

C.P., ON BEHALF OF MINOR CHILD, L.P., :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE TOWNSHIP : DECISION  
OF WARREN, SOMERSET COUNTY, :  
RESPONDENT. :  
\_\_\_\_\_ :

SYNOPSIS

*Pro se* petitioner challenged the determination of the respondent Board that L.P. was not the victim of harassment, intimidation or bullying (HIB) under the provisions of the New Jersey Anti-Bullying Bill of Rights Act, *N.J.S.A. 18A:37-13 et seq.* (the Act). C.P., the father of L.P. – an eighth grade student in respondent’s school district – alleged that his daughter had been subjected to harassment, intimidation, or bullying by two District staff members in the spring of 2016. Petitioner sought reversal of the Board’s decision finding no HIB, and a determination that L.P. was the victim of bullying behavior by staff members based on a distinguishing characteristic, specifically L.P.’s Individualized Education Program (IEP). The Board asserted that the required HIB investigation was timely conducted, and the results supported the conclusion that no HIB occurred in this case.

The ALJ found, *inter alia*, that: the Act applies to any gesture, or any written, verbal or physical act, or any electronic communication that is reasonably perceived as being motivated either by an actual or perceived characteristic, such as, *inter alia*: race, color, religion, national origin, gender, sexual orientation, or a mental, physical or sensory disability, or any other distinguishing characteristic; the District’s HIB policy mirrors the New Jersey law, and sets forth a detailed process by which complaints are investigated to determine whether an action meets the definition of HIB as set forth in the policy and Act; in the instant case, petitioner alleged that the HIB investigation was flawed, and asserted that the Board failed to interview witnesses and properly investigate two incidents of harassment and demeaning conduct against L.P.; the Board contended, *inter alia*, that incidents of HIB must be motivated by a distinguishing characteristic and substantially disrupt or interfere with the orderly operation of the school or the rights of students; further, the Board asserted that its determination that no HIB occurred in the instant case was not arbitrary, capricious or unreasonable. The ALJ concluded that the petitioner presented no credible evidence that the actions of the District staff members constituted HIB, nor that the Board acted in an arbitrary manner. Accordingly, the ALJ ordered the petition dismissed.

Upon review, the Commissioner concurred with the ALJ’s findings and conclusions, and adopted the Initial Decision as the final decision in this matter. 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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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed.<sup>1</sup> The parties did not file exceptions.

Upon a comprehensive review of the record, the Commissioner agrees with the Administrative Law Judge (ALJ) that the Board did not act in an arbitrary, capricious, or unreasonable manner in rendering its Harassment, Intimidation and Bullying (HIB) determinations, pursuant to the Anti-Bullying Bill of Rights Act, *N.J.S.A.* 18A:37-13 *et seq.* The Commissioner is in accord with the ALJ that the Board investigated the two HIB complaints in a timely manner and in accordance with the statutory timelines. The HIB complaints were filed on April 11 and 15, 2016, and the investigations into these complaints were completed on April 25, 2016 – or within ten school days, as set forth in *N.J.S.A.* 18A:37-15(b)(6)(a). Petitioner has failed to demonstrate that any communications he had with the Board prior to April 11, 2016 constituted a HIB complaint.

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<sup>1</sup> The Commissioner was not provided with a transcript of the September 25, 2017 hearing at the OAL.

This Commissioner also agrees with the ALJ that the alleged actions by the teacher and guidance counselor were not motivated by any actual or perceived distinguishing characteristic of L.P. Although petitioner alleges that L.P.'s distinguishing characteristic is that she has an Individualized Education Program (IEP), there is no evidence to suggest that the alleged actions were in any way *motivated* by that distinguishing characteristic, as required by *N.J.S.A. 18A:37-14*.

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.<sup>2</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 16, 2018

Date of Mailing: February 20, 2018

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<sup>2</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).