

302-25

OAL Dkt. Nos. 14776-24, 14924-24, and 14925-24 (Consolidated)

Agency Dkt. Nos. 292-9/24, 293-9/24, and 294-9/24

**New Jersey Commissioner of Education**

**Final Decision**

Dominic Pugliese,

Petitioner,

v.

Dr. Kim Gruccio, Superintendent, Board of  
Education of the Township of Egg Harbor, Atlantic  
County,

Respondent.

AND

Dominic Pugliese,

Petitioner,

v.

Board of Education of the Township of Egg  
Harbor, Atlantic County,

Respondent.

AND

Dominic Pugliese,

Petitioner,

v.

Patrick Ireland, Board Member, Board of  
Education of the Township of Egg Harbor, Atlantic  
County,

Respondent.

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

Petitioner operates a non-profit, Bags Against Bullies (BAB), that previously donated items to the Egg Harbor Board of Education (Board) at no cost to the Board, in connection with a kindness or empathy initiative implemented in some schools in the district.<sup>1</sup> In 2024, the Board decided to no longer accept donations from BAB. In response, petitioner sought a meeting before the Board pursuant to Board Policy 9130, which states, “A matter that cannot be resolved informally may be appealed at successive levels of authority, up to and including the Board of Education.” On August 22, 2024, the Board’s Business Administrator, Daniel Smith, informed petitioner that the Board had responded to his appeal request. An appeal was scheduled before an ad-hoc committee. Petitioner requested the names of the individuals on the ad-hoc committee and anyone else who would be attending the meeting. Petitioner also inquired about remote attendance. Smith responded with the name of the ad-hoc committee members, which included the superintendent of schools. On August 29, 2024, petitioner sent an email to the Board informing them that he was abandoning his appeal.

On September 6, 2024, Petitioner filed three petitions with the Office of Controversies and Disputes, which were later consolidated at the OAL. Petitioner challenges the actions respondents have taken regarding BAB. Respondents filed a motion to dismiss, contending that petitioner has failed to state a cause of action over which the Commissioner of Education has jurisdiction. Respondents further contended that, on its face, the petition does not set forth a basis for relief. The

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<sup>1</sup> There is no indication in the petition or Motion to Dismiss that Bags Against Bullies had a contractual relationship with the Board.

Administrative Law Judge (ALJ) granted respondents' motion to dismiss, deeming the matter moot given the lack of a clear and direct petition, and petitioner's unrefuted statement that he had abandoned his appeal before the Board.

Petitioner takes exception to the ALJ's factual finding that "District administration made a decision at some point to not accept the nonprofit's donations in 2024, though the District continued to implement its related initiatives." Initial Decision at 3. Petitioner argues that the Board did not permit the use of BAB's donations or its related initiatives. Petitioner contends that the Initial Decision failed to include important emails and information such as petitioner's request that BAB members be afforded remote access to the meeting before the ad-hoc committee. Petitioner further contends that the Initial Decision should have included an explanation as to why petitioner abandoned his appeal before the Board. Petitioner explains that he abandoned his grievance because the Board denied (1) his request for remote access to the meeting to accommodate certain BAB members and (2) his request that Superintendent, Dr. Kim Gruccio, be excluded from the appeal process. Lastly, petitioner takes exception to the consolidation of the cases, which he alleges "may have limited the ability to provide relief." Petitioner requests a chance to speak with Board members about issues concerning the school district.

In reply, respondents contend that petitioner's exceptions have no bearing on the ALJ's ultimate conclusion that the matter was ripe for dismissal. Respondent further contend that petitioner has advanced no cognizable claim against the Board or Dr. Gruccio. Respondents argue that the Commissioner has no jurisdiction over the alleged ethical violations of respondent, Patrick Ireland, and contend that petitioner should have pursued those issues through the School Ethics Commission. Respondents also contend that the petitions were ripe for dismissal as untimely under *N.J.A.C. 6A:3-1.3* because petitioner became aware of Board's decision to no longer accept BAB

donations in February or March of 2024, and the petitions were filed in September of 2024. Lastly, respondents argue that consolidation saved petitioner's claims against Dr. Gruccio and Mr. Ireland from dismissal from failing to name the Board as an indispensable party.

