

#443-10 (OAL Decision: Not available online)

A.T. and M.T., on behalf of minor child, M.T.,	:	
	:	
PETITIONERS,	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE BOROUGH OF CARLSTADT BERGEN COUNTY,	:	DECISION
	:	
RESPONDENT.	:	
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SYNOPSIS

Petitioners alleged, *inter alia*, that respondent’s representatives violated school policy, their minor son’s rights, and their parental rights when – after a teacher observed a disturbing drawing at M.T.’s school desk – M.T. was sent by school staff to be evaluated at a hospital against the petitioners’ wishes. Petitioners sought: discipline for respondent’s staff members who decided to send M.T. to the hospital; letters of apology to the parents and the child; payment of \$12,000 in hospital expenses; and payment of punitive damages. Respondent Board argued that petitioners failed to state a cause of action upon which relief may be granted, that the Board’s actions were based upon good cause, and were not arbitrary, capricious or retaliatory.

The ALJ found, *inter alia*, that: the matter is ripe for summary decision as the record shows that there is no genuine issue as to any material fact; as a matter of law, the Commissioner does not have jurisdiction over this matter as it does not arise under the school laws; petitioners allege a violation of the district’s internal regulations, but do not point to any alleged violations of any statutory school laws or related regulations that would fall under the Commissioner’s purview; petitioners seek disciplinary action against district personnel, when only a board of education may forward disciplinary charges to the Commissioner for a hearing pursuant to *N.J.S.A. 18A:6-11*; and the petitioners’ request for reimbursement of costs and punitive damages is likewise not within the Commissioner’s authority. Accordingly, the ALJ concluded that the matter should be dismissed as a matter of law.

Upon a thorough review of the record and the Initial Decision of the OAL, the Commissioner concurred with the ALJ that she has no jurisdiction to adjudicate the substantive arguments made by the petitioners in this matter. Accordingly, 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.

October 21, 2010

OAL DKT. NO. EDU 07129-10
AGENCY DKT. NO. 129-6/10

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PETITIONERS,	:	
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V.	:	COMMISSIONER OF EDUCATION
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BOROUGH OF CARLSTADT	:	
BERGEN COUNTY,	:	
	:	
RESPONDENT.	:	
_____	:	

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed, as have the exceptions filed pursuant to *N.J.A.C. 1:1-18.4* by the petitioners. In their exceptions the petitioners maintain that since this was a serious incident that occurred in a public school that the Commissioner should automatically have jurisdiction over this matter. The petitioners also make other substantive arguments in their exceptions relating to the events that occurred at the school with M.T.

Upon such review, the Commissioner concurs with the Administrative Law Judge that the Commissioner does not have jurisdiction to adjudicate the substantive arguments made by the petitioners in this matter. Accordingly, the petition of appeal is dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: October 21, 2010
Date of Mailing: October 22, 2010

* This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36*.