

New Jersey Commissioner of Education

Final Decision

Sharonda Wadley, Helen Clement, Planties
Simon, Crystal Williams, Melissa Wilson, and
Omar Ballard,

Petitioners,

v.

Board of Education of the City of Newark,
Essex County, and Yakima Jackson,

Respondents.

Synopsis

Petitioners – who are teachers, parents, and noninstructional staff – alleged that respondent Yakima Jackson, a school principal, has failed to adequately perform her duties and therefore should be removed pursuant to *N.J.A.C. 6A:9-3.4*, Professional Standards for School Leaders; and that the Newark Board of Education (Board) has failed to take corrective action regarding Jackson’s job performance. The respondents maintain that petitioners may not bypass the Board of Education and are not entitled to seek relief directly from the Commissioner of Education. The parties filed opposing motions for summary decision.

The ALJ found, *inter alia*, that: there are no material facts at issue in this matter, and the case is ripe for summary decision; because the dispute herein arises under *N.J.A.C. 6A:9-3.4*, a rule of the State Board, the Commissioner lacks jurisdiction since the plain text of *N.J.S.A. 18A:6-9* denies the Commissioner jurisdiction over matters concerning the rules of the State Board; rather, jurisdiction here lies with the local board of education pursuant to *N.J.S.A. 18A:28-5*, *N.J.S.A. 18A:27-4* and *N.J.S.A. 18A:27-4.1*; the removal of a school principal, regardless of tenure status, can occur only when a school’s chief administrator has recommended such an action and it is subsequently approved by the local board of education. Accordingly, the ALJ granted respondents’ motion for summary decision and denied petitioners’ opposing motion.

Upon review, the Commissioner concurred with the ALJ that the petition must be dismissed because there is no statute or regulation authorizing petitioners’ requested relief. In so deciding, however, the Commissioner clarified that, pursuant to *N.J.S.A. 18A:6-9*, the Commissioner does have jurisdiction to adjudicate disputes arising under the rules of the State Board, with the exception of those disputes arising under the laws governing higher education – which does not apply in this case. Accordingly, the Initial Decision was adopted as the final decision in this matter, with clarification regarding the issue 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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Omar Ballard,

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Essex County, and Yakima Jackson,

Respondent.

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.

In this matter, petitioners – who are teachers, parents, and noninstructional staff – allege that respondent Yakima Jackson failed to perform her duties as a school principal, and therefore should be removed. Petitioners rely on *N.J.A.C. 6A:9-3.4*, Professional Standards for School Leaders, as the basis for jurisdiction in this matter.

The Administrative Law Judge (ALJ) rejected petitioners' claim, reasoning that the plain text of *N.J.S.A. 18A:6-9* denies the Commissioner jurisdiction over matters concerning the rules of the State Board. The ALJ concluded that since the dispute herein arises under *N.J.A.C. 6A:9-3.4*, a rule of the State Board, the Commissioner lacks jurisdiction. Instead, the ALJ determined that jurisdiction lies with the local board of education pursuant to *N.J.S.A. 18A:28-5*,

N.J.S.A. 18A:27-4, and *N.J.S.A.18A:27-4.1*. The ALJ further concluded that the removal of a school principal, regardless of tenure status, can occur only when a school's chief administrator has recommended such an action and it is subsequently approved by the local board of education. Accordingly, the ALJ dismissed petitioners' motion for summary decision for failing to state a legal basis on which petitioners would be entitled to a judgment in their favor as a matter of law.

Upon review, the Commissioner wishes to clarify the issue of jurisdiction. The Initial Decision states that "controversies and disputes arising under the rules of the State Board are outside the jurisdiction of the Commissioner." Initial Decision at 11. Under *N.J.S.A. 18A:6-9*, the Commissioner has jurisdiction to hear "all controversies and disputes arising under the school laws, excepting those governing higher education, or under the rules of the State board or of the commissioner." The exception to the Commissioner's jurisdiction applies only to disputes arising under the laws governing higher education and does not extend to disputes concerning the rules of the State Board.¹ As such, the Commissioner has jurisdiction to adjudicate disputes arising under the rules of the State Board.

