

New Jersey Commissioner of Education

Final Decision

J.M., on behalf of minor child, J.S.,

Petitioner,

v.

Board of Education of the Township of Wayne,

Passaic County,

Respondent.

Synopsis

Pro se petitioner challenged the respondent Board's determination that J.S. is not entitled to attend Wayne Valley High School (Wayne Valley) because she is not residing within the attendance zone for that school. Petitioner sought to have J.S. reassigned from Wayne Hills High School (Wayne Hills) to Wayne Valley – both of which are operated by the Wayne Township school district – contending that the Board should exercise its discretionary powers under Policy #5120, which allows that the superintendent may assign a pupil to a school other than the one designated by the attendance area when such an exception is justified by circumstances and/or is in the best interests of the pupil. Petitioner asserted, *inter alia*, that safety concerns regarding J.S.'s commute to school at Wayne Hills – which will require J.S. to traverse busy roads on the walk home from school – as well as logistical issues related to J.M.'s role as a single working mother which prevent her from transporting J.S. home from school each day require that the district reassign J.S. to Wayne Valley for high school.

The ALJ found, *inter alia*, that: a school board has discretionary power to determine which school students will attend within its district, so long as the decision is not contrary to law; the Board applied its Policy #5120 in an even-handed manner; the Board considered whether attendance at Wayne Valley was required in the best interests of the pupil and determined that J.S. is a good student who will do well in either school; and J.S. would be entering her first year of high school whether at Wayne Hills or Wayne Valley. The ALJ concluded that the Board did not act in an arbitrary, capricious, or unreasonable manner when it denied petitioners' request to allow J.S. to attend Wayne Valley while the family resided in the attendance zone for Wayne Hills; and recommended that the petition be dismissed.

Upon review, the Commissioner concurred with the ALJ's findings and conclusion for the reasons well stated in the Initial Decision. 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.

199-21
OAL Dkt. No. EDU 03383-21
Agency Dkt. No. 38-3/21

New Jersey Commissioner of Education
Final Decision

J.M., on behalf of minor child, J.S.,

Petitioner,

v.

Board of Education of the Township of Wayne,
Passaic County,

Respondent.

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

Upon review, the Commissioner concurs with the Administrative Law Judge (ALJ) that that Board did not act in an arbitrary, capricious, or unreasonable manner when it denied petitioner's request to allow her minor child to attend Wayne Valley High School while the family resides in the attendance zone for Wayne Hills High School.

According, the Initial Decision of the OAL is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹


ANGELINA ALLEN-McMILLAN, Ed.S.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 23, 2021
Date of Mailing: September 23, 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 03383-21

AGENCY DKT. NO. 38-3/21

J.M. ON BEHALF OF J.S.,

Petitioner,

v.

**BOARD OF EDUCATION OF THE TOWNSHIP
OF WAYNE, PASSAIC COUNTY,**

Respondent.

J.M., on behalf of **J.S.** petitioner pro se

John G. Geppert, Jr., Esq., for respondent Wayne Township Board of Education
(Scarinci Hollenbeck, attorneys)

Record Closed: July 29, 2021

Decided: August 9, 2021

BEFORE **GAIL M. COOKSON**, ALJ:

STATEMENT OF THE CASE

J.M. (petitioner) appeals the Board of Education for the Township of Wayne's (Board) determination that her daughter, J.S., is not entitled to attend Wayne Valley High School because she is not residing within that attendance zone. Petitioner claims that she has extenuating personal circumstances that warrant waiving the attendance policy for J.S.

PROCEDURAL HISTORY

On or about January 10, 2021, J.M. sent via email a formal request to the Board requesting that her daughter be given permission to attend the Wayne Valley High School instead of Wayne Hills High School, which is the assigned school for her address. The Board notified petitioner of its determination on February 12, 2021. [R-5.] J.M. filed her petition of appeal directly with the Commissioner of Education on March 4, 2021. The Board filed its answer on March 24, 2021, and the matter was then transmitted to the Office of Administrative Law for determination as a contested case on March 30, 2021. The matter was assigned to me on or about April 19, 2021. Thereafter, the hearing was scheduled and held on July 29, 2021, through the use of Zoom remote technology because of the continued New Jersey State of Emergency for the coronavirus pandemic. Insofar as the petitioner was not represented by counsel and the case was presented thoroughly by both sides, I determined that I did not need post-hearing submissions and I closed the record at the end of the hearing.