Upon review, the Commissioner concurs with the ALJ – for the reasons stated in the Initial Decision – that given the unrefuted statement that petitioner abandoned his appeal before the Board and considering the lack of a clear and direct petition, respondents' request for dismissal should be granted. The Commissioner is not persuaded by petitioner's exceptions. To start, Petitioner does not challenge the ALJ's finding that he abandoned his appeal before the Board; rather petitioner takes exception to the ALJ's omission of the reasons why petitioner made said choice. Petitioner fails to show how including this information in the ALJ's fact findings would have impacted the ALJ's decision to grant dismissal. Furthermore, petitioner alleges that the consolidation of the matters may have limited the ability to provide relief but offers no further explanation or facts to support his claim. As the ALJ correctly noted, petitioner's contention in these matters is not clear. Petitioner advances no cognizable claim under the school laws and as such, the matter should be dismissed.

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>2</sup>



COMMISSIONER OF EDUCATION

Date of Decision: June 13, 2025  
Date of Mailing: June 16, 2025

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<sup>2</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**

**MOTION TO DISMISS**

**DOMINIC PUGLIESE,**

Petitioner,

**v.**

**DR. KIM GRUCCIO, SUPERINTENDANT,  
AND THE TOWNSHIP OF EGG HARBOR,  
BOARD OF EDUCATION, ATLANTIC COUNTY,**

Respondents,

**AND**

OAL DKT. NO. EDU 14776-24

AGENCY DKT. NO. 292-9/24

**DOMINIC PUGLIESE,**

Petitioner,

**v.**

**TOWNSHIP OF EGG HARBOR BOARD OF  
EDUCATION, ATLANTIC COUNTY,**

Respondent,

**AND**

OAL DKT. NO. EDU 14924-24

AGENCY DKT. NO. 294-9/24

**DOMINIC PUGLIESE,**

Petitioner,

**v.**

**PATRICK IRELAND, BOARD MEMBER,  
TOWNSHIP OF EGG HARBOR BOARD OF  
EDUCATION, ATLANTIC COUNTY,**

Respondents.

OAL DKT. NO. EDU 14925-24

AGENCY DKT. NO. 293-9/24

**(CONSOLIDATED)**

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**Dominic Pugliese,** petitioner, pro se

**Amy Houck Elco, Esq.**, for respondents, Patrick Ireland, Dr. Kim Gruccio, and Township of Egg Harbor, Board of Education (Cooper Levinson, P.A., attorney)

Record Closed: January 22, 2025

Decided: March 21, 2025

BEFORE **CARL V. BUCK III**, ALJ:

### **STATEMENT OF THE CASE**

Petitioner, Dominic Pugliese (Pugliese or petitioner), challenges the action(s) of respondents Dr. Kim Gruccio, Superintendent (Gruccio or Superintendent), Patrick Ireland, Board Member (Ireland or Member) and Township of Egg Harbor Board of Education (Board or BOE), in their individual capacities taken in regard to what is characterized as a “local anti-bullying charity”. Petitioner filed three actions as captioned above with the State of New Jersey, Department of Education (DOE or State). As these matters arise from similar facts and circumstances, the matters were consolidated by **ORDER** issued March 21, 2025.

### **PROCEDURAL HISTORY**

The matters stem from three complaints the petitioner filed with the DOE; all filed on September 6, 2024. DOE transmitted the matters to the Office of Administrative Law (OAL) pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13, where they were filed on October 8, 2024, and October 9, 2024, respectively, for determination as contested cases. Prehearing conferences were held with the parties during which, counsel for respondents indicated they wished to file a motion to dismiss petitioner’s complaints. Pursuant to a briefing schedule established with the parties, respondents’ motion was filed on December 20, 2024. Petitioner’s response to respondents’ motion was received. The parties requested oral argument on the motion which was held via the ZOOM platform on January 14, 2025. After oral argument on the motion, the parties were

afforded the opportunity to make a supplemental submission. Respondents made such submission on January 21, 2025. Petitioner made such submission on January 21, 2025. The record then closed on January 22, 2025.

### **FACTUAL DISCUSSION**

As the following facts are undisputed, I **FIND** the following **FACTS**:

1. Petitioner operates a non-profit that previously donated items to the District (at no cost for to the District) in return in connection with a kindness or empathy initiative implemented in some District schools.
2. District administration made a decision at some point to not accept the nonprofit's donations in 2024, though the District continued to implement its related initiatives.
3. After the administration's decision not to accept his donations, petitioner sought a meeting before the Board pursuant to Board Policy 9130.
4. Board Policy 9130 provides, in relevant part: "A matter that cannot be resolved informally may be appealed at successive levels of authority, up to and including the Board of Education."
5. On August 22, 2024, the Board's business administrator, Daniel Smith, advised petitioner that the Board responded to petitioner's appeal request. An appeal was scheduled before an ad-hoc committee.
6. In a response, dated August 23, 2024, petitioner asked for the names of the members of the ad-hoc committee who would be hearing his appeal, and whether anyone else would be attending the meeting and those attending remotely.