Nonetheless, the Commissioner concurs with the ALJ that the petition should be dismissed because there is no statute or regulation authorizing petitioners' requested relief – the Commissioner's removal of respondent Jackson from her position as school principal for allegedly violating *N.J.A.C. 6A:9-3.4*. Furthermore, the Commissioner concurs with the ALJ that removal of a school principal, tenured or untenured, can only occur following specific action by the local

¹ This reading is one of grammatical construction. If the phrase offset by commas were removed from the statute, it would state that the Commissioner has jurisdiction to hear all controversies and disputes arising under the school laws or under the rules of the State Board or of the Commissioner.

board of education, which did not occur here. *See, e.g., N.J.S.A. 18A:28-5; N.J.S.A. 18A:27-4.1; N.J.S.A. 18A:6-10; N.J.S.A. 18A:6-11.*

Accordingly, the Initial Decision is adopted as the final decision in this matter, as clarified herein. Petitioners' Motion for Summary Decision is denied, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.²



ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 21, 2024
Date of Mailing: November 22, 2024

² 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

SUMMARY DECISION

OAL DKT. NO. EDU 01944-23

Agency Ref. No. 9-1/23

**SHARONDA WADLEY, HELEN CLEMENT,
PLANTIES SIMON, CRYSTAL WILLIAMS,
MELISSA WILSON AND OMAR BALLARD,¹**

Petitioners,

vs.

**CITY OF NEWARK BOARD OF EDUCATION,
ESSEX COUNTY AND YAKIMA JACKSON,**

Respondents.

Sharonda Wadley, for petitioners, pursuant to UAPR 1:1-5.4 and 5.5

John Burke, Esq., for respondents

Record Closed: August 23, 2024

Decided: October 16, 2024

BEFORE **JOHN P. SCOLLO**, ALJ:

STATEMENT OF THE CASE

¹ Pursuant to UAPR1:1-5.4 and 5.5, the Tribunal has recognized (set forth all six names) as *pro se* litigants, with Sharonda Wadley as their chief spokesperson. Throughout the pendency of his matter the Tribunal has been in contact with all six *pro se* litigants and chiefly with Sharonda Wadley as the chief spokesperson for the six *pro se* litigants .

The Petitioners allege that Respondent Yakima Jackson, a school principal, has failed to adequately perform her duties and therefore should be removed; and that the Newark Board of Education has failed to take corrective action regarding Jackson's job performance. The BOE and Jackson maintain that the Petitioners are not entitled to bypass the Board of Education and are not entitled to seek relief directly from the Commissioner of the Department of Education.

THE ISSUE AT BAR

The issue before this Tribunal is whether or not the Petitioner's Complaint against Yakima Jackson and the Newark Board of Education seeking a decision from the Commissioner of the New Jersey Department of Education can be based on N.J.A.C. 6A:9-3.4 (Professional Standards for School Leaders). Put another way, the issue is whether the Petitioners can ignore the process set forth in N.J.S.A. 18A:28-5 and N.J.S.A. 18A:27-4.1 and thereby bypass the Newark Board of Education in the pursuit of their goal of removing Yakima Jackson from the position of Principal of the Grover Cleveland Elementary School.

PROCEDURAL HISTORY

On January 9, 2023, the *pro se* Petitioners filed their action by means of a "*Pro Se* Petition of Appeal". They allege that Yakima Jackson, the principal of the Grover Cleveland Elementary School in the Newark School District, has failed to show competency in performing her duties as a school principal (e.g., failing to hold meetings and failing to address crime issues in the school) and that she has created a hostile workplace (e.g., by yelling at parents and non-instructional staff).

On February 28, 2023, the BOE's staff attorney, Sabrina Styza, Esq., filed an Answer to the Petition on behalf of the BOE and on behalf of Yakima Jackson.

The N.J. Department of Education, Office of Controversies and Disputes transmitted the matter docketed as 9-1/23 to the Office of Administrative, where it was

filed on March 2, 2023 as a contested case pursuant to N.J.S.A. 52: 14B-1 to -15 and N.J.S.A. 14F-1-13.

