

New Jersey Commissioner of Education
Final Decision

Y.H. and S.H., on behalf of minor child, A.H.,

Petitioners,

v.

Board of Education of the Township of West
Orange, Essex County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by petitioners pursuant to *N.J.A.C. 1:1-18.4*, and the reply thereto filed by respondent, West Orange Board of Education (Board), have been reviewed and considered.

Petitioners challenge the Board’s determination that their minor child, A.H., committed an act of harassment, intimidation, or bullying (HIB) against a fellow classmate. It is undisputed that on May 7, 2024, the Superintendent issued a letter to petitioners notifying them that the district had found evidence that A.H. committed HIB. The letter also informed petitioners of their right to request a hearing before the Board if they disagreed with the HIB findings. *See The Anti-Bullying Bill of Right Act (Act)*, *N.J.S.A. 18A:37-15(b)(6)(d)* (stating that a parent “may request a hearing before the board” and the “hearing shall be held within 10 days of the request . . . At the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such

incidents.”). On June 14, 2024, petitioners sent a letter to the Superintendent requesting a hearing. On June 17, 2024, the Board held a meeting and affirmed the Superintendent’s HIB determination. Petitioners did not appear before the Board during this meeting, nor were they afforded a hearing before the June 17, 2024 determination. The Board concedes that it did not hold a hearing and requests a remand to conduct the hearing. Petitioners oppose a remand and seek reversal of the Board’s determination. Petitioners also seek expungement of the HIB charge from A.H.’s record.

The Administrative Law Judge (ALJ) granted the Board’s request for a remand. In reaching her determination, the ALJ distinguished the instant matter from *Sadloch v. Bd. of Educ. of the Twp. of Cedar Grove* – the case petitioners rely on to support their argument for dismissal of the HIB charge. OAL Dkt. No. EDU 00619-14, Initial Decision (March 26, 2015), *adopted*, Commissioner Decision No. 216-15 (June 23, 2015). In *Sadloch*, the ALJ concluded that the Board failed to adhere to the procedural requirements under the Act. The Commissioner agreed with the ALJ’s conclusions and ordered removal of any reference to HIB from the petitioners’ records. Specifically, the Commissioner concurred with the ALJ’s decision not to remand the matter for a hearing because, given the state of the record and the lack of documentation by the Board, there could not be a proper determination as to whether an act of HIB was committed.

Here, the ALJ concluded that, unlike *Sadloch*, there is no lack of documentation or inability to reach a determination about whether A.H. committed HIB. The ALJ reasoned that the Board’s HIB Report Executive Summary references specific statements made by A.H., explains why those statements constitute HIB conduct, and mentions that five witnesses heard A.H. make some of the statements. Ultimately, the ALJ concluded that because there is ample information in the

record to decide the HIB charge, and because petitioners did not receive a hearing before the Board, the appropriate remedy is a remand to the Board for a hearing under *N.J.S.A. 18A:37-15(b)(6)(d)*.

Petitioners take exception to the ALJ's decision to remand the matter and ask the Commissioner to render a final decision in their favor. Petitioners contend that remand is an ineffective remedy here because the information presented at the OAL was already known to the Board, and is the same information that they would have presented at the Board hearing had they been given the opportunity. Petitioners further contend that the ALJ erred in deciding on only the due process issue when their petition also sought summary judgment on claims that the (1) the Board failed to conduct a fair investigation, resulting in a determination that is arbitrary, capricious, and unreasonable; and (2) the Board failed to distinguish on-going mutual conflict between students from HIB. In addition, petitioners reiterate case law (including *Sadloch*) they cited in papers previously considered by the ALJ, to support their contention that the Board's determination was arbitrary, capricious, and unreasonable. Lastly, petitioners contend that the Board's scheduled hearing on remand is more than 10 days after the ALJ's order requesting a remand, in violation of *N.J.S.A. 18A:37-15(b)(6)(d)*.

In reply, the Board contends that the ALJ correctly distinguished *Sadloch* from the instant matter. The Board further contends that, unlike in *Sadloch*, the HIB incidents here were investigated thoroughly and the record is clear; therefore, a determination as to whether A.H. committed HIB can be made. The Board argues that when a Board of Education commits a procedural deficiency, the matter is either remanded to the Board for a hearing or allowed to proceed in the OAL for a full evidentiary hearing. The Board concedes that it did not provide

petitioners a hearing and contends that, given the circumstances, the ALJ's order for a remand to the Board for a hearing is appropriate.