7. Smith replied, naming the members of the committee and additional individuals who would be in attendance, including himself, the superintendent of schools, and the Board's attorney.
8. Smith also notified petitioner that the committee would report back to the full Board at the September 17, 2024, Board meeting.
9. By email, dated August 29, 2024, petitioner advised the full Board that he was abandoning his grievance.
10. On or about September 6, 2024, petitioner filed three appeals with OCD each stating a basis for the appeal.
11. EEC 14776-24 states:

It seems the EHT school district didn't like that we were offering to talk to parents about bullying. Since then we've been targeted for the last 6 months, private communication was distributed, and now I have a frivolous harassment charge from a school board member. The school district is trying to use a lawsuit to silence us and get us to back down (bullet points in attachment).

We're still requesting a timeline and specific reasoning for the 'partnership' being terminated. They took our donations after saying this would be a long standing arrangement then immediately told the principals to disseminate to the staff not to use them. Additionally the school superintendent should not be divulging information from a private meeting with a school board member who then files a harassment charge the same day. The schools should be better than this.

12. EEC 14924-24 states:

The EHT Board of Education is not currently acting in the best interest of the community. We've had an ongoing dispute with the school district (as documented in a separate petition of appeal) to which they've been made aware. I requested multiple meetings per a policy we have and once one was granted they refused to meet without the superintendent



present which seems counterintuitive to the whole purpose of the appeal since her lack of actions are what was to be discussed. Our initial intent to be heard by the board members that the community elects would be great. The school district is going to great lengths to keep us silent regarding concerns around bullying in the district. Hearing out these issues, along with providing direction to the superintendent to respond to our complaint and resolution regarding our donations would be awesome for our organization.

13.EEC 14925-24 states:

Mr. Ireland is using his position as an EHT BOE member to take action against our organization and file a frivolous harassment complaint. In addition he was given information by our superintendent from a private meeting that he then took and filed a harassment charge the same day. He's used his "authority" as a board member to have me escorted away from a public board meeting even though I had no communication with him, sat in the back, and didn't speak at the meeting. Mr. Ireland should be removed from the Board of Education both in EHT and Atlantic County due to his actions. He's subjected himself to numerous code of ethics violations (which will be in a separate complaint with the NJ School Ethics Commission) in his dealings with the school administration by taking personal action to compromise the board, getting directly involved with activities/ functions that are the responsibility of school personnel, and filing police reports in attempts to silence our organization from looking into school issues.

### **DISCUSSION AND CONCLUSIONS OF LAW**

The first issue is whether the Commissioner of Education (Commissioner) and the OAL have jurisdiction to rule on school board controversies challenging the actions of a board administrator or a member of a board and actions they may or may not have taken.

The Commissioner has jurisdiction over all disputes arising under school laws.

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.

[N.J.S.A. 18A:6-9.]

Respondents seek dismissal of petitioner's appeals as "the petitioner has advanced no cause of action even if the petitioner's factual allegations are accepted as true or for lack of jurisdiction, failure to prosecute, or other good reason." N.J.A.C. 6A:3-1.5(g); N.J.A.C. 6A:3-1.10. Further, "the petition on its face fails to set forth a basis for relief". Sloan ex rel. Sloan v. Klagholtz, 342 N.J. Super. 385, 394 (App. Div. 2001).

The School Ethics Act (SEA) (N.J.S.A. 18A:12-21 et seq.) is intended to ensure that the conduct of school officials holds the respect and confidence of the people. SEA defines "school officials" as school board members, school administrators, charter school trustees, charter school administrators, and New Jersey School Boards Association officers and professional staff. N.J.S.A. 18A:12-23 and 23.1. Through the SEA, the Legislature declared that school officials must avoid conduct which is in violation of their public trust or which creates a justifiable impression that the public trust is being violated. Fisher v. Hamilton, 2013 N.J. Super. Unpub. LEXIS at \*11-12 (App. Div. July 12, 2013). Additionally, the Legislature determined that school administrators should "have the benefit of specific standards to guide their conduct and of some disciplinary mechanism to ensure the uniform maintenance of those standards among them." N.J.S.A. 18A:12-22(b). To accomplish its objectives, the Legislature established standards for conflicts of interest, N.J.S.A. 18A:12-24, and of ethical conduct, N.J.S.A. 18A:12-24.1, by which all school officials must abide. Among these standards, the SEA sets forth a Code of Ethics (N.J.S.A. 18A:12-24.1(a) through (j)), which applies to school Board members and charter school trustees.

