

J.B. AND D.B., on behalf of minor	:	
child, A.B.,	:	
	:	
PETITIONERS,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
BOROUGH OF PINE HILL, CAMDEN	:	
COUNTY,	:	
	:	
RESPONDENTS.	:	
_____	:	

SYNOPSIS

Petitioning parents alleged the Board’s selection process for the National Honor Society (NHS) was arbitrary and capricious.

The ALJ found that the Board reasonably assessed A.B.’s candidacy for the NHS in the 2002-03 school year. Local chapters of the NHS enjoy a “measure of latitude” in forming policy within broad guidelines as long as the process is fair and fairly applied. The ALJ found this was the case herein and ordered the petition dismissed.

Having considered the record and the ALJ’s assessment of the testimony of the witnesses (no transcripts were submitted), The Commissioner adopted the findings and determination of the ALJ as his own.

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.

December 1, 2003

OAL DKT. NO. EDU 4399-03
AGENCY DKT. NO. 172-5/03

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioners' exceptions and the Board's reply thereto are duly noted as submitted in accordance with *N.J.A.C.* 1:1-18.4, and were considered by the Commissioner in reaching his decision.

Upon careful and independent review of the record in this matter, the Commissioner finds no cause to disturb the findings of fact and conclusions of law contained in the Initial Decision. Although he acknowledges that petitioners raise exceptions regarding facts determined by the Administrative Law Judge (ALJ) based on testimony of the witnesses and the credence and weight ascribed to such testimony by the ALJ, the Commissioner notes that the record before him does not include transcripts from the hearing conducted at the OAL in this matter. Challenges to the factual findings predicated upon credibility determinations made by an ALJ require that the challenging party supply the Commissioner with the relevant and necessary portion of the transcripts. *In re Morrison*, 216 *N.J. Super.* 143, 158 (App. Div. 1987). In the absence of such transcripts, due regard must be given to the person who heard the live testimony

and assessed the witnesses' behavior at the hearing. *Close v. Kordulak Bros.*, 44 N.J. 589, 599 (1965); *N.J.S.A.* 52:14B-10(c).

Accordingly, the Initial Decision is adopted for the reasons expressed therein. The Petition of Appeal is dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: December 1, 2003

Date of Mailing: December 2, 2003

* This decision may be appealed to the State Board of Education pursuant to *N.J.S.A.* 18A:6-27 *et seq.* and *N.J.A.C.* 6A:4-1.1 *et seq.*