FINDINGS OF FACT

Based upon due consideration of the pleadings and the testimonial and documentary evidence presented, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following facts:

Petitioner testified that she is single mother to her two daughters, with no family network of support. Her daughters are 3.3 years and four grades apart; S.S. has graduated. She has lived in Wayne for seventeen years. Petitioner works in Roseland, Essex County, so she is unable to pick up her daughter at the end of the school day. Her job does give her the opportunity to drive J.S. to school at the beginning of the day. Wayne does not offer busing at the distances involved.

Petitioner detailed that she is facing some hardships and/or concerns that she feels warrant the Board granting J.S. an exception in order to be able to attend Wayne Valley High School. She stated that some aspects of her support system and

circumstances have changed recently, making this request more important for J.S.'s upcoming tenure in high school. Those include that her mother is no longer well enough to help with the girls, as she did when the older daughter was in high school, and some personal medical issues coming up for her that will necessitate having J.S. sleep at a friend's home at times. Also, in her family, Covid made their lives easier when they were all remote from school or work, but now real commuting considerations come into back play. Petitioner is very worried about the safety of her daughter walking home from Wayne Hills, where traversing busier streets is required. Moreover, her older daughter suffered some serious behavioral and mental health issues when she was required to attend Wayne Hills without her friends from middle school, and petitioner does not want the same to happen to her younger daughter.

This winter, petitioner anticipated her younger daughter's entry into high school in the fall and filed her request that she be permitted to remain with her friend S.J., whose mother has also been a critical component of J.M.'s support network, from the Wayne Valley attendance zone. Petitioner explained that J.S. has become very close friends with S.J. and she has become good friends with that child's mother T.J. T.J. provides significant help to petitioner by transporting J.S. to activities both girls are engaged in, allowing J.S. to study after school, and letting her sleep over if petitioner has a medical issue. For high school, S.J. will be attending Warren Valley.

On cross examination, petitioner acknowledged that J.S. has been a good student and has had little need for interaction with her guidance counselor or the principal there.

T.J. also testified on behalf of petitioner, in addition to submitting a Certification. She detailed many of the same ways in which she helps J.M. and J.S. T.J. and her husband have a strong belief in helping others and place a very high value on that as well as on education. She has always had a nanny or babysitter in their home for hours every day as additional childcare. While she cannot commit to picking up J.S. from Wayne Hills, T.J. did assert that she will still help petitioner and J.S. in as many ways as she is able.

Donna Reichman testified on behalf of the Board. She has been an employee with the Wayne district for eighteen years as a teacher, principal, and now Assistant Superintendent, which latter position she has held for the last five years. Reichman reviewed the history of the petitioner's request and the Board's response, that were largely delegated to her, especially after Covid when everyone was overwhelmed with the "new normal" and an excessive number of personal requests by staff and pupils.

With respect to the reasons provided by petitioner, Reichman explained that Policy #5120 supported the Board's decision to deny the request to place J.S. as a freshman at the high school outside her attendance zone. Policy #5120 specifically, and in pertinent part, states:

Pupils shall generally attend the school located in the attendance area of their residence. The Superintendent may assign a pupil to a school other than that designated by the attendance area when such an exception is justified by circumstances and/or is in the best interests of the pupil.

Reichman focused on the fact that the Board has been very consistent in applying this policy to the multiple requests they receive each year. When questioned about the frequency with which the Board has granted exceptions under Policy #5120, Reichman stated that out of a student population of over 7500, there had been approximately three who were granted it because they were in their final year and three who were granted it because of IEP implementation issues.