Upon review the Commissioner concurs with the ALJ – for the reasons stated in the Initial Decision – that, given the ample information on the record to make a determination on the HIB charge, and because petitioners did not receive a hearing before the Board, the appropriate remedy in the instant matter is a remand to the Board. The Commissioner is not persuaded by petitioners' exceptions. Although the Commissioner finds that the Board failed to meet the procedural requirements of the Act by not providing petitioners with a hearing, the appropriate remedy here is a remand. *See Stephen Gibble v. Bd. of Educ. of the Hunterdon Central Reg'l Sch. Dist., Hunterdon Cnty*, Commissioner Decision No. 254-16 (July 13, 2016) at 5 (rejecting the ALJ's conclusion that petitioner is entitled to summary decision and expungement of HIB references from his file due to the Board's failure to provide petitioner a hearing pursuant to *N.J.S.A. 18A:37-15b(6)(d)*, and remanding matter to the Board for a hearing). Should the Board affirm its HIB decision at or after that hearing, petitioners may file a new petition of appeal.

Accordingly, the Initial Decision is adopted as the final decision in this matter. This matter is remanded to the Board.

IT IS SO ORDERED.¹


COMMISSIONER OF EDUCATION

Date of Decision: June 9, 2025
Date of Mailing: June 9, 2025

¹ 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

OAL DKT. NO. EDU 16382-24

AGENCY DKT. NO. 309-9/24

**Y.H. AND S.H. ON BEHALF OF MINOR
CHILD, A.H.,**

Petitioners,

v.

**TOWNSHIP OF WEST ORANGE BOARD
OF EDUCATION,**

Respondent.

Y.H. and S.H. on behalf of A.H., pro se

Alessia Alkhoury, Esq., for respondent (Cleary, Giacobbe, Alfieri & Jacobs,
attorneys)

Record Closed: March 10, 2025

Decided: March 21, 2025

BEFORE **ANDREA PERRY VILLANI, ALJ:**

STATEMENT OF THE CASE

The West Orange Board of Education (Board) concedes that Y.H. and S.H., parents of minor student A.H., did not receive a proper hearing before the Board on the harassment, intimidation, and bullying (HIB) charge brought against A.H. The Board requests a remand to conduct the hearing.

PROCEDURAL HISTORY

On June 17, 2024, the West Orange Board of Education (Board) found that minor student, A.H., committed harassment, intimidation, or bullying (HIB) in violation of the Anti-Bullying Bill of Rights Act (ABRA).

On September 19, 2024, A.H.'s parents, Y.H. and S.H., filed a Petition on A.H.'s behalf with the Commissioner of Education appealing the Board's determination that A.H. committed HIB.

On September 25, 2024, the Board filed a Motion to Dismiss in lieu of an answer, and on October 4, 2024, Y.H. and S.H. filed an objection to the Motion to Dismiss.

On November 19, 2024, the New Jersey Department of Education, Office of Controversies and Disputes, transmitted the matter as a contested case to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23.

On January 21, 2025, I denied the Board's Motion to Dismiss.

On February 21, 2025, I conducted a telephone prehearing conference. During the conference, counsel for the Board requested that I remand the case to the Board for a hearing under N.J.S.A. 18A:37-15b(6)(d). Y.H. and S.H. objected and requested that I enter summary decision in their favor. I allowed Y.H. and S.H. to submit a case they believe supports their position, which they did. The Board filed a response on February 28, 2025, Y.H. and S.H. filed a reply on March 10, 2025 (dated March 7, 2025), and I closed the record.

FINDINGS OF FACT

The following is undisputed, so I **FIND** as **FACT**:

On May 6, 2024, the Superintendent of West Orange Public Schools presented a HIB Report to the Board stating that A.H. committed HIB against classmate, A.T., during the school breakfast program. (P-2, P-5.) A summary of the report states that A.H. made the following statements to A.T.: “you caused an earthquake”; “you look like an elephant”; “you are stupid”; “you deserve to die”; “you look like a monkey”; “you have a jungle on your head” (referring to the way A.T. wears his hair); and, “you are built like a one by one Lego piece.” (P-5.) According to the Summary Report, the HIB was discovered when a teacher noticed A.T. crying, and A.T. asked to speak to the teacher away from the other students. (P-5.) The Summary Report also states that at least five witnesses corroborated some of the statements made by A.H. to A.T. (P-5.)

On May 7, 2024, the Superintendent issued a letter to Y.H. and S.H. notifying them that the District investigated and found evidence that their child, A.H., committed HIB. (P-6.) The letter advised Y.H. and S.H. of their right to request a hearing before the Board. (P-6.) The letter further advised that, if Y.H. and S.H. disagree with the Board’s decision, they may appeal to the Commissioner of Education. (P-6.)

On June 14, 2024, Y.H. and S.H. wrote a letter to the Superintendent requesting a hearing before the Board. (P-7.)

On June 17, 2024, the Board held a meeting and affirmed the Superintendent’s decision that A.H. committed HIB. (P-3.) Y.H. and S.H. did not appear at this meeting, and the Board concedes that it did not hold a hearing at this meeting.

