

B.J., ON BEHALF OF MINOR CHILD, T.J., :
PETITIONER, :
COMMISSIONER OF EDUCATION
V. :
DECISION
STATE-OPERATED SCHOOL DISTRICT OF :
THE CITY OF NEWARK, ESSEX COUNTY, :
AND GABRIELLE RAMOS-SOLOMON, :
EXECUTIVE DIRECTOR, OFFICE OF :
STUDENT ENROLLMENT, :
RESPONDENT. :

SYNOPSIS

Pro se petitioner B.J. filed an appeal seeking an order to compel the State-Operated School District of the City of Newark (District) to enroll his son, T.J., in respondent's Science Park High School (Science Park) – one of Newark's six magnet schools. Petitioner contended that T.J. should be admitted to Science Park based on sibling preference, because his brother attends the school; further, petitioner maintained that T.J. was denied admission to Science Park as the result of racial and gender discrimination. The District asserted that T.J. was properly denied enrollment at Science Park because his grades and standardized test scores were significantly below those of students accepted into the magnet school.

The ALJ found, *inter alia*, that: petitioner bears the burden to prove that the District discriminated against T.J. on the basis of race and/or sex in violation of the New Jersey Law Against Discrimination, *N.J.S.A. 10-5-1 et seq.*, or *N.J.S.A. 18A:36-20*; petitioner's reliance on enrollment figures to establish a disparate impact on black students is without merit, as the racial composition of Science Park's student body is not controlled by the District – rather, students and/or their parents choose schools in order of their preference; thus, a lower enrollment rate may be the result of a smaller applicant pool; petitioner's contention that reliance on the results of standardized tests as an admission criteria had a disparate impact on African American and male students is without evidentiary support in the record; while it is clear with respect to gender that Science Park has a higher percentage of female as opposed to male students, the District has demonstrated that its admission criteria are gender neutral, and petitioner failed to advance any reason beyond stating the percentage of girls versus boys to prove that there was actual discrimination at play in Science Park's admission process; and the District has demonstrated that it utilized sound educational values and procedures in its admission criteria for magnet schools in general, and Science Park in particular. Accordingly, the ALJ concluded that petitioner's allegations are without merit, and ordered the petition dismissed.

Upon comprehensive review of the record, the Commissioner concurred with the ALJ's findings and conclusions. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, for the reasons stated therein. 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.
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OAL DKT. NO. EDU 08133-16
AGENCY DKT. NO. 134-5/16

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the petitioner and the District's reply thereto.

In his exceptions, petitioner argues that the demographic information comparing Science Park High School (Science Park) and the District as a whole demonstrates that there is a disparate impact resulting from discrimination in the enrollment process. Specifically, petitioner argues that the weight placed on standardized test scores resulted in fewer black students being admitted to Science Park than the district average. Petitioner disagrees with the Administrative Law Judge's finding that the impact of the ranking criteria could not be determined because the racial composition of the applicant pool for each magnet school is unknown, and that there was no disparate impact because the demographics of students admitted to all of the magnet schools combined roughly matches the district-wide demographics. Petitioner explains that Newark's magnet schools are not equal to one another; Science Park is the most selective, offers the most

academically challenging courses, and has the highest graduation rate. As such, petitioner requests that the Commissioner require the District to determine the racial and gender makeup of the applicant pool and take steps to determine if the use of standardized tests in the admission process is biased toward a racial group or gender. Petitioner also seeks for T.J. to be admitted to Science Park.

In reply, the District argues that contrary to petitioner's arguments, there has been no showing of discrimination in the enrollment process from which a disparate impact could have resulted. There is no information collected regarding the racial composition of the applicant pool for each magnet school, so the ALJ correctly found that the lower enrollment rate for African-American boys at Science Park could be due to a smaller applicant pool. The District also argues that there was no evidence of a correlation between the weight given to standardized test scores and the lower percentage of black students admitted to Science Park. Further, the District maintains that T.J.'s grades and standardized test scores were lower than what is expected for admission to Science Park. As such, at least 26 applicants who ranked higher than T.J. were also not accepted into Science Park; thus, even if standardized tests were given less weight, T.J. would still not have been admitted.

The District also argues that petitioner's arguments rely on a misinterpretation of the law. A claim for discrimination cannot be based solely on alleged disparate impact, and instead requires an analysis under the Law Against Discrimination, *N.J.S.A. 10-5-1 et seq.*, or *N.J.S.A. 18A:36-20*. Applying the elements for a claim of discrimination – set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973) – in the context of this school admissions case, petitioner was required to demonstrate that (1) T.J. is a member of a protected class; (2) he was qualified for admission to Science Park; (3) he was denied admission; and

(4) students with qualifications equivalent to T.J. who were not members of a protected class were accepted into Science Park. Specifically, the Board contends that petitioner has failed to meet the elements for a claim of discrimination because T.J. was not qualified for acceptance based on his grades and standardized test scores, and there is no evidence that any students who were not part of a protected class – with similar grades and standardized test scores – were accepted into Science Park. Further, the District contends that the ALJ correctly found that petitioner’s allegation of discriminatory impact is insufficient to prove a claim under *N.J.S.A. 18A:36-20* because the District based its admissions criteria for magnet schools on sound educational values and procedures. As such, the District urges the Commissioner to adopt the Initial Decision.

Upon review, the Commissioner concurs with the ALJ – for the reasons thoroughly set forth in the Initial Decision – that petitioner has failed to prove by a preponderance of the evidence that the District discriminated against T.J. on the basis of race or gender in denying his admission to Science Park. The Commissioner does not find petitioner’s exceptions to be persuasive. Petitioner has not provided sufficient evidence to demonstrate that the use of standardized tests in the admissions process is biased against African-American or male pupils. Although petitioner argues that Science Park has fewer black students than the district average, the Commissioner agrees with the District that Science Park should not be viewed in isolation, as students self-select where they apply and there is no information available about the demographics of the applicant pool for each individual school. Instead, when the magnet schools are viewed as a whole, the percentage of black and white students is very similar to the racial composition across the entire district from grades 7 through 12. Further, given that

T.J.'s grades and standardized test scores are below those of typical Science Park students, petitioner has failed to demonstrate any discrimination with respect to T.J.'s application.

Accordingly, the Initial Decision of the OAL is adopted – for the reasons thoroughly set forth therein – as the final decision in this matter, and the petition is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: June 1, 2018

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* 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*).