



State of New Jersey

DEPARTMENT OF EDUCATION

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PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

KEVIN DEHMER
Commissioner

April 7, 2025

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Re: A'Dorian Murray-Thomas v. Board of Education of the City of Newark, Essex County, Roger Leon, and Brenda Liss, Agency Dkt. No. 397-12/24, Commissioner Decision No. 57-25E, and Crystal Williams v. Board of Education of the City of Newark, Essex County, Roger Leon, and Brenda Liss, Agency Dkt. No. 398-12/24, Commissioner Decision No. 58-25E

Dear Counsel:

The Commissioner has reviewed the materials filed in connection with petitioners' Motion for Reconsideration of the Commissioner's Orders on Emergent Relief issued February 24, 2025 in the above-captioned matters, which have since been consolidated by the Office of Administrative Law (OAL).

Pursuant to *N.J.A.C.* 6A:3-1.15(b)(2), a motion for reconsideration shall be considered based upon the following:

- i. Claim(s) of mistake, provided, however, that disagreement with the outcome of a decision, or with the analysis upon which it is based, shall not constitute "mistake" for purposes of this section;

- ii. Newly discovered evidence likely to alter the outcome of a matter, where such evidence could not have been previously discovered by due diligence;
- iii. Newly ascertained misrepresentation or other misconduct of an adverse party, where such misrepresentation could not have been previously known; or
- iv. Reversal of a prior judgment on which the present matter is based.

Upon review and consideration, the Commissioner finds that petitioners have failed to satisfy any of the factors set forth in *N.J.A.C. 6A:3-1.15(b)(2)*. Petitioners are merely expressing disagreement with the outcome of the case and the analysis on which the Commissioner's Orders were based, which is not a sufficient basis for reconsideration.

Petitioners argue that the Commissioner incorrectly relied on *Robert Curcio v. Bd. of Educ. of the South Orange-Maplewood School District, Essex Cty.*, OAL DKT. NO. EDU 04142-24 (Initial Decision May 22, 2024), *adopted*, Commissioner Decision No. 239-24 (June 24, 2024). According to petitioners, in *Curcio*, the board of education paid for Curcio's legal defense throughout the course of the proceedings, making it distinguishable from petitioners' circumstances. Petitioners are correct that the Administrative Law Judge (ALJ) concluded that for this reason, Curcio had suffered no hardship and therefore failed to meet factor two of the ripeness test, which addresses the hardship to the parties if judicial review is withheld. *Curcio*, Initial Decision at 6 (citing *K. Hovnanian Cos. of N. Cent. Jersey, Inc. v. N.J. Dep't of Env'tl. Prot.*, 379 N.J. Super. 1, 9 (App Div. 2005)). However, the ALJ also concluded that Curcio's claim for indemnification failed factor one of the ripeness test, because it was not fit for judicial review at that time, as "proper judicial review requires additional factual development around one very important question: whether Curcio was acting within the scope of his employment when he committed the acts alleged in the complaint." *Id.* at 6-7. The Commissioner agreed that Curcio's claim was not ripe for review because "the facts have yet to be developed and it is not possible at this stage in the proceedings to determine whether [Curcio] was acting within the scope of his employment." *Curcio*, Commissioner Decision, at 1. Here, petitioners' claims for indemnification fail factor one of the ripeness test for the same reason Curcio's claim did.

The Commissioner further rejects petitioners' argument that they are not seeking "full" or "future" indemnification, unlike Curcio, but are only seeking "concurrent indemnification." A review of the record demonstrates that petitioners are seeking an order that they "continue to be entitled to payment of all reasonable counsel fees and expenses." *Murray-Thomas*, Petition at 6;

Williams, Petition at 12.¹ The Commissioner cannot construe this request for relief as anything other than a request that the Newark Board of Education (Board) pay all of petitioners' legal bills during the course of the ethics proceedings – a request that, by definition, includes bills that petitioners will submit in the future.

Finally, the Commissioner rejects petitioners' argument that the Board has not disputed that their conduct arose out of and in the course of performing their duties as board members, thereby entitling them to indemnification. The authority to make the final determination regarding whether petitioner was acting out of and in the course of the performance of her duties as a member of the Board belongs to the Commissioner, not the Board. And, as the Commissioner concluded in the Orders on Emergent Relief, further proceedings are required to make that determination.

Accordingly, the Motion for Reconsideration is hereby denied.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Dehmer', with a stylized flourish at the end.

Kevin Dehmer
Commissioner

KD/JS

116-25L

¹ The Commissioner notes that the petition in *Curcio* used similar language, seeking as relief “continued representation” throughout the proceedings. *Curcio*, Petition at 5.