

D.H. and J.H., on behalf of minor child, S.H., :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE : DECISION
TOWNSHIP OF PARSIPPANY-TROY
HILLS, MORRIS COUNTY, :

RESPONDENT. :

SYNOPSIS

Petitioners appealed the determination of the Board to deny their child, S.H., admission to the first grade in respondent's school district. Petitioners sought, *inter alia*, to have S.H. admitted to the first grade for the 2013-14 school year, and a determination that the Board's actions in refusing her admission were arbitrary, capricious and unreasonable. S.H. turned six on October 2, 2013, and had already completed a private school kindergarten program. The Board contended that S.H. was denied admission pursuant to Policy 5112, Entrance Age, which provides that a child is eligible for entrance into first grade if he or she has attained the age of six years on or before October 1 of the year in which entrance is sought or has completed the District's kindergarten program. Petitioners asserted that S.H. has met the District's standards for promotion into first grade, and Policy 5112 sets forth the mechanism by which she can enter first grade; the Board's refusal to apply this policy to allow her admission to first grade is arbitrary and capricious, and violates S.H.'s right to an appropriate educational placement. The parties filed cross motions for summary decision.

The ALJ found that: there is no genuine issue of material fact in dispute, and the matter is ripe for summary decision; by statute, a local board may – at its discretion – admit a pupil if he or she meets such entrance requirements as are established by rules or regulations of the board; in this case, the weight of the evidence indicates that the respondent Board adhered to its Policy 5112 pertaining to school entrance age and to New Jersey law governing school admission in determining that S.H. was not eligible for first grade admission in September 2013; the only means by which Policy 5112 would allow S.H. – a child who undisputedly did not meet the age requirement – to enroll in first grade would be if she were transferring from an American public school as a result of her parents becoming residents of Parsippany-Troy Hills; S.H.'s parents conceded that their residence in the District pre-dated her completion of a private kindergarten program during the 2012-13 school year. The ALJ concluded that S.H. did not meet the requirements of Policy 5112 and, accordingly, the Board did not act in an arbitrary or capricious manner in refusing her admission to first grade. The ALJ granted summary decision to the Board, and dismissed the petition.

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, and the 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.
--

November 7, 2013

OAL DKT. NO. EDU 11075-13
AGENCY DKT. NO. 179-8/13

D.H. and J.H., on behalf of minor child, :
S.H., :

PETITIONER, :

V. :

COMMISSIONER OF EDUCATION

BOARD OF EDUCATION OF THE :
TOWNSHIP OF PARSIPPANY-TROY :
HILLS, MORRIS COUNTY, :

DECISION

RESPONDENT. :
_____ :

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 a comprehensive review of the record in this matter, the Commissioner¹ concurs with the Administrative Law Judge that the Board's decision to deny S.H. admission to first grade for the 2013-2014 school year was not arbitrary, capricious or unreasonable. Accordingly, the Initial Decision is adopted as the final decision in this matter and the petition of appeal is dismissed.

IT IS SO ORDERED.²

ASSISTANT COMMISSIONER OF EDUCATION

Date of Decision: November 7, 2013

Date of Mailing: November 7, 2013

¹ This matter has been delegated to the undersigned Assistant Commissioner pursuant to *N.J.S.A.* 18A:4-34.

² 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).