

C.J., on behalf of minor children, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
TOWNSHIP OF WILLINGBORO,  
BURLINGTON COUNTY, :  
RESPONDENT. :

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SYNOPSIS

*Pro se* petitioner, C.J., sought to have her four children placed out of the Willingboro school district, alleging that the children are being abused and are afraid to go to school. Petitioner further alleged, *inter alia*, that all of her children are being bullied and receive therapy as a result of the anxiety they suffer from attending school in Willingboro. Petitioner refused to send the children to school for a period of time, and has not gone through any channels to have them classified – nor has she requested an investigation into alleged acts of Harassment, Intimidation and Bullying (HIB) under the Anti-Bullying Bill of Rights Act (Act), *N.J.S.A. 18A:37-13 et seq.* Petitioner demands that the children be placed in another school district, but has not stated where she wants them to attend school or on what legal grounds she seeks an out-of-district placement. A motion for emergent relief in this matter was denied after a hearing in September 2016. The respondent Board filed a motion for summary decision, alleging that petitioner has failed to articulate any cause of action falling under the jurisdiction of the Commissioner.

The ALJ found, *inter alia*, that: there is no genuine issue of material fact in this case, and the matter is ripe for summary decision; petitioner alleges that her children have been mistreated and abused, and seeks an out-of-district placement; only one of the four children has been classified by the District and thereby entitled to special education services; the petitioner appears to raise claims of HIB under the Act, but has failed to follow the procedural requirements for bringing such a claim; alternatively, she alleged her children are experiencing issues that may require an evaluation under the IDEA, but such evaluation must be initiated by request to the school, and appealed to the Office of Special Education Services; the petitioner has not alleged any legal or factual basis for an out-of-district placement for her children. The ALJ concluded that the respondent Board is entitled to summary decision, and dismissed the petition.

Upon review, the Commissioner concurred with the ALJ’s findings and conclusion, and adopted the Initial Decision of the OAL as the final decision in this matter. 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.
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OAL DKT. NO. EDU 8020-16  
AGENCY DKT. NO. 133-5/16

C.J., on behalf of minor children, :  
PETITIONER, :  
V. : COMMISSIONER OF EDUCATION  
BOARD OF EDUCATION OF THE : DECISION  
TOWNSHIP OF WILLINGBORO, :  
BURLINGTON COUNTY, :  
RESPONDENT. :

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

Upon such review, the Commissioner concurs with the Administrative Law Judge (ALJ) – for the reasons stated in the Initial Decision – that the Board’s motion for summary decision should be granted.<sup>1</sup> Accordingly, the recommended decision of the ALJ is adopted for the reasons expressed therein and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.<sup>2</sup>

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 30, 2017

Date of Mailing: March 30, 2017

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<sup>1</sup> It is clear from the record that there has been ongoing discord between the petitioner and the Board involving her minor children. In the future, if the petitioner believes that one of her minor children has been the subject of an act of harassment, intimidation and bullying, she may report the incident to the Board and request an investigation pursuant to the Anti-Bullying Bill of Rights Act (Act), *N.J.S.A. 18A:37-13 et seq.*. The Board shall likewise follow the procedural requirements contained in the Act. To the extent that the petitioner has concerns involving her minor children in connection with the Individuals with Disabilities in Education Act she may seek relief from the Office of Special Education in accordance with *N.J.A.C. 6A:14-2.6*.

<sup>2</sup> This decision may be appealed to the Superior Court, Appellate Division, pursuant to *P.L. 2008, c. 36* (*N.J.S.A. 18A:6-9.1*).



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. EDU 08020-2016

AGENCY DKT. NO. 133-5/16

**C.J., ON BEHALF OF MINOR CHILDREN,**

Petitioner,

v.

**TOWNSHIP OF WILLINGBORO BOARD OF  
EDUCATION, BURLINGTON COUNTY,**

Respondent.

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**C.J.**, petitioner, pro se

**Patrick J. Madden**, Esq., for respondent Willingboro Township Board of Education (Madden and Madden, P.A., attorneys)

Record Closed: January 17, 2017

Decided: February 14, 2017

BEFORE **SARAH G. CROWLEY**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

On August 25, 2016, petitioner filed a Verified Petition for emergent relief with the Commissioner of the Department of Education seeking to have her four children transferred from the Willingboro School District (Willingboro). The Director of the

Bureau of Controversies and Disputes of the New Jersey Department of Education transmitted the matter to the Office of Administrative Law (OAL), where it was filed for hearing as an emergent matter on August 25, 2016. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. After oral argument, the application for Emergent relief was denied by Order dated September 16, 2016. The denial was adopted by the Commissioner on October 4, 2016. On September 16, 2016, Willingboro filed a Motion to Dismiss the within matter. The matter was adjourned for a period of time at the request of the petitioner. Petitioner filed opposition to the motion on June 21, 2016, and supplemented her opposition by correspondence from the petitioner on December 16, 2016, and January 17, 2017.

