

WILLIAM WELTY, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 TOWNSHIP OF LAFAYETTE, :
 SUSSEX COUNTY, :
 :
 RESPONDENT. :

SYNOPSIS

Petitioner contended that he is not required to provide respondent Board with records he retained at the end of his employment as a guidance counselor with the district in June 2007, claiming that the documents are personal memory aids rather than student records. Respondent alleges the records in question are student records which must be retained by the Board. The facts in this matter are not disputed, and the parties filed cross motions for summary decision.

The ALJ sealed Joint Exhibit 1, consisting of copies of the documents in question, and found that: pursuant to *N.J.S.A.* 18A:36-19 and *N.J.A.C.* 6A:32-2.1, the records at issue are student records which must be returned to the Board and not retained by petitioner; only authorized organizations or persons shall have access to student records, and only individuals who are certified school district personnel who have educational responsibility of a student are entitled to access these records; and petitioner holds no such entitlement as he is no longer employed by the Board. The ALJ ordered that the Board's motion for summary decision be granted; that petitioner immediately return to the Board all 199 pages of documents and retain no copies of same.

Upon independent review of the record, the Commissioner concurred with the ALJ and adopted the Initial Decision of the OAL as the final decision in this matter. The Commissioner additionally adopted the ALJ's separate order sealing the parties' Joint Exhibit 1 in this matter.

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.

May 12, 2008

JOINT EXHIBIT 1 IS SEALED

OAL DKT. NO. EDU 11970-07
AGENCY DKT. NO. 329-10/07

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions were filed in accordance with the provisions of *N.J.A.C. 1:1-18.4*. The Board did not submit reply exceptions.

Petitioner’s exceptions essentially replicate arguments advanced in submissions before the Administrative Law Judge (ALJ) below. In that it is determined that these were considered and addressed in the Initial Decision, they will not be revisited here.

Upon a full and independent review, the Commissioner concurs with the ALJ that summary decision is appropriately granted to the Board as she agrees with his determination that the documents at issue in this matter are student records, and – since petitioner no longer has educational responsibility for the students who are the subject of these records – he possesses no entitlement to access or retain custody of them.

Accordingly, the recommended decision of the OAL is adopted for the reasons stated therein and the instant petition of appeal is dismissed. Also adopted is the ALJ's separate Order sealing the parties' Joint Exhibit 1 in this matter. Petitioner is hereby directed to immediately return the 199 pages of documents comprising the subject matter of this action to the Board of Education of the Township of Lafayette.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: May 12, 2008

Date of Mailing: May 12, 2008

*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.*