

New Jersey Commissioner of Education
Final Decision

J.W., on behalf of minor child, E.W.,

Petitioner,

v.

Board of Education of the City of Ocean City, Cape
May 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.

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ) that summary decision is appropriate because none of the material facts are disputed. Additionally, the Commissioner concurs with the ALJ that the Ocean City Board of Education (Board) did not act arbitrarily, capriciously, or unreasonably when it denied petitioner's daughter entry into the School Choice Program Lottery because it is undisputed that she did not meet the academic requirements.

Accordingly, the Initial Decision is adopted as the final decision in this matter, the Board's motion for summary decision is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹



COMMISSIONER OF EDUCATION

Date of Decision: September 30, 2026
Date of Mailing: September 30, 2026

¹ 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 21600-2026

AGENCY DKT. NO. 422-12/25

J.W. ON BEHALF OF E.W.,

Petitioner,

v.

**CITY OF OCEAN CITY BOARD OF
EDUCATION, CAPE MAY COUNTY,**

Respondent.

J.W., petitioner, pro se, on behalf of her daughter, E.W.,

Michael P. Stanton, Esq., for respondent (McCrosson & Stanton PC, attorneys)

Record Closed: April 7, 2026

Decided: August 20, 2026

BEFORE **CARL V. BUCK III**, ALJ:

STATEMENT OF CASE

E.W. was denied entry into the School Choice Program Lottery (Lottery) of the City of Ocean City (Ocean or respondent), County of Cape May. Petitioner acknowledges that E.W.'s scores in math and science are both below the requirement levels to enter the lottery; albeit by 3 and 1 points, respectively. Should the respondent's determination

precluding E.W. from entering the Lottery be overturned? No. A school board acting within the scope of its authority is “entitled to a presumption of correctness . . . unless there is an affirmative showing that such decision was arbitrary, capricious or unreasonable.” Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965).

PROCEDURAL HISTORY

In the 2025-2026 academic year E.W. was an eighth-grade student in the Margate School District (Margate). She requested to enter the School Choice Program Lottery (Lottery) with the intention of attending Ocean City High School (H.S.). Her request to make an application to enter the lottery was denied because E.W. did not have the academic score(s) required for lottery entry.

On December 5, 2025 petitioner filed a “Pro Se Petition of Appeal” with the State of New Jersey (State), Department of Education (DOE), Office of Controversies and Disputes (Office) requesting the State of New Jersey, Department of Education (DOE), Commissioner of Education (Commissioner) “to consider a controversy which has arisen between petitioner and respondent pursuant to the authority of the Commissioner to hear and determine controversies under the school law (N.J.S.A. 18A:6-9), by reason of the following facts:

My daughter, E.W., was denied entry into the Lottery for the School Choice Program for the Ocean City School District (High School) for the 2026-2027 school year. Her NJSLA Math score was 722, just 3 points below the requirement. Her final Science grade was 82, just 1 point below the requirement. While I understand that she did not meet the criteria, I am asking for her to still be permitted into the lottery, as the margin of “error” was extremely small. E. has an IEP for Math, as well as a 504-plan developed last year after she was diagnosed with a chronic illness.

The DOE transmitted the matter to the Office of Administrative Law (OAL), where it was filed on December 10, 2025, to be heard as a contested case. N.J.S.A. 52:14B-1

to -15; N.J.S.A. 52:14F-1 to -23. The case was assigned to me on or about December 23, 2025.

Prehearing conference calls took place on February 24, 2026, and March 25, 2026, wherein respondent requested leave to file a Motion for Summary Decision (Motion). On March 26, 2026, respondent filed its Motion. On or about March 30, 2026, petitioner supplied documents previously used challenging the initial denial to participated in the lotter and the record closed on April 7, 2026.

DISCUSSION AND FINDINGS OF FACT

Based upon the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following **FACTS**:

High School has established a lottery for those students, residing outside of the Ocean City BOE district, wishing to attend High School. In order to enter lottery, a student must have, inter alia, a math NJSLA score of 725 and a final science grade of 83. E.W. had a math NJSLA score of 722 and a final science grade of 82; thus, achieving levels BELOW those required to enter the lottery.