The matter was given OAL Docket Number EDU-01944-23 and was assigned to John P. Scollo, ALJ on March 23, 2023. On March 23, 2023, Judge Scollo held a Pre-Trial telephone Conference and issued his Pre-Hearing Order dated March 24, 2023, which contained a schedule for the discovery process, for the filing of motions, etcetera. Judge Scollo discussed the fact that the six Petitioners were proceeding *pro se*. Judge Scollo made it clear to the Petitioners that they had the right to hire an attorney of their choosing and also made it clear to the Petitioners that they were bound to follow the Uniform Administrative Procedure Rules just as if they had legal counsel. The Petitioners decided to proceed without legal counsel. The Pre-Hearing Order required the parties to submit an Outline of their respective positions. In their May 5, 2023 Outline, the Petitioners claimed that the OAL had original jurisdiction to decide this matter under N.J.A.C. 6A:9-3.3 (Professional Standards for Teachers) and 6A:9-3.4 (Professional Standards for School Leaders). In her July 12, 2023 correspondence, Sharonda Wadley, the unofficial chief spokesperson for the Petitioners, clarified the Petitioners' position on jurisdiction by stating that jurisdiction was based solely on N.J.A.C. 6A:9-3.4, not on N.J.A.C. 6A:9-3.3.

The parties exchanged discovery requests (Interrogatories and Document Requests) and responded to each other's discovery requests by June 5, 2023 (after the Tribunal granted the parties a one-month extension of time). The Tribunal monitored the discovery process and received copies of each side's discovery requests and their respective responses to same. There were no complaints from either side regarding inadequate responses to their respective discovery requests. Neither side sought relief from the Tribunal during the discovery period by means of a motion to compel discovery. The two sides responded to each other's discovery requests and completed the discovery process.

On June 19, 2023, the Tribunal granted both sides leave to file dispositive motions. Due to Respondent counsel's illness, the due date for motions was extended to August, 2023. The Tribunal later re-visited the matter, having not received any

motion papers, and learned that the Respondents (BOE and Jackson) had substituted in new counsel, John Burke, Esq, of Antonelli, Kantor, Rivera. It appeared that both sides wanted to file dispositive motions. Nonetheless, at that time the Tribunal scheduled hearing dates for November, 2023. (Subsequently, the Hearing dates were re-scheduled due to schedule conflicts and other reasons, to February, 2024. For the same reasons, the Hearing dates were re-scheduled to April, 2024; and later re-scheduled to October 15 and 16, 2024.)

On March 4, 2024, the Petitioners filed a Motion to Re-Open Discovery because the Respondents obtained new counsel and because the petitioners realized that they needed documents in addition to the documents requested in their earlier discovery requests. The Tribunal denied the motion on March 20, 2024.

On March 12, 2024, Wadley, on behalf of the Petitioners, filed a Motion for Summary Decision (which the Tribunal deems to be a Motion for Summary Decision). On March 15, 2024, Attorney Burke responded by filing the Respondents' Motion for Summary Decision. A few days later, these Motions were placed in abeyance due to the laptop issue (see next paragraph). However, in July, 2024, the Tribunal allowed the parties to proceed with these Motions.

On March 27, 2024, Petitioner Wadley wrote to the Tribunal about a seemingly unrelated controversy regarding her April 30, 2024 planned departure from employment with the BOE, the fact that the BOE told her that her last day at the school would be on March 25, 2024, and the fact that Wadley wanted to obtain documents pertaining to the within litigation from her school-issued laptop computer.

In an attempt to help the parties solve the laptop issue (which is not the issue that this Tribunal has been asked to decide), on March 27, 2024 the Tribunal issued an order instructing both sides to formulate and agree to a plan for safeguarding the documents and to arrange for the BOE to transmit them to Wadley.

The BOE's counsel wrote to the Tribunal on March 29, 2024 responding that Wadley had no right to place her personal documents pertaining to this litigation onto

her school-issued laptop, but the BOE agreed not to open said documents, and agreed to send the documents to Wadley if she would identify the file names associated with the desired documents. Wadley replied on March 30, 2024 that she would cooperate with the BOE when the Tribunal ordered her to do so. Also, on April 8, 2024, Wadley wrote to the Tribunal complaining that Attorney Burke was making false statements.

On April 17, 2024, Wadley filed a Motion seeking to compel the BOE to transfer her documents from the school-issued laptop to her and seeking to have the Tribunal hold Attorney Burke in contempt. Since the relief sought in Wadley's April 17, 2024 Motion was not related to the issue at bar in this matter, and since the Tribunal had already issued an Order that was not being followed, the Tribunal deferred that Motion indefinitely. The parties did not subsequently inform the Tribunal about whether or not they resolved the laptop issue. Wadley never pursued her motion. This Tribunal does not know if the two sides ever agreed to formulate a plan for the transfer of Wadley's documents, which the Tribunal had instructed them to do in its Order dated March 27, 2024. Having already issued an order which provided the parties with the means to resolve the laptop issue, the Tribunal decided to take no further action regarding the motion since the laptop issue is not the issue that this Tribunal has been tasked to decide.