CONCLUSIONS OF LAW

The Anti-Bullying Bill of Rights Act (ABRA), 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. N.J.S.A. 18A:37-13.1(f). With respect to hearings, ABRA holds that parents of a child accused of HIB may request a hearing before the local board of education, and it shall be held within ten days of the request. N.J.S.A. 18A:37-15b(6)(d). At the hearing, the board may hear from the school’s anti-bullying

specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents. Id.

In this case, Y.H. and S.H., the parents of A.H., requested a hearing on June 14, 2024. Then, the Board held a meeting to address A.H.'s HIB case on June 17, 2024, only three days later. However, the Board concedes that the meeting did not constitute a proper hearing. Indeed, Y.H. and S.H. did not attend the meeting and maintain they were not aware of it. The Board requests a remand to conduct the hearing.

Y.H. and S.H. object to a remand, arguing that I should instead enter summary decision in their favor and direct the school to remove any reference to HIB from their son's records. In support of their argument, Y.H. and S.H. rely on Sadloch v. Cedar Grove Bd. of Educ., EDU 00619-14, Initial Decision (March 26, 2014), adopted, Comm'r (June 23, 2015), <<http://njlaw.rutgers.edu/collections/oal/>>.

In Sadloch, the Administrative Law Judge (ALJ) ordered a school to delete HIB charges from the personnel and volunteer files of petitioning football coaches. Due to a lack of documentation by the Board and conflicting reports, the ALJ and football coaches were "perplexed as to the basis of the HIB charge" against them. Indeed, even District personnel "were not entirely sure which coaches engaged in HIB, or why they thought that they did so." The Commissioner agreed with the ALJ's decision not to remand the case for a hearing because, "in light of the lack of documentation and the state of the record, there could not be a proper determination as to whether there was an act of HIB committed."

In this case, there is no lack of documentation or inability to reach a determination, and it is therefore distinguishable from Sadloch. The District HIB Report Executive Summary (P-5) references specific statements made by A.H.; explains why those statements constitute HIB; and notes that at least five witnesses heard A.H. making some of the statements. Thus, the HIB charge against A.H. should not be expunged from his records at this time, and the case should instead proceed to a hearing:

The proper remedy under the totality of the circumstances is a remand to the Board so that it may afford [the petitioner] a proper measure of due process. This case is readily distinguishable from Sadloch, where the Commissioner determined that violations of due process warranted dismissal of charges against petitioning football coaches...[T]he relief fashioned in Sadloch was based on a unique set of circumstances, and a “state of the record in that case that made it impossible for a determination to ever be reached.” Gibble v. Hunterdon Central Bd. of Educ., EDU 02767-15, Final Decision (July 13, 2016). Not so here. The Investigatory Report shared here reveals that the anti-bullying specialist conducted a comprehensive investigation and interviewed numerous witnesses.

[Young-Edri v. Elizabeth Bd. of Educ., EDU 17812-18, Initial Decision (May 30, 2019), adopted, Comm’r (July 8, 2019), <<http://njlaw.rutgers.edu/collections/oal/>>.]

Because there is ample information in the record to make a determination on the HIB charge against A.H., but also because the petitioners did not receive a hearing before the Board on the HIB charge, I **CONCLUDE** that the appropriate remedy in this case is a remand to the Board.

ORDER

Based on the foregoing, I **ORDER** that the Board’s request is **GRANTED** and this case is **REMANDED** to the local Board of Education for a hearing under N.J.S.A. 18A:37-15b(6)(d).

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

This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this case. If the 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 becomes a final decision under N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision is mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



March 21, 2025

DATE

ANDREA PERRY VILLANI, ALJ

Date Received at Agency:

March 21, 2025

Date Mailed to Parties:

March 21, 2025

sej

APPENDIX

DOCUMENTS RELIED ON:

Petitioners' September 19, 2024 Pro Se Petition of Appeal

Exhibit P-1 West Orange District Policies

Exhibit P-2 May 6, 2024 Board Meeting Agenda and Minutes

Exhibit P-3 June 17, 2024 Board Meeting Agenda and Minutes

Exhibit P-4 July 22, 2024 Board Meeting Agenda and Minutes

Exhibit P-5 HIB Report Executive Summaries

Exhibit P-6 May 7, 2024 Superintendent Letter to Petitioners

Exhibit P-7 June 14, 2024 Letter from Petitioners to Superintendent

Exhibit P-8 Emails to/from Petitioners and School

Exhibit P-9 HIB Reporting Form

Petitioners' February 25, 2025 Submission

Respondent's February 28, 2025 Response

Petitioners' March 10, 2025 Response (dated March 7, 2025)