

101-03

B.S. and E.S., on behalf of minor child, J.S. :
PETITIONERS, :
V. : COMMISSIONER OF EDUCATION
BOARDS OF EDUCATION OF THE : DECISION
BOROUGH OF WANAUKE AND THE :
BOROUGH OF RINGWOOD, :
PASSAIC COUNTY, :
RESPONDENTS. :
_____ :

SYNOPSIS

Petitioning parents challenged the Board's decision to locate their child's bus stop at the bottom of Ramapo Mountain Drive. Rather, they sought relocation closer to their home.

Having considered the testimony of witnesses and the record, including the video tape and exhibits presented, the ALJ determined that petitioners failed to prove that the Board's actions were improper. The ALJ found that he could not substitute his judgment for that of the Board; that the Board's judgment was based on a professional evaluation of all of the surrounding circumstances; and that said judgment was not arbitrary, capricious or unreasonable, nor was it discriminatory. Petition was dismissed.

The Commissioner adopted the findings and determination in the Initial Decision as his own.

March 5, 2003

B.S. and E.S., on behalf of minor child, J.S. :
 :
 PETITIONERS, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARDS OF EDUCATION OF THE : DECISION
 BOROUGH OF WANAQUE AND THE :
 BOROUGH OF RINGWOOD, :
 PASSAIC COUNTY, :
 :
 RESPONDENTS. :
 _____ :

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioners' exceptions were untimely, having been filed on January 7, 2003 in response to an Initial Decision mailed on December 19, 2002,¹ and, thus, are not considered in the determination of this matter. By letter dated January 14, 2003, counsel for the Ringwood Board reported that he had erroneously been omitted from the OAL Service List and, therefore, he had not received a copy of the decision from OAL. As such, counsel requested and was granted an extension of time within which to file exceptions to the Initial Decision. These exceptions were filed in accordance with the allotted timeframe.

Upon careful and independent review of the record, the exceptions of the Ringwood Board of Education, and after full consideration of all of the particular circumstances existing here, the Commissioner agrees with the conclusion of the Administrative Law Judge that petitioners have failed to sustain their burden of establishing by a preponderance of the credible

¹ See *N.J.A.C.* 1:1-18.4. It is further noted that at no time during the regulatory exception period did petitioners request an extension of time within which to file.

evidence that the Board's refusal to change the location of their child's bus stop was arbitrary, capricious, unreasonable or discriminatory; therefore, its determination in this regard must be upheld.

Accordingly, the Initial Decision of the OAL is adopted for the reasons stated therein and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.²

COMMISSIONER OF EDUCATION

Date of Decision: March 5, 2003

Date of Mailing: March 6, 2003

² This decision, as the Commissioner's final determination, 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.*