On April 18, 2024, Wadley made a request to the Tribunal to grant her time to seek legal counsel to represent the Petitioners. Hopeful that the addition of legal counsel for the Petitioners would help move the case along, the Tribunal granted Wadley's request. On April 26, 2024, Wadley wrote to the Tribunal saying that she had not yet found legal counsel. To date, the Tribunal has not received any notice from Wadley about the hiring of legal counsel to represent the Petitioners.

On July 16, 2024, Attorney Burke asked the Tribunal to allow the parties to proceed with the Motions that they had filed in March, 2024. On that same date, the Tribunal granted Attorney Burke's request to allow the parties to proceed with the Motions or to file new dispositive Motions. On July 29, 2024, the Tribunal, due to the death of Wadley's brother, granted additional time for the Petitioners to make additional submissions. On August 4, 2024, the Tribunal received a document from Wadley

captioned “Reply to Defendant’s Opposition to Plaintiffs’ Motion for Summary Judgment”. The Tribunal waited to see if the parties would further supplement their submissions. They did not do so. The judge surmised that the parties did not intend to make any further submissions, and therefore on August 9, 2024 the Tribunal wrote to the parties advising them that their Exhibits, if any, would be due on August 23, 2024 and that the Tribunal would proceed to decide the Motions that had been filed in March, 2024. The Tribunal further advised them that, depending on the outcome of the Motions, the hearing, if necessary, would take place on October 15 and 16, 2024. No Exhibits were received by August 23, 2024 and so, the Tribunal closed the record on that date.

On October 12, 2024, the Tribunal advised the parties by email that the hearing dates were being cancelled to allow the judge time to decide the motions. This writing is the Tribunal’s Initial Decision – Summary Decision.

FACTUAL DISCUSSION

There are no material issues of fact outstanding.

APPLICABLE LAW

The issue of subject matter jurisdiction can be raised at any time. Macysyn v. Hensler, 329 N.J. Super. 476, 481 (App. Div. 2000); Murray v. Comcast Corp., 457 N.J. Super. 464, 470 (App. Div. 2019); Willingboro Educ. Ass’n v. Bd. of Educ., 2023 N.J. Super. Unpub. LEXIS 1893 (App. Div. Oct. 25, 2023).

N.J.S.A.18A:6-9 states:

The Commissioner shall have jurisdiction to hear and determine, without cost to the parties, all controversies and disputes arising under the school laws, *excepting those governing higher education, or under the rules of the State Board* or of the Commissioner. [Italics supplied]

In the matter at bar, the Petitioners claim that jurisdiction is based on N.J.A.C. 6A:9-3.4 (Professional Standards for School Leaders). N.J.A.C. 6A:9-3.4 reads as follows:

School leader preparation, district induction, and professional development programs shall align their learning opportunities with the Professional Standards for Educational Leaders 2015, developed by the National Policy Board for Educational Administration (NPBEA), incorporated herein by reference, available at <http://www.npbea.org/wp/wp-content/uploads/2014/11/ProfessionalStandardsforEducationalLeaders2015forNPB> A FINAL-2.pdf.

The text of N.J.A.C. 6A:9-3.4 states that school leader preparation, district induction, and professional development programs shall align their learning opportunities with the Standards for Educational Leaders 2015, developed by the National Policy Board for Educational Administration. Those standards are incorporated by reference into this regulation. The Tribunal having reviewed the website, suffice it to say that incorporated document sets forth ten standards for School Leaders in the same fashion as those set forth for teachers in N.J.A.C. 6A:9-3.3. There are ten standards, which are captioned as follows: Standard One: Mission, Vision, and Core Values; Standard Two: Ethics and Professional Norms; Standard Three: Equity and Cultural Responsiveness; Standard Four: Curriculum, Instruction, and Assessment; Standard Five: Community of Care and Support for Students; Standard Six: Professional Capacity of School Personnel; Standard Seven: Professional Community for Teachers and Staff; Standard Eight: Meaningful Engagement of Families and Community; Standard Nine: Operations and Management; and Standard Ten: School Improvement.