### **FACTUAL BACKGROUND AND STATEMENT OF UNDISPUTED FACTS**

Petitioner has four children in the Willingboro School District and seeks to have them placed out-of-district. Petitioner alleges that her children are being abused and are afraid to go to school. She further alleges that one of her children is suffering from depression due to the treatment she has received at school and that one is on blood pressure medication as a result of pressures at school. Petitioner claims that all of her children are being bullied and receive therapy as a result of the anxiety they suffer from attending school in Willingboro. One of the children has been classified and is entitled to special education services in the District. The issues with respect to this child are the subject of a separate action. Petitioner refused to send the children to school for a period of time, and has not gone through any channels to have them classified, nor has she requested an HIB investigation. The relief which is sought unclear except for the demand for to send them out-of-district. The petitioner has not stated where she wants them placed or on what legal grounds she seeks an out-of-district placement.

### **LEGAL DISCUSSION**

The question presented is whether respondent is entitled to dismissal of this matter on the grounds that the petitioner has failed to articulate any cause of action

falling under the jurisdiction of the commissioner of education. The respondent further alleges that there is no legal or factual basis for the relief which the petitioner seeks.

Summary decision is appropriate if there is no genuine issue as to any material fact necessary to resolve the claim as a matter of law. Summary decision may be granted “if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” N.J.A.C. 1:1-12.5(b). The standard for granting summary judgment (decision) is found in Brill v. Guardian Life Insurance Co. of America, 142 N.J. 520, 540 (1995) (citation omitted):

[A] determination whether there exists a “genuine issue” of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact-finder to resolve the alleged disputed issue in favor of the non-moving party. The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.”

The Brill standard contemplates that the analysis performed by the trial judge in determining whether to grant summary judgment should comprehend the evidentiary standard to be applied to the case or issue if it went to trial. “To send a case to trial, knowing that a rational jury can reach but one conclusion, is indeed ‘worthless’ and will ‘serve no useful purpose.’” Brill, supra, 142 N.J. at 541. In addressing whether the Brill standard has been met in this case, further guidance is found in New Jersey Court Rule 4:46-2: “An issue of fact is genuine only if, considering the burden of persuasion at trial, the evidence submitted by the parties on the motion, together with all legitimate inferences therefrom favoring the non-moving party, would require submission of the issues to the trier of fact.”

In this case, there are no genuine issues of material fact. Petitioner’s children all attend school in Willingboro and are still enrolled in school in the District. The petitioner

alleges that her children have been “mistreated and abused” and she seeks to have them placed out-of-district. However, there has been no HIB petition filed pursuant to N.J.S.A. 18A:37-15, nor is there an appeal from one pending before the undersigned. Petitioner alleges that they suffer from depression and other issues which render them fearful of attending school. However, petitioner has not sought to have them evaluated for special education services or filed a due process petition for the failure of the school to provide such services. Petitioner has one child that has been classified by the District as entitled to special education services. The issues related to that child have been be addressed in the separate due process proceeding.

The Commissioner’s jurisdiction is limited to matters arising under school law and brought in accordance with such laws. The petitioner appears to be raising a claim under the Anti Bullying statute, but has failed to follow the procedural requirements for bringing such a claim. In the alternative, she alleges her children are experiencing issues which may render an evaluation under the IDEA appropriate. However, the process for such evaluations is through a request with the school, and an appeal to the Offices of Special Education Services. The petitioner has not alleged any legal or factual basis for an out of district placement for her children.

I therefore **CONCLUDE** that respondent is entitled to summary decision dismissing the petition.

## **ORDER**

Accordingly, I hereby **ORDER** that respondent’s motion to dismiss, or in the alternative for summary decision is **GRANTED**, and that the petition 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.



February 14, 2017  
DATE

SARAH G. CROWLEY, ALJ

Date Received at Agency:

February 14, 2017 (emailed)

Date Mailed to Parties:

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SGC/mel