurs with the Administrative Law Judge (ALJ) that the Board's decision in connection with E.B. 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.\*

COMMISSIONER OF EDUCATION

Date of Decision: June 24, 2013

Date of Mailing: June 25, 2013

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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*).