

New Jersey Commissioner of Education
Final Decision

Andrew Meehan,

Petitioner,

v.

Board of Trustees of the College Achieve
Central Charter School, Union County, and
Nadia Bennett,

Respondents.

Synopsis

Pro se petitioner filed an appeal objecting to a post on the website of College Achieve Central Charter School by the school's chief executive officer which petitioner found offensive. The post in question was an image and a statement in support of the Black Lives Matter movement following the death of George Floyd in May 2020. Petitioner sought an investigation into the posting, removal of the post, and an apology to the community for the posting, as well as punitive measures against the respondents. The Board filed a motion to dismiss, contending that petitioner failed to state a claim upon which relief may be granted under the school laws.

Upon review, the ALJ found, *inter alia*, that: pursuant to *N.J.A.C.* 6A:3-1.10, the Commissioner may dismiss a petition if the petitioner has advanced no cause of action, which is the case in this matter; petitioner has, in fact, cited no violation of any law in his petition, but simply asserts his objection to the image and the statement on the school's website; further, any allegations of violation of the School Ethics Act must be initiated by filing a complaint with the School Ethics Commission, and petitioner has not filed such a complaint. Accordingly, the ALJ granted the Board's motion for summary decision, and the matter was dismissed.

Upon review, the Commissioner concurred with the ALJ that the petitioner has failed to advance a cause of action. Accordingly, the Initial Decision of the OAL was adopted as the final decision in this matter, and 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.

165-21

OAL Dkt. No. EDU 03402-21

Agency Dkt. No. 191-9/20

New Jersey Commissioner of Education

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Board of Trustees of the College Achieve
Central Charter School, Union County, and
Nadia Bennett,

Respondents.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed and considered. The parties did not file exceptions.

Upon review, the Commissioner concurs with the Administrative Law Judge that petitioner has failed to advance a cause of action. Accordingly, the Board's motion to dismiss is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹



ACTING COMMISSIONER OF EDUCATION

Date of Decision: August 12, 2021

Date of Mailing: August 12, 2021

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *N.J.S.A.* 18A:6-9.1. Under *N.J.Ct.R.* 2:4-1(b), a notice of appeal must be filed with the Appellate Division within 45 days from the date of mailing of this decision.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. EDU 03402-21

AGENCY DKT. NO. 191-9/20

ANDREW MEEHAN,

Petitioner,

v.

**BOARD OF TRUSTEES OF THE COLLEGE
ACHIEVE CENTRAL CHARTER SCHOOL,
UNION COUNTY, AND NADIA BENNETT,**

Respondents.

Andrew Meehan, petitioner, pro se

Thomas O. Johnston, Esq., for respondents (Johnston Law Firm, LLC, attorneys)

Record Closed: June 16, 2021

Decided: June 25, 2021

BEFORE **BARRY E. MOSCOWITZ**, ALJ:

STATEMENT OF THE CASE

Petitioner, Andrew Meehan, objects to an image and a statement respondent, Nadia Bennett, the chief executive officer of respondent, College Achieve Central Charter School Network, posted on the school's website.

PROCEDURAL HISTORY

On September 3, 2020, petitioner filed a petition of appeal with the Department of Education, Office of Controversies and Disputes. In his petition, petitioner objects to an image and a statement Bennett posted on the College Achieve Central Charter School Network website. Petitioner seeks an investigation into their posting, their removal, and an apology to the community for their posting. Finally, Petitioner seeks punitive measures against respondents.

On October 1, 2020, respondents moved to dismiss the petition instead of answering it under N.J.A.C. 6A:3-1.5.

On October 10, 2020, the Office of Controversies and Disputes transmitted the case to the Office of Administrative Law as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the Office of Administrative Law, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On April 19, 2021, the case was assigned to me for hearing.

On June 7, 2021, petitioner filed his opposition, and on June 16, 2021, respondents filed their reply.

FINDINGS OF FACT

On June 23, 2020, petitioner, Andrew Meehan, witnessed an image and a statement respondent, Nadia Bennett, the chief executive officer of respondent, College Achieve Central Charter School Network, posted on the school's website.

CONCLUSIONS OF LAW

The Commissioner may dismiss a petition if the petitioner has advanced no cause of action:

At any time prior to transmittal of the pleadings to the OAL, in the Commissioner's discretion or upon motion to dismiss filed in lieu of answer, the Commissioner may dismiss the petition on the grounds that the petitioner has advanced no cause of action even if the petitioner's factual allegations are accepted as true or for lack of jurisdiction, failure to prosecute or other good reason.

[N.J.A.C. 6A:3-1.10.]

In this case, petitioner has advanced no cause of action in his petition. In fact, petitioner has cited no violation of any law in it. In short, petitioner has only asserted his objection to the image and the statement on the school's website.

If petitioner now believes, as he writes in his opposition to the motion, that respondents are in violation of the School Ethics Act, N.J.S.A. 18A:12-21 to -34, then petitioner should file his complaint before the School Ethics Commission under N.J.S.A. 18A:12-29. As respondents note, alleged violations of the School Ethics Act are within the exclusive jurisdiction of the School Ethics Commission, and this tribunal has no jurisdiction to address those alleged violations without a transmittal from that agency. Accordingly, this petition must be dismissed.

ORDER

The petition and this case are hereby dismissed in keeping with the findings of fact and conclusions of law above.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this case. If the Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days, and unless such time

limit is otherwise extended, this recommended decision shall become a final decision under N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 25, 2021
DATE


BARRY E. MOSCOWITZ, ALJ

Date Received at Agency: June 25, 2021

Date Mailed to Parties: June 25, 2021

dr