

New Jersey Commissioner of Education

Decision

Stephen Eget,

Petitioner,

v.

Board of Education of the Borough of
Mountain Lakes, Morris County,

Respondent.

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

Petitioner seeks the release of his estranged daughter's student records from the high school that she attended. Petitioner's daughter is 18 years old and no longer a student in the Mountain Lakes School District (District), but petitioner sought the records because his ex-wife would not disclose if or where their daughter was attending college. According to petitioner, a 2018 court order from his divorce proceedings granted him "equal and unfettered access" to his child's health and education records. The Board denied petitioner's request, informing him that a parent does not have access to a graduate's student records once they have reached the age of majority. Petitioner filed the instant appeal challenging the denial of access to his daughter's records.

Following the Board's motion for summary decision,¹ the Administrative Law Judge (ALJ) found that petitioner is not authorized to obtain his daughter's school records. *N.J.A.C. 6A:32-7.5(e)* provides, in relevant part:

¹ Petitioner did not file opposition to the motion.

Organizations, agencies, and persons authorized to access student records shall include only the following: . . .

3. An adult student and/or a parent who has the written permission of an adult student, except that the parent shall have access without the adult student's consent, as long as the adult student is financially dependent on the parent and enrolled in the public school system, or if the adult student has been declared legally incompetent by a court of appropriate jurisdiction. The parent of a financially dependent adult student may not disclose information contained in the adult student's record to a second or third party without the adult student's consent;

. . .

The ALJ found that since petitioner's daughter is an adult who has graduated from the District, has not been declared legally incompetent, and has not provided written permission for the release of her student records, petitioner does not have the authority to access those records.

The Commissioner agrees with the ALJ, for the reasons stated in the Initial Decision, that petitioner is not entitled to access his adult child's student records. Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the petition is hereby dismissed.

IT IS SO ORDERED.²


ANGELINA ALLEN McMILLAN, J.D. S.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: May 16, 2023

Date of Mailing: May 17, 2023

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A. 18A:6-9.1*. Under *N.J.Ct.R. 2:4-1(b)*, a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 00702-2023

AGENCY DKT. NO. 378-12/22

STEPHEN EGET,

Petitioner,

v.

BOARD OF EDUCATION OF MOUNTAIN

LAKES, MORRIS COUNTY,

Respondent.

Steven Eget, petitioner, pro se

Robert D. Lorfink, Esq., for respondent (Fogarty and Hara, attorneys)

Record Closed: March 24, 2023

Decided: April 4, 2023

BEFORE **SUSANA E. GUERRERO**, ALJ:

STATEMENT OF THE CASE

Petitioner Steven Eget (Eget or petitioner) seeks the release of his eighteen-year-old daughter's school records. The Board of Education of the Borough of Mountain Lakes (the Board or respondent) has denied Eget's request for records.

PROCEDURAL HISTORY

Petitioner filed a Petition of Appeal with the Commissioner of Education on or around December 27, 2022, and the Commissioner transmitted the matter to the Office of Administrative Law, where it was filed as a contested case on January 23, 2023. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

A prehearing conference was held on February 10, 2023, during which a hearing was scheduled for March 27, 2023. During the prehearing conference, counsel for the Board indicated that he intended to file a motion for summary decision. In the prehearing order filed on February 13, 2023, the pro se petitioner was informed that he had twenty calendar days to file a written opposition to the motion.

The Board filed a motion for summary decision on or around February 23, 2022. When the petitioner failed to file a timely response to the motion, the undersigned sent the parties a letter on March 20, 2023 adjourning the March 27, 2023 hearing date and informing the parties that the deadline to file an opposition to the motion would be extended to March 24, 2023. The petitioner never filed an opposition to the motion.

FINDINGS OF FACT

Based on the submissions presented, and the uncontroverted background facts, I **FIND** the following:

Petitioner's daughter, L.E., attended the Mountain Lakes School District. He is estranged from his daughter. L.E. is over eighteen years old.

On December 16, 2022, petitioner contacted the Director of School Counseling for the Mountain Lakes School District, to request disclosure of L.E.'s school records. Petitioner informed the Director that he was in a long and drawn out divorce matter with his former spouse who was refusing to disclose where L.E. was attending college, or even confirm that she was, in fact, attending college. Petitioner's request to access L.E.'s

records was denied. The Director informed the petitioner: “When a graduate has reached the age of majority, her parents no longer have rights to her records; only she can request records and/or release those records.”

The petitioner then cited to a provision of a 2018 court order stemming from his divorce proceeding that was issued by the Superior Court, Chancery Division of the County of Morris, that granted him “equal and unfettered access to both the children’s health and education records.” That court order was entered before L.E. even began high school. When petitioner made this request, L.E. was no longer attending the Mountain Lakes school district, and had reached the age of eighteen.

The Director again responded to petitioner’s request, stating:

Under state law, N.J.A.C. 6A:32-7.5, access to an adult student’s records can only be granted to the parent if the parent has a written permission of the adult student, except that the parent shall have access without the adult student’s consent, as long as the adult student is financially dependent on the parent and enrolled in the public school system, or if the adult student has been declared legally incompetent by a court of appropriate jurisdiction. Since your daughter is no longer enrolled in the Mountain Lakes School District, and you have not presented me with your daughter’s written permission, you are not permitted access to her records.