N.J.A.C. 6A:9-3.4 with the incorporated document sets forth a set of aspirational standards and it contains no enforcement provisions which allow for the removal of school leaders who do not meet said standards.

The term “School Leader” is defined in N.J.S.A. 18A:26-8.2 (13)(a) as:

a school district staff member who holds a position that requires the possession of a chief school administrator, principal, or supervisor endorsement.

The Tenured Employees Hearing Law, N.J.S.A. 18A:6-10, et seq., states:

No person shall be dismissed or reduced in compensation If he is or shall be under tenure ... except for inefficiency, incapability, unbecoming conduct, or other just cause, and then only after a hearing held pursuant to this subarticle, by the commissioner, or a person appointed by him to act in his behalf, after a written charge or charges, of the cause or causes of the complaint, shall have been preferred against such person, signed by the person or persons making the same, who may or not be a member or members of a board of education, and filed and proceeded upon as in this subarticle provided.

N.J.S.A.18A:28-5 states:

The services of all teaching staff members ... in the positions of teacher, principal, ... shall not be dismissed ... except for Inefficiency, incapacity, unbecoming conduct such teaching staff member or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of this title

N.J.S.A.18A:27-4.1 states:

Notwithstanding the provisions of any law, rule, or regulation to the contrary,

(a) A board of education shall appoint, transfer, or remove a certificated or non-certificated officer or employee only upon the recommendation of the chief school administrator and by a recorded roll call majority vote of the full membership of the board.

LEGAL ANALYSIS

The plain text of N.J.S.A. 18A:6-9, while stating that the Commissioner of Education has jurisdiction over all controversies and disputes arising under the school laws, specifically denies jurisdiction to the Commissioner over matters concerning the Rules of the State Board. The Petitioners claim that their sole basis for jurisdiction in this matter are the provisions of N.J.A.C. 6A:9-3.4. N.J.A.C. 6A:0-3.4 is a rule of the State Board. It therefore follows that the Commissioner does not have jurisdiction over the controversy or dispute in this matter since, by the Petitioners' own admission, their

action is based on something outside the Commissioner's jurisdiction - a rule of the State Board.

Pursuant to N.J.S.A. 18A:6-10, tenure prevents a teacher or other school staff member from being fired or disciplined unless the school gives him/her notice and can prove specific misconduct. A tenured employee is entitled to a hearing before the local Board of Education. At such a hearing the school district must prove that a teacher has shown evidence of inefficiency, incapacity, unbecoming conduct or other just cause. If a tenured employee loses before the BOE, he has the right to appeal to the State Commissioner of Education.

When non-tenured teachers or staff members have been terminated or non-renewed, the BOE must give them notice of said termination or non-renewal and the reason for doing so. Non-tenured teachers or staff members may ask for an informal hearing before the BOE to find out the reasons for their termination or non-renewal, but it is not a formal adversarial hearing. At most, the employee may use the hearing to persuade the BOE to consider keeping him/her on staff.

Pursuant to N.J.S.A. 18A:28-5, a tenured staff member can only be dismissed (i.e., removed) after he/she has been in due course charged with misconduct such as inefficiency, incapacity, conduct unbecoming, or other just cause. If, by a recorded majority vote of the full BOE, the employee is found guilty of misconduct, then the employee may file an appeal with the Commissioner of the Department of Education.

Pursuant to N.J.S.A. 18A:27-1, a teaching staff member can only be appointed by a majority vote of the full BOE, which shall be a recorded vote. Likewise, in regard to removal of a certified or non-certified employee, pursuant to N.J.S.A. 18A:27-4 and 4.1, the BOE must follow its own rules. After receiving the recommendation of the chief school administrator (usually the school superintendent) to remove the employee, the BOE shall vote on whether or not to remove him/her. In taking such a vote, it is required that any action adverse to the employee's interest must pass by a majority vote of the full BOE and the vote must be recorded.

Thus, by a reading of the above-referenced statutes, it is clear that the removal of an officer, such as a school principal, whether that principal be tenured or untenured, can occur only when the school's chief administrator has recommended that such an adverse action be taken and it is approved by the local BOE. Then and only then may the adversely-affected employee file an appeal with the Commissioner of Education.

The above-referenced statutes provide that disciplinary actions against a school officer, such as a principal, must be initiated by school management and voted on by the BOE. The above-referenced statutes contain no provisions allowing disciplinary action against a school principal to be initiated directly with the Commissioner of the Department of Education.