A pro se petition for appeal with the Commissioner of Education must include "a statement of the specific allegation(s) *and essential facts supporting the specific allegation(s)* that have given rise to a dispute pursuant to the school laws." N.J.A.C. 6A:3-1.4(a)-(b) (emphasis added); Printing Mart-Morristown v. Sharp Electronics Corp., 116

N.J. 739, 746, 768 (1989) (“[T]he law is clear that the complaint must state ‘the facts on which the claim is based,’ R. 4:5-2, rather than relying on conclusory allegations.”); Bd. Of Educ. v. Repollet, No. A-1568-19, 2021 N.J. Super. Unpub. LEXIS 1955, at \*16-17 (App. Div. Sep. 1, 2021) (“The standards governing the grant or denial of a motion to dismiss for failure to state a claim in the administrative context are identical to those governing a similar motion in the Superior Court.”).

A respondent may file a motion to dismiss in lieu of an answer to a petition if “the petitioner has advanced no cause of action even if the petitioner’s factual allegations are accepted as true or for lack of jurisdiction, failure to prosecute, or other good reason.” N.J.A.C. 6A:3-1.5(g); N.J.A.C. 6A:3-1.10. The Commissioner should grant the motion when may “the petition on its face fails to set forth a basis for relief” and when the “petitioners have failed to provide any factual support for the general allegations of their petition.” Sloan ex rel. Sloan v. Klagholtz, 342 N.J. Super. 385, 394 (App. Div. 2001); see also State v. Cherry Hill Mitsubishi, 439 N.J. Super. 462, 467 (App. Div. 2015) (“Dismissal is the appropriate remedy where the pleading does not establish a colorable claim and discovery would not develop one.”); Sickles v. Cabot Corp., 379 N.J. Super. 100, 106 (App. Div. 2005) (“[A] court must dismiss the plaintiff’s complaint if it has failed to articulate a legal basis entitling plaintiff to relief.”); Tanner v. Cmty. Charter Sch. of Paterson, Passaic Cty., EDU 14408-15, initial decision (Mar. 23, 2016) (holding motion to dismiss should be granted when “the petitioner has advanced no cause of action even if the petitioner’s factual allegations are accepted as true”).

Review of a motion to dismiss “is limited to examining the legal sufficiency of the facts alleged on the face of the complaint.” L.P. v. Bd. of Educ., No. A-0161-16T4, 2018 N.J. Super. Unpub. LEXIS 1928, at \*15-17 (App. Div. Aug. 15, 2018); Printing Mart-Morristown v. Sharp Elec. Corp., 116 N.J. 739, 746 (1989). A reviewing court must “search[] the complaint in depth and with liberality to ascertain whether the fundament of a cause of action may be gleaned even from an obscure statement of claim.” If it cannot, dismissal is warranted. Green v. Morgan Props., 215 N.J. 431, 451 (2013); Rezem Family Assocs., L.P. v. Borough of Millstone, 423 N.J. Super. 103, 113 (App. Div. 2011); see also Sterling Educ. Ass’n v. Bd. of Educ. of Sterling Reg’l Sch. Dist., EDU 295-19, initial

decision (March 14, 2019) (noting Commissioner may dismiss petition prior to referring matter to OAL or transfer determination of motion to OAL).

When there is no meaningful relief that the Commissioner may grant a petitioner as a result of the petition, the petition must be dismissed. Parisi v. Bd. of Educ. of Saddle Brook, EDU 3673-99, Agency Dkt. No. 51-3/99, Final Decision (Jan. 3, 2020).

The contention of petitioner in these matters is not clear. His actions against the Board, Gruccio and Ireland appear to arise out of a situation where the District decided to no longer accept materials from petitioner's organization. Petitioner also states that his complaint against Ireland is related to a police action brought by Ireland. Further, on September 6, 2024, petitioner told District that he was abandoning his challenge to the District's actions.

Considering the lack of a clear and direct complaint, and unrefuted statement that petitioner abandoned his appeal on September 6, 2024, I **CONCLUDE** that this matter is moot and that respondents' request for dismissal should be **GRANTED**.

### **ORDER**

It is therefore **ORDERED** that respondents' motion to dismiss all three actions as detailed above are hereby **GRANTED**.

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 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 **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.



March 21, 2025

DATE

CARL V. BUCK III ALJ

Date Received at Agency:

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Date Mailed to Parties:

\_\_\_\_\_

CVB/tat

**APPENDIX**

**EXHIBITS**

**For petitioner**

Pro se petitions of appeal

Exhibits A - U

**For respondents**

Brief in support of motion to dismiss with exhibits