The petitioner never provided the Board with L.E.’s written consent for her school records.

In his Petition of Appeal, Eget appears to rely on the aforementioned court order from 2018. He also references N.J.S.A. 9:2-4.2, and states that, to the best of his knowledge, the court has not emancipated L.E.

LEGAL ANALYSIS AND CONCLUSION

In its motion, the Board asserts that there are no genuine issues of material fact in the matter, and that its motion for summary decision must be granted as a matter of law.

Pursuant to N.J.A.C. 1:1-12.5(b), summary decision “may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” This rule is substantially similar to the summary judgment rule embodied in the N.J. Court Rules, R. 4:46-2. See Judson v. Peoples bank & Trust Co. of Westfield, 17 N.J. 67, 74 (1954). In connection therewith, all inferences of doubt are drawn against the movant and in favor of the party against whom the motion is directed. Id. at 75. In Brill v. Guardian Life Insurance Co., 142 N.J. 520, 540 (1995), the New Jersey Supreme Court addressed the appropriate test to be employed in determining the motion:

[A] determination whether there exists a “genuine issue” of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party. The “judge’s function is not . . . to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.”

[Citation omitted.]

Having reviewed the Board’s motion and supporting documents, I **CONCLUDE** that this matter is ripe for summary decision as there are no genuine issues of material fact. The facts presented by the Board are straightforward and undisputed.

The New Jersey State Legislature has conferred upon the Commissioner of Education “jurisdiction to hear and determine . . . all controversies and disputes arising under the school laws . . . or under the rules of the State board or of the commissioner.” N.J.S.A. 18A:6-9. Here, to the extent that Eget seeks relief pursuant to an order that was issued five years ago by a Superior Court Judge in connection with a matrimonial matter, that clearly falls outside the scope of the Commissioner’s jurisdiction as it does not involve a dispute arising under the school laws. The Commissioner lacks jurisdiction to enforce or interpret a Family Part court order.

Eget's Petition also references N.J.S.A. 9:2-4.2,¹ which addresses parental access to children's records. It appears that Eget maintains that he is entitled to L.E.'s school records because she has not been emancipated by any Court. Again, counsel for the Board is correct to note that the Commissioner lacks jurisdiction to enforce this statutory provision, as it does not arise under the school laws.

N.J.A.C. 6A:32-7.5, which addresses access to student records, applies here. It provides, in relevant part:

(a) Only authorized organizations, agencies, or persons, as defined in this section, shall have access to student records, including student health records.

...

(c) Each district board of education shall control access to, disclosure of, and communication regarding information contained in student health records to assure access only to people permitted by Federal and State statute and regulations or as stated at (e) below.

...

(e) Organizations, agencies, and persons authorized to access student records shall include only the following:

1. The student who has the written permission of a parent and the parent of a student under the age of 18, regardless of whether the child resides with the parent, except pursuant to N.J.S.A. 9:2-4; . . .

2. . . .

3. An adult student and/or a parent who has the written permission of an adult student, except that the parent shall have access without the adult student's consent as long as the adult student is financially dependent on the parent and enrolled in the public school system, or if the adult student has been declared legally incompetent by a court of appropriate jurisdiction. The parent of a financially dependent adult student may not disclose information contained in the adult

¹ N.J.S.A. 9:2-4.2 provides in relevant part: "Every parent, except as prohibited by federal and State law, shall have access to records and information pertaining to his or her unemancipated child, including, but not limited to, medical, dental, insurance, child care and educational records, whether or not the child resides with the parent, unless that access is found by the court to be not in the best interest of the child or the access is found by the court to be sought for the purpose of causing detriment to the other parent."

student's record to a second or third party without the adult student's consent;

. . .

14. Organizations, agencies, and persons from outside the school if they have the written consent of the parent or adult student. Organizations, agencies, and persons shall not transfer student record information to a third party without the written consent of the parent or adult student;

15. Organizations, agencies and individuals outside the school, other than those specified in this section, upon the presentation of a court order; . . .

Of the approximately sixteen categories of authorized agencies, organizations or persons who may gain access to student records, there is no evidence that petitioner would satisfy any of these categories. Since Eget's daughter is an adult who no longer attends school in the district; there is no indication that she has ever been declared legally incompetent by any court; and as she never provided written permission for the release of her school records, Eget is not authorized to obtain her records pursuant to N.J.A.C. 6A:32-7.5(e). Given the uncontroverted facts in this matter, and drawing all inferences of doubt in favor of the petitioner, and against the Board, as the moving party, I **CONCLUDE** that the Board must prevail as a matter of law.

ORDER

It is hereby **ORDERED** that the motion for summary decision filed by the Board is **GRANTED**, and that the petition be dismissed.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

April 4, 2023

DATE



SUSANA E. GUERRERO, ALJ

Date Received at Agency:

Date Mailed to Parties:

jb