

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

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

Petitioner,

v.

Board of Education of the Borough of Bergenfield,  
Bergen County,

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.

Upon review, the Commissioner concurs with the Administrative Law Judge's (ALJ) conclusion that S.G. violated the Anti-Bullying Bill of Rights Act. The Commissioner further concurs with the ALJ that respondent's decision to affirm the investigation report was not arbitrary, capricious, or unreasonable.

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

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

  
COMMISSIONER OF EDUCATION

Date of Decision: March 31, 2025  
Date of Mailing: April 2, 2025

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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.



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

**INITIAL DECISION**

**SUMMARY DECISION**

OAL DKT. NO. EDU 10641-24

AGENCY DKT. NO. 205-6/24

**J.G. ON BEHALF OF MINOR CHILD S.G.**

Petitioner,

v.

**BOARD OF EDUCATION OF THE BOROUGH,  
OF BERGENFIELD, BERGEN COUNTY,**

Respondent.

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**J.G.**, petitioner, pro se

**Rodney T. Hara, Esq.**, for respondent (Fogarty & Hara, attorneys)

Record Closed: November 25, 2024

Decided: January 3, 2025

BEFORE **PATRICE E. HOBBS**, ALJ:

**STATEMENT OF THE CASE**

Petitioner's daughter was accused of being intentionally verbally abusive to another student based on her appearance, causing her to cry and be fearful of attending school. Respondent investigated the incident and concluded that there was an incident of harassment, intimidation and bullying under the Anti-Bullying Bill of Rights Act, N.J.S.A.

18A:37-13, et seq. (ABBRA). Should the respondent's findings be overturned? No. A school board acting within the scope of its authority is "entitled to a presumption of correctness unless it's arbitrary, capricious, or unreasonable." Thomas v. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965).

### **PROCEDURAL HISTORY**

On June 25, 2024, petitioner, J.G. on behalf of minor child S.G., filed a petition of appeal with the Commissioner of Education, Office of Controversies and Disputes. On July 18, 2024, respondent filed its answer. On July 23, 2024, the case was transmitted to the Office of Administrative Law as a contested case under N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

On August 28, 2024, a prehearing conference was held, and I entered an order outlining the deadlines for discovery and motions for summary decision. On October 11, 2024, respondent filed a motion for summary decision. On November 10, 2024, petitioner filed its opposition. On November 25, 2024, respondent filed its reply and I closed the record.

### **FINDINGS OF FACT**

Based upon the documents the parties submitted, and my assessment of their sufficiency, I **FIND** the following **FACTS**:

Bergenfield Board of Education is the public school district for the Borough of Bergenfield, New Jersey. It operates seven public schools, including five elementary schools, a middle school, and a high school. It enacted District Policy 5512, Harassment, Intimidation, and Bullying, in 2007 to comply with the New Jersey Anti-Bullying Bill of Rights. N.J.S.A. 18A:37-13, et seq.

On March 6, 2024, S.G. was in the second grade at Jefferson Elementary School. During the lunch recess, S.G. noticed that her toy magnifying glass from her Lego house was missing. Another student, the victim, had the toy magnifying glass in her Lego house.

S.G. and her friend, Student 4, approached the victim and asked her to return it. The victim was with her friend, Student 3. When the victim did not return it, S.G. started calling the victim, “stealer.” S.G. continued to call the victim “stealer” more than twenty times. The victim asked S.G. to stop, but S.G. did not. S.G. continued calling the victim “stealer” and moved closer and closer to the victim. The victim and Student 3 began crying.

The lunch monitor, Martinez, approached the four students, S.G, Student 4, the victim, and Student 3, and separated them. Martinez sent the four students to the principal’s office. The victim and her friend, Student 3, were crying.

On March 7, 2024, the parent of the victim, filed a HIB 338 Form requesting an investigation of the incident. The HIB 338 Form stated that the victim was called names over a period of months and was fearful of going to school.

Stephanie Rossi is the Anti-Bullying Specialist at Jefferson Elementary School. Upon receipt of the HIB 338 Form, Rossi interviewed the four students and Martinez. Martinez confirmed that there was an incident on March 6, 2024, between the four students, and that the victim and her friend were crying. Martinez also confirmed that she witnessed S.G. yelling in the face of the victim and that she sent all four students to the principal’s office.

Rossi interviewed Student 2, a witness to the incident, who confirmed that S.G. was yelling at the victim and accused her of stealing things from S.G. Student 2 had previously heard S.G. call the victim “fat.”

Rossi interviewed the victim’s friend, Student 3, who confirmed that S.G. called the victim “ugly” and “fat” and tried to get her to stop being friends with the victim. Student 3 also confirmed that S.G. is rude to the victim.

Rossi interviewed S.G.’s friend, Student 4. Student 4 confirmed that S.G. demanded the return of the toy magnifying glass, that S.G. was yelling at the victim, and that the victim began crying. S.G. called the victim “stealer” multiple times and got closer and closer to the victim as she called her “stealer.” Student 4 was not yelling at the victim.

Student 4 confirmed that S.G. did call the victim names but could not recall what the names were.

Rossi interviewed S.G. who confirmed that she did in fact yell at the victim. S.G. did not confirm that she called the victim any names. S.G. confirmed that she demanded the return of the toy magnifying glass and that the victim was crying when she demanded the return of the item.

Rossi interviewed the victim who confirmed that S.G. called her “stealer” more than twenty times. The victim asked them to stop. The victim confirmed that S.G. and Student 4 kept getting closer and closer to her and she started to cry. The victim stated that she was “fearful” of what S.G. and Student 4 would do. The victim also confirmed that after student counseling, things were better between all the students involved.

