

**New Jersey Commissioner of Education**  
**Final Decision**

The Patrick School,

Petitioner,

v.

New Jersey State Interscholastic Athletic  
Association,

Respondent.

**Synopsis**

Petitioner, The Patrick School, appealed the determination of the New Jersey State Interscholastic Athletic Association (NJSIAA) Executive Committee that it does not currently qualify to be a member of the NJSIAA because it is in violation of a NJSIAA rule that requires that no member school may have any team that operates outside of NJSIAA's jurisdiction in any NJSIAA-sanctioned sport. The NJSIAA found that The Patrick School did not comply with this provision and cannot be a member of the NJSIAA because it sponsors multiple basketball teams that do not comply with NJSIAA rules. The Patrick School sought a stay and/or reversal of the revocation of its membership.

Upon review, the Commissioner determined that she lacks jurisdiction over this matter as The Patrick School is not a public school. In making her determination, the Commissioner found that: *N.J.S.A. 18A:11-3* governs voluntary associations which regulate certain student activities between and among their members, such as the NJSIAA; the statute provides, *inter alia*, that in matters involving public school districts, appeals involving NJSIAA rules and regulations shall be made to the commissioner and thereafter to the Superior Court; however, in non-public school matters involving NJSIAA rules and regulations, appeals shall be made directly to the Superior Court. The Commissioner noted that while she is mindful that this matter was originally filed in Superior Court and was dismissed in order to afford The Patrick School an opportunity to pursue this matter before the Commissioner, the Superior Court Judge's decision to dismiss the matter does not confer jurisdiction to the Commissioner when it is expressly precluded by the governing statutory provision. Accordingly, the petition was dismissed for lack of jurisdiction.

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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For Petitioner, The Patrick School, Hassen Ibn Abdellah, Esq.

For Respondent, New Jersey State Interscholastic Athletic Association,  
Stephen P. Goodell, Esq. and Scott T. Miccio, Esq.

This case involves an appeal of a decision of the New Jersey State Interscholastic Athletic Association (NJSIAA) Executive Committee determining that The Patrick School does not qualify to be a member of the NJSIAA at this time as it is in violation of the NJSIAA Rules and Regulations, Specific Sports Regulations, Note 3, Clarification 3. Clarification 3, which was adopted by the Executive Committee on June 3, 2020, provides that “[a]ll NJSIAA member school athletic teams are bound by NJSIAA rules” and requires that “[n]o member school may have any team that operates outside of NJSIAA’s jurisdiction in any NJSIAA sanctioned sport.” The NJSIAA found that The Patrick School did not comply with this provision and cannot be a member of the NJSIAA because it sponsors multiple basketball teams that do not comply with NJSIAA rules.

On appeal, The Patrick School seeks a stay and/or reversal of the revocation of its membership. Petitioner previously filed an Order to Show Cause and Verified Complaint in the Superior Court of New Jersey seeking emergent relief and an order overturning the Executive Committee's decision. The judge denied the motion and dismissed the case without prejudice so that The Patrick School could pursue an appeal before the Commissioner. Accordingly, The Patrick School filed the instant petition.

Upon review, the Commissioner finds that he lacks jurisdiction over this matter as The Patrick School is not a public school district. *N.J.S.A.* 18A:11-3 governs voluntary associations which regulate certain student activities between and among their members, such as the NJSIAA. Pursuant to *N.J.S.A.* 18A:11-3, the "constitution, bylaws, and rules and regulations" of the association must be approved by the Commissioner and "enforced first by the internal procedures of the association." The statute further provides that when a party appeals a determination of the association, "[i]n matters involving *only public school districts* and students, faculty, administrators and boards thereof, appeals shall be to the commissioner and thereafter the Superior Court." *N.J.S.A.* 18A:11-3 (emphasis added). The statute specifies that "[i]n all other matters, appeals shall be made directly to the Superior Court." *Ibid.* Therefore, because The Patrick School is not a public school district the appropriate forum for its appeal of the NJSIAA's determination that it violated Specific Sports Regulations, Note 3, Clarification 3 is Superior Court.

When considering the basic rules of statutory construction, it is well-known that "[t]he Legislature's intent is the paramount goal when interpreting a statute and, generally, the best indicator of that intent is the statutory language." *DiProspero v. Penn*, 183 *N.J.* 477, 492 (2005). Statutory words are ascribed their ordinary meaning and are viewed in the context of the

legislation as a whole. *Ibid.* As such, when the Legislature uses the word “may,” it is ordinarily permissive, while the word “shall” has a mandatory meaning. *Aponte-Correa v. Allstate Ins. Co.*, 162 *N.J.* 318, 325 (App. Div. 2000).

In enacting *N.J.S.A.* 18A:11-3, the Legislature clearly and unambiguously made a distinction in the procedure between public and non-public schools for challenges involving voluntary associations, such as the NJSIAA. Appeals of matters involving public school districts “shall” be to the Commissioner, and all other matters “shall be made directly to the Superior Court.” *N.J.S.A.* 18A:11-3. The plain meaning of the statutory language is clear, and therefore the Commissioner has no discretion by which to exercise jurisdiction in this matter, as it does not involve a public school.

The Commissioner is mindful that this matter was originally filed in Superior Court and was dismissed in order to afford The Patrick School with an opportunity to pursue this matter before the Commissioner. However, the Superior Court Judge’s decision to dismiss the matter does not confer jurisdiction to the Commissioner when it is expressly precluded by the governing statutory provision.

Accordingly, the petition of appeal is hereby dismissed for lack of jurisdiction.

IT IS SO ORDERED.<sup>1</sup>



ACTING COMMISSIONER OF EDUCATION

Date of Decision: August 13, 2021

Date of Mailing: August 13, 2021

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<sup>1</sup> 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.