

C # 229-00L  
SB # 46-00

N.R. and F.R. on behalf of minor child, E.R., :  
PETITIONERS-APPELLANTS, :  
V. : STATE BOARD OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
BOROUGH OF HARRINGTON PARK, :  
BERGEN COUNTY, and DR. ROBERT :  
B. WESTFIELD, SUPERINTENDENT, :  
RESPONDENTS-RESPONDENTS. :  
\_\_\_\_\_ :

Decided by the Commissioner of Education, July 13, 2000

For the Petitioners-Appellants, Michael F. Rehill, Esq.

For the Respondents-Respondents, Rand, Algeier, Tosti & Woodruff  
(Robert M. Tosti, Esq., of Counsel)

The State Board of Education affirms the determination of the Commissioner of Education that the district board's refusal to waive its policy requiring students entering first grade to attain the age of six on or before October 1 was not arbitrary, capricious, or unreasonable. We also concur that adoption of such policy was a lawful exercise of the district board's discretionary authority.

However, we find that adoption of such policy was under authority provided by N.J.S.A. 18A:11-1 (district boards shall make rules for the government and management of the public schools), rather than N.J.S.A. 18A:38-5 (no child under five shall be admitted to any public school and no board shall be required to accept by

transfer any pupil not eligible by reason of age on October 1). In this respect, we stress that "...the Commissioner has construed the legislative authority conferred upon a local board of education to make and enforce rules for its own governance under N.J.S.A. 18A:11-1 to include policies adopted by it consistent with N.J.S.A. 18A:38-5." H.A.B. v. Manalapan-Englishtown Regional School District, 92 N.J.A.R. 2d (EDU) 640, 647. We therefore affirm the Commissioner's decision to dismiss the petition in this matter.

Roberta Van Anda abstained.

November 1, 2000

Date of mailing \_\_\_\_\_