

EDU #2375-05
C # 110-06
SB # 16-06

C.G. AND R.G., on behalf of :
minor child, R.M.G., :
 : STATE BOARD OF EDUCATION
PETITIONERS-APPELLANTS, :
 : DECISION
V. :
 :
BOARD OF EDUCATION OF THE :
TOWNSHIP OF BRICK, :
OCEAN COUNTY, :
 :
RESPONDENT-RESPONDENT. :
_____ :

Decided by the Acting Commissioner of Education, March 24, 2006

For the Petitioners-Appellants, C.G. and R.G., pro se

For the Respondent-Respondent, Gilmore & Monahan (Jean L. Cipriani,
Esq., of Counsel)

The appellants, C.G. and R.G., filed a petition with the Commissioner in March 2005 in which they challenged the grade of 84 that their son, R.M.G., had received in English for the second quarter of the 2003-04 school year. They amended their petition in May 2005 so as to include a challenge to their son's grade of 86 in History for the third quarter of the 2004-05 school year. The Brick Township Board moved to dismiss the petition for failure to comply with the 90-day filing requirement of N.J.A.C. 6A:3-1.3(i).

The Administrative Law Judge ("ALJ") recommended dismissing the petition. The ALJ concluded that the appellants' claims involving the 2003-04 school year were

not filed within the 90-day filing limitations period. The ALJ added that although it was not necessary to address the merits of those claims, “it should be noted that the evidence overwhelmingly showed that the District, including Ms. Curran [R.M.G.’s English teacher], acted appropriately and reasonably.” Initial Decision, slip op. at 4. With regard to the appellants’ claim for the 2004-05 school year, the ALJ concluded that the appellants had not met their burden of demonstrating that their son’s third-quarter History grade had been given in an arbitrary, capricious or unreasonable manner. The Acting Commissioner adopted the ALJ’s recommended findings and conclusions and dismissed the petition.

The appellants filed the instant appeal to the State Board.

After a thorough review of the record, we affirm the ultimate determination of the Acting Commissioner to dismiss the petition, but we modify the Acting Commissioner’s analysis regarding the appellants’ claim for the 2003-04 school year.

The record includes two pieces of correspondence from appellant C.G. to the Department of Education in June 2004. In an e-mail dated June 8, 2004 to a staff member in the Department’s State Board Office,¹ C.G. indicated that she could not afford an attorney and that she was “afraid to file a chapter 3, controversy and dispute form because I don’t know if it is the correct form and how to fill it out,” and she requested assistance. The staff member responded in an e-mail that day that there was nothing she could do to assist C.G. in resolving the situation and that she should contact the Ocean County Superintendent of Schools for direction. The following day, C.G. sent a letter to Commissioner Librera detailing her allegations regarding R.M.G.’s

¹ We note that the Acting Commissioner took official notice of the e-mail. Acting Commissioner’s Decision, slip op. at 3, n.4.

English grade and requesting the Commissioner's assistance. The Commissioner forwarded that letter to the Southern Regional Office of the Department, and a response dated June 22, 2004 from an Educational Program Development Specialist advised C.G. that her concerns "are more appropriately directed to the building administration rather than to the New Jersey State Department of Education." Exhibit R-7, in evidence.

In her decision, the Acting Commissioner characterized the e-mail and letter from C.G. as "reflect[ing] a desire [by the appellants] to have their issues addressed through alternative means notwithstanding their awareness of the administrative hearing process." Commissioner's Decision, slip op. at 4. She noted, in addition, that the appellants "were not 'sent away' by the Department, but were provided with an alternative means of addressing their concerns in light of C.G.'s stated reluctance to file a Petition of Appeal." Id., n.6.

We disagree. Review of the e-mail reveals that C.G. pleaded for assistance in filing a petition since she could not afford to retain counsel and did not know if she had the correct form and how to complete it. In her letter to the Commissioner the next day, C.G. related her allegations concerning R.M.G.'s English grade and requested assistance. In neither instance was C.G. directed to the proper office in the Department of Education for filing a petition of appeal. Indeed, as previously stated, the response to her letter to the Commissioner advised her that her concerns were "more appropriately directed to the building administration rather than to the New Jersey State Department of Education." Given these circumstances, and particularly the fact that C.G.'s e-mail

and letter were received by the Department within the 90-day limitations period,² we conclude that relaxation of the 90-day requirement is warranted in this case. N.J.A.C. 6A:3-1.16. Consequently, we have considered the merits of the appellants' claims concerning their son's second-quarter English grade during the 2003-04 school year.

Like the ALJ, we conclude that the district and R.M.G.'s English teacher "acted appropriately and reasonably." Initial Decision, slip op. at 4. There is nothing in the record that shows that the district acted in an arbitrary, capricious or unreasonable manner in its handling of R.M.G.'s second-quarter English grade.

In addition, we fully agree with the Acting Commissioner that the appellants have not demonstrated that the Board acted in an arbitrary, capricious or unreasonable manner with regard to their son's third-quarter History grade in 2004-05.

Accordingly, as modified herein, we affirm the decision of the Acting Commissioner to dismiss the petition.

July 19, 2006

Date of mailing _____

² We note that the Superintendent rejected the appellants' challenge to their son's English grade in a letter dated April 29, 2004.