In reviewing the Petitioner's Motion for Summary Decision (which Ms. Wadley labelled as a Motion for Summary Judgment under Rule 56 of the Federal Rules of Civil Procedure), I see no basis in the law on which the Petitioners would be entitled to a judgment as a matter of law. The Motion was inarticulately drafted. The motion seems to claim that Jackson's status as a tenured or untenured school principal determines the outcome of this matter. As noted in the analysis of N.J.S.A. 18A:28-5 and N.J.S.A. 18A:27-4.1, Jackson's status as a tenured or untenured school principal is irrelevant. The issue in this matter is whether the Petitioners can rely on N.J.A.C. 6A:9-3.4 as the basis of the disciplinary charges which the Petitioners seek to bring against Jackson.

As already noted, N.J.A.C. 6A:9-3.4 is a set of merely aspirational standards and cannot serve as the basis for disciplinary charges. N.J.S.A.18A:28-5 and N.J.S.A.18A:27-4.1 are the applicable statutes governing the bringing of charges against both tenured and untenured employees. Petitioners' Motion for Summary Decision also seems to claim that certain documents should have been produced by the Respondents. If that is the Petitioner's argument, then the motion is actually a discovery motion and it is out-of-time.

CONCLUSIONS

The Petitioners have conceded that their action is based on N.J.A.C. 6A:9-3.4, a rule of the State Board; and since N.J.S.A. 18A:6-9 clearly states that controversies and disputes arising under the rules of the State Board are outside the jurisdiction of the Commissioner, I **CONCLUDE** that the Commissioner does not have jurisdiction over the action brought by the Petitioners.

Having read the text of N.J.A.C. 6A:9-3.4 with its incorporated document and having determined that it is aspirational in nature and having determined that it does not contain an enforcement provision, I **CONCLUDE** that N.J.A.C. 6A:9-3.4 cannot serve as the basis for disciplinary charges against a school principal. At most, the standards set forth in N.J.A.C. can be used to measure whether or how well school personnel, including principals, are striving to achieve the aspirational goals set forth therein, but that is not a matter of discipline.

The above-referenced statutes (N.J.S.A. 18A:28-5 and N.J.S.A. 18A:27-4 and 4.1) show that the local BOE cannot be bypassed. Therefore, I **CONCLUDE** that jurisdiction for the action at bar lies with the local BOE.

I also **CONCLUDE** that the filing of the present Petition with the Commissioner of Education was not in accordance with the governing statutes cited above.

I also **CONCLUDE** that the Commissioner's referral of same to the Office of Administrative Law was merely incidental and I **CONCLUDE** that the Commissioner did not overtly or impliedly assert that he had jurisdiction over this matter when he referred it to the OAL.

The Respondents, having proven that jurisdiction for the present controversy does not belong with the Commissioner and belongs with the local school authorities, I therefore **CONCLUDE** that they are entitled to a grant of Summary Decision in their favor.

However, all is not lost for the Petitioners. Having reached the above-stated conclusions, the Tribunal notes that there is nothing that prevents the Petitioners from bringing their grievances against Yakima Jackson to the superintendent of the Newark School District. It would then be in the superintendent's discretion to bring the matter before the local BOE.

I **CONCLUDE** that the Petitioners' Motion for Summary Decision does not state a legal basis on which the Petitioners would be entitled to a judgment in their favor as a matter of law. Therefore, I **CONCLUDE** that Petitioner's Motion for Summary Decision must be, and hereby is, **DENIED**.

ORDER

Based upon the foregoing, it is on this Sixteenth (16th) day of October, 2024 **ORDERED** that the Petitioners' Motion for Summary Decision is hereby **DENIED**; and it is further

ORDERED that the Respondent's Motion for Summary Decision is hereby **GRANTED**; and it is further

ORDERED that all Hearing dates are hereby cancelled; and it is further

ORDERED that this **ORDER** shall be served upon all parties today by email.

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

This recommended decision may be adopted, modified, or rejected by the **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting 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 **ACTING COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500. A copy of any exceptions must be sent to the judge and to the other parties.

A handwritten signature in black ink, reading "John P. Scollo", enclosed within a thin yellow rectangular border.

October 16, 2024

DATE

JOHN P. SCOLLO, ALJ

Date Received at Agency:

Date Mailed to Parties:

db