With respect to J.M.'s concerns that her younger daughter would experience emotional difficulties similar to those her older daughter encountered when forced to attend Wayne Hills, Reichman stated that J.S.'s guidance counselor and middle school principal were consulted for that very reason and both supported her going to the assigned school. She further testified to the after-school social options that she has observed from both high schools.

On cross-examination, Reichman expressed sympathy for J.M.'s personal circumstances. She described that Covid and its related consequences have also caused many families in Wayne into difficult circumstances. As a result, the Board has

opted to bring on four mental health professionals this school year, as well as offering transition plans for children who need them in order to adjust to an unexpected school setting. Nevertheless, Reichman detailed that she has a responsibility to adhere to the policy, which also has derivative impacts on staffing and forecasting enrollment.

ANALYSIS AND CONCLUSIONS OF LAW

The issue in this matter is whether J.S. should have been granted an exception to the attendance policy in order to be able to attend Wayne Valley High School, notwithstanding that she and her mother reside in the Wayne Hills zone, albeit pretty close to the dividing line. Specifically, petitioner seeks a determination herein that the Board should exercise its discretion under its Policy #5120 to allow J.S. to attend Wayne Valley because of her sincere dependence on T.J. for transportation, after-school supervision, and occasional, medically necessitated, overnight stays.

As set forth above, Policy #5120 states:

Pupils shall generally attend the school located in the attendance area of their residence. The Superintendent may assign a pupil to a school other than that designated by the attendance area when such an exception is justified by circumstances and/or is in the best interests of the pupil.

[J-2.]

Based on the preponderance of the credible evidence, I **CONCLUDE** that J.S. is residing in the attendance zone of Wayne Hills High School. I further **CONCLUDE** that the Board has properly applied its Policy #5120 and did so herein in a fair, reasonable, and nonarbitrary manner. The evidence clearly demonstrates that the Board has applied Policy #5120 in an even-handed manner. The Board also carefully considered whether attendance at Wayne Valley High School was required in the best interests of the pupil and determined that J.S. was not in need of special services and that she was likely to succeed there.

I **CONCLUDE** that the Board was correct and entirely consistent with its policy and past cases in deciding that petitioner's circumstances do not come within the school assignment policy exceptions. Reichman was empathetic to J.M.'s circumstances and agreed to help informally where the school can (crossing guard, ride-share information etc.). I, too, feel for J.M.'s tough situation, having been a single mother myself, and I recognize that economic or other hardships which befall parents often have unintended consequences for their child(ren). Nevertheless, these events happen in life and we all have to adjust within the system that governs all similarly situated pupils.

ORDER

Based upon the foregoing, it is **ORDERED** that the petition of appeal of J.M. on behalf of J.S. should be and is hereby **DISMISSED**.

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 matter. 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 in accordance with 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. of any exceptions must be sent to the judge and to the other parties.



August 9, 2021

DATE

GAIL M. COOKSON, ALJ

Date Received at Agency:

8/9/21

Date Mailed to Parties:

8/9/21

id

APPENDIX

LIST OF WITNESSES

For Petitioner:

J.M.

T.J.

For Respondent:

Donna Reichman

LIST OF EXHIBITS IN EVIDENCE

For Petitioner:

Ex. A Certification of T.J., dated July 11, 2021

Ex. B Letter from Donna Reichman to J.M., dated February 12, 2021

Ex. C Certification of J.M., dated July 13, 2021

Ex. D "Suicide and Friendships Among American Adolescents," Amer. Journal of Public Health (Jan. 2004)

Ex. E Google Map of Walking Commute to Wayne Hills High School

Ex. F Google Map of Walking Commute to Wayne Valley High School

Ex. G Wayne Township Board of Education District Policy #5120

Ex. H Map of Attendance Zones

For Respondent:

R-1 Wayne Township Board of Education District Policy #5120

R-2 Letter from J.M. to Board, undated but received on or about January 10, 2021

R-3 Emails between J.M., Ann Cassera, and Michelle Giarrusso, dated January 10-12, 2021

- R-4 Email from J.M. to Patricia Babich, dated February 22, 2021
- R-5 Letter from Donna Reichman to J.M., dated February 12, 2021