

ANDREA D. WICKER, :
PETITIONER, :
V. : COMMISSIONER OF EDUCATION
BOARD OF EDUCATION OF : DECISION
THE BOROUGH OF OAKLYN,
CAMDEN COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioning parent alleged her son's placement in a science course was not based on his academic needs, but on the Board's transportation needs. The Board contended that petitioner failed to state a cause of action upon which relief could be granted, that the petition was untimely filed, that petitioner failed to exhaust administrative remedies, and that the subject matter was moot.

The ALJ found that the Board did not act improperly. It tried to accommodate petitioner and it did devise a program for D.P., which did not satisfy petitioner. The ALJ granted respondent's motion for summary decision.

The Commissioner found that although he concurred with the ALJ that respondent was entitled to summary decision in its favor, the Board properly noted that this matter was moot. Petition was dismissed.

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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.

Upon careful and independent review of the record in this matter, the Commissioner finds that although he concurs with the ALJ that respondent is entitled to summary decision in its favor,¹ the Board has properly noted that this matter is moot. Petitioner does not dispute that her son, D.P., graduated from the Board's District on June 16, 1999. As such, the Board duly recognizes that "there is no further education that the Oaklyn School District can furnish to him through its own staff and its own facilities," notwithstanding that it retains jurisdiction, under the existing sending-receiving relationship, for high school students living in its District to attend the Collingswood High School, and pays the tuition therefor. (Board's Brief in Support of Respondent's Motion for Summary Decision at pp.11-12) Moreover, the record indicates that petitioner informed the Board's administration that she was

¹ The Commissioner herein clarifies that although there are currently no criteria for program requirements mandated by State law or regulation, local boards must, as a condition of their State monitoring, identify and demonstrate the availability of programs and services for gifted and talented students. *N.J.A.C. 6:8-2.5(a)4*.

moving outside the District, and D.P. was not enrolled in the Collingswood High School for the 1999-2000 school year. (Letter from Board's Counsel to the ALJ, August 4, 1999)

Accordingly, the Petition of Appeal is dismissed.²

IT IS SO ORDERED.

ACTING COMMISSIONER OF EDUCATION

December 27, 1999

² This decision, as the Commissioner's final determination in the instant matter, 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. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.