After her investigation, Rossi concluded that the incident on March 6, 2024, substantially disrupted or interfered with the orderly operation of the right of the victim; S.G. knew the action would physically or emotionally cause harm to the victim; the victim was fearful of physical or emotional harm; the incident insulted or demeaned the victim; the incident interfered with the victim’s education; the incident caused a hostile educational environment; and the incident was motivated by the victim’s appearance. Given the age of the students involved, and the circumstances of the incident, Rossi recommended student counseling with periodic check-ins.

At the conclusion of her investigation, Rossi filed her report with the Superintendent. On April 30, 2024, the Superintendent adopted the findings, conclusions, and recommendations of the report and informed the petitioners that they may request a hearing before the Board regarding those findings. Petitioner did not request a hearing. On May 20, 2024, the Board affirmed the Superintendent’s recommendation.

### **CONCLUSIONS OF LAW**

Summary decision “may be rendered 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). This rule is substantially like the summary judgment rule embodied in the N.J. Court Rules, R. 4:46-2. See Judson v. Peoples Bank & Trust Co. of Westfield, 17 N.J. 67, 74 (1954). All inferences of doubt are drawn against the party filing the motion and in favor of the party against whom the motion is directed. Id. at 75. The judge’s function is to determine whether there are genuine issues of fact to be adjudicated. Brill v. Guardian Life Ins. Co., 142 N.J. 520 (1995).

Having read the briefs and certifications and having reviewed the exhibits, I **CONCLUDE** that no issues of material fact exist, and that the case is ripe for summary decision.

The Anti-Bullying Bill of Rights Act (“Act”), N.J.S.A. 18A:37-13 et seq., is designed “to strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying [HIB] of students that occur in school and off school premises.”

A finding of HIB requires three elements. First, the conduct must be reasonably perceived as being motivated by any actual or perceived enumerated characteristic or other distinguishing characteristic. Second, the conduct must substantially disrupt or interfere with the rights of other students or the orderly operation of the school. Third, one of the three criteria enumerated in the Act regarding the effect of the conduct must also be satisfied. N.J.S.A. 18A:37-14. The conduct must also take place on school property, at a school-sponsored function, on a school bus, or off school grounds as provided for in N.J.S.A. 18A:37-15.3. Finally, HIB means any gesture, any written, verbal or physical act, or any electronic communication that “a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student,” “has the effect of insulting or demeaning any student,” or “creates a hostile educational environment.” N.J.S.A. 18A:37-14.

When a local board of education acts within its discretionary authority, its decision is entitled to a presumption of correctness and will not be disturbed unless there is an

affirmative showing that the decision was “patently arbitrary, without rational basis or induced by improper motives.” Kopera v. W. Orange Bd. of Educ., 60 N.J. Super. 288, 294 (App. Div. 1960). Furthermore, “where there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration,” and the commissioner will not substitute his judgment for that of the board. Bayshore Sewerage Co. v. Dep’t of Env’t. Prot., 122 N.J. Super. 184, 199 (Ch. Div. 1973).

The incident took place between four seven-year-olds. It was a dispute over a toy magnifying glass. The dispute escalated to name calling, “stealer” and “fat”, eventually causing the victim and her friend to cry. Martinez intervened and sent the students to the principal’s office. As a result of the incident, the parents of the victim requested an investigation. Rossi was immediately informed and began a complete and thorough investigation of the incident. During the investigation, Rossi confirmed that the incident did in fact take place, that there had been incidents of name calling, that there were witnesses to the incident and other incidents, that the victim was crying, and that the victim was fearful to return to school. Rossi concluded that there was an incident of HIB but that punishment was not warranted. Rossi recommended student counseling and periodic check-ins. The victim confirmed that the counseling and check-ins have helped and the environment at school has improved.

The Board complied with the statute. It retained an antibullying investigator, Rossi. The investigation took place within the required time frame and was reported to petitioners. The investigation concluded that there was a HIB but that punishment was not necessary. The recommendation of counseling and check-ins resulted in a much-improved school environment. The statute permits the Board to affirm, reject, or modify Rossi’s decision, which it did. Petitioners did not file an appeal before the Board.

Therefore, I **CONCLUDE** that there was a violation of ABBRA because there was a substantial disruption of the rights of the victim, S.G. knew her actions would cause the victim emotional harm, the victim was fearful, and it interfered with the victim’s education and the entire incident was motivated by the victim’s appearance. I **FURTHER**

**CONCLUDE** that the Board did not act arbitrarily, capriciously, or unreasonably in affirming the investigation report.

**ORDER**


I **ORDER** that respondent's motion for summary decision is **GRANTED**.

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](mailto: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.

January 3, 2025  
\_\_\_\_\_  
DATE

  
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**PATRICE E. HOBBS, ALJ**

Date Received at Agency:

January 3, 2025  
\_\_\_\_\_

Date Mailed to Parties:  
Isr

January 3, 2025  
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## **APPENDIX**

### **Moving Papers for Petitioner:**

Cross Motion for Summary Decision, dated 11/10/24

### **Moving Papers for Respondent:**

Motion for Summary Decision with Brief with Exhibits A-C, dated 10/11/24

Respondent's Reply, dated 11/25/24

## **EXHIBITS**

### **For Petitioner**

None

### **For Respondent:**

Certification of Stephanie Rossi with Exhibits:

R-A HIB 338 Form, dated 3/7/24

R-B HIBster Report, dated 3/25/24

Certification of Christopher Tully with Exhibits:

R-A ABBRA Board Policy 5512.01

R-B Tully letter to J.G., dated 4/30/24

R-C Tully letter to J.G., dated 5/21/24