E.W. has received accommodations at school for various issues. These accommodations include a 504 plan.

ANALYSIS, DISCUSSION, AND CONCLUSIONS OF LAW

Standard for Summary Decision

Under N.J.A.C. 1:1-12.5(a), “[a] party may move for summary decision upon all or any of the substantive issues in a contested case.” A motion for summary decision is a common legal ploy to resolve a case without an evidentiary hearing. A motion for summary decision may be granted “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.”

N.J.A.C. 1:1-12.5(b). Additionally, “[w]hen a motion for summary decision is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” Ibid.

A determination of whether a genuine issue of material fact exists that precludes summary decision requires the 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 allegedly disputed issue in favor of the non-moving party. Our courts have long held that “if the opposing party . . . offers . . . only facts which are immaterial or of an insubstantial nature, a mere scintilla, ‘Fanciful frivolous, gauzy or merely suspicious,’ he will not be heard to complain if the court grants summary judgment.” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 529 (1995) (quoting Judson v. Peoples Bank and Trust Co., 17 N.J. 67, 75 (1954)).

The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” Brill, 142 N.J. at 540 (citing Anderson v. Liberty Lobby, 477 U.S. 242, 249 (1986)). When the evidence “is so one-sided that one party must prevail as a matter of law,” the trial court should not hesitate to grant summary judgment. Liberty Lobby, 477 U.S. at 252.

Having read the submissions, certifications and having reviewed the submissions and exhibits, I **CONCLUDE** that no issues of fact exist and that the case is ripe for summary decision.

An action by a board of education “is entitled to a presumption of correctness and will not be upset unless there is an affirmative showing that such decision was arbitrary, capricious or unreasonable.” Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965) aff’d, 46 N.J. 581 (1966). The Commissioner will not substitute their judgment for that of a board of education, whose exercise of discretion may not be disturbed unless shown to be “patently arbitrary, without rational basis or induced by improper motives.” Kopera v. W. Orange Bd. of Educ., 60 N.J. Super. 288, 294 (App. Div. 1960). Our courts have held that “[w]here there is room for two opinions, action is

not arbitrary or capricious when exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion has been reached.” Bayshore Sew. Co. v. Dep’t of Env’tl. Prot., 122 N.J. Super. 184, 199–200 (Ch. Div. 1973), aff’d, 131 N.J. Super. 37 (App. Div. 1974). Thus, to prevail, petitioner must demonstrate that the Board acted in bad faith or in utter disregard of the circumstances before it. T.B.M. v. Moorestown Bd. of Educ., EDU 02780-07, Initial Decision (February 6, 2008), <http://njlaw.rutgers.edu/collections/oal> (citing Thomas, 89 N.J. Super. at 332).

Petitioner challenges respondent’s determination to disallow E.W.’s entry to the lottery; albeit acknowledging that E.W. did not meet certain requirements. Petitioner seeks an exception base on E.W.’s medical and health issues and that E.W. possesses a 504 plan accommodation.

Petitioner’s goals are admirable, but standards and qualifications exist for a purpose.

Respondent has a level which must be satisfied to enter into the lottery. Petitioner acknowledges that E.W. does not meet the requirements to enter the pool. Twenty-three students were precluded from entering the lottery as they did not meet the minimum requirements. Presuming, for the sake of argument, that E.W. were to be allowed to enter the pool, there are sixty-two students on the waiting list to enter the high school.

Therefore, I **CONCLUDE** that petitioner failed to sustain her burden of establishing that the Board acted in an arbitrary, capricious, or unreasonable manner in precluding E.W. from entering the lottery for a potential placement at Ocean City High School.

ORDER

Based on the foregoing, it is hereby **ORDERED** that the respondent’s motion for summary decision is **GRANTED**.

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**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.



August 20, 2026

DATE

CARL V. BUCK, III., ALJ

Date Received at Agency:

Date Mailed to Parties:

CVB /tat

APPENDIX

Exhibits

For petitioner:

Reply to respondent's Motion for Summary Decision and supporting documentation

For respondent:

Motion for Summary Decision and supporting documentation