

New Jersey Commissioner of Education
Final Decision

M.H., on behalf of minor child, A.H.,

Petitioner,

v.

Board of Education of the City of Hoboken, Hudson
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 (ALJ) for the reasons stated in the Initial Decision that summary decision is appropriate because none of the material facts are disputed. Additionally, the Commissioner concurs with the ALJ for the reasons stated in the Initial Decision that petitioner failed to establish that respondent's denial of A.H.'s request to join the Hoboken High School Marching Band was arbitrary, capricious, or unreasonable.

Accordingly, the Initial Decision is adopted as the final decision in this matter, respondent's motion for summary decision is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.¹



COMMISSIONER OF EDUCATION

Date of Decision: August 26, 2026
Date of Mailing: August 26, 2026

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

MOTION SUMMARY DECISION

OAL DKT. NO. EDU 01911-26

AGENCY DKT. NO. 410-12/25

M.H. ON BEHALF OF MINOR CHILD, A.H.,

Petitioner,

v.

**BOARD OF EDUCATION, THE CITY
OF HOBOKEN, HUDSON COUNTY**

Respondent.

M.H., pro se, petitioner

David L. Disler, Esq., (Porzio, Bromberg & Newman, P.C., attorneys), for
respondent

Record Closed: July 13, 2026

Decided: July 16, 2026

BEFORE **JULIO C. MOREJON**, ALJ:

STATEMENT OF THE CASE

Petitioner, M.H., on behalf of minor child A.H. has filed a Petition of Appeal against Respondent, Board of Education of the City of Hoboken challenging their decision denying the A.H.'s request to join the Hoboken High School Marching Band.

PROCEDURAL HISTORY

On or about December 2, 2025, petitioner, M.H. on behalf of minor child, A.H. (student) filed a Petition of Appeal (Petition) with the Commissioner of the Department of Education (Commissioner), disputing the decision by the Board of Education of the City of Hoboken, (the Board) denying the student's participation in the Hoboken High School Marching Band (High School Band). Petitioner cites N.J.S.A. 18A: 6-9, and N.J.A.C. 6A:3-1.1, as their authority to bring the within action. In addition, the Petition requests the Commissioner to consider a controversy between Petitioner and the Board under N.J. S.A. 18A: 6-9.

On or about January 26, 2026, the Board filed an Answer to the Petition.

On February 2, 2026, the matter was transferred to the Office of Administrative Law (OAL) and filed therein as a contested matter. N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq.

On March 11, 2026, the Board filed a Motion for Summary Decision, arguing that the Board's denial of the student's request was a valid exercise of its discretionary authority. On March 18, 2026, petitioner filed a Cross-Motion for Summary Decision, arguing that: (1) the Board's claim that enrollment in Advanced Instrumental Music is required for participation in the High School Band is factually unsupported; (2) the Board's use of "co-curricular" to describe the High School Band is not legally distinct from "extracurricular"; (3) the Board's financial argument is unsupported by evidence; (4) the Board's individualized review of the student's request yielded a result indistinguishable from a blanket denial; and (5) the distinction between athletics and the arts does not provide a legitimate basis for denial.

On March 24, 2026, the Board filed a reply brief, arguing that: (1) the High School Band is not separate from the instrumental music curriculum, but rather an extension of it; (2) the Board's compliance with New Jersey State Interscholastic Athletic Association (NJSIAA) requirements regarding vocational student's does not establish a waiver of

discretion over non-athletic programming; (3) Petitioner mischaracterizes the Commissioner decision on which it primarily relies; and (4) the Board is not obligated to supplement the Hudson County Schools of Technology programming.

On March 24, 2026, petitioner requested leave of court to file a sur-reply. Petitioner was granted permission with the Board's consent and filed their sur-reply on March 31, 2026. Petitioner's sur-reply argues that the Board's inclusion of new factual information regarding Middle School student participation in the High School Band in their reply is inappropriate and disputed.

I closed the record July 13, 2026.

FINDINGS

The pleadings filed herein reveal facts in this matter that are generally undisputed. With some notable exceptions stated below, I **FIND** the following as **FACT** herein:

Petitioner is a resident of the City of Hoboken. (District Brief at 4) ¹ The attended Hoboken Public Schools through the eighth grade and participated in school band during that time. Id. In February 2025, the student expressed initial interest to the Band Director, Dave Stasiak (Stasiak), in joining the High School Band. Id. Stasiak provided the student with information regarding the necessary time commitments for the program via email on February 20, 2025. (Pet. Br., Ex. A).

In the Spring of 2025, the student elected to enroll in High Tech High School (High Tech), which is one of four schools in the Hudson County Schools of Technology (HCST) high school, providing an academic program in a technology-based environment. ² The

¹ Citations to the pleadings and exhibits will be referred to as follows: Petitioner's Brief will be Pet. Br., the District's Brief will be District Br.; Exhibits will be Ex.; Certifications will be Cert.

² High Tech High School, a public school of choice offered by the Hudson County Schools of Technology, provides the children of Hudson County with a challenging academic program in a technology-based environment. High Tech High School offers four comprehensive vocational programs of study: Architecture & Design (AACT), Performing Arts, Science Lab Technologies, and Technology & Visual Arts. (<https://hcstonline.org/>)

student chose to attend High Tech in lieu of attending Hoboken High School. Id. The student chose to attend High Tech because of its specialized Environmental Science program knowing that neither it nor any HCST school offered a marching band program, (Pet. Br.at 3).

On July 15, 2025, the student contacted Hoboken High School Principal Robin Piccapietra (Piccapietra) via email to request administrative permission to participate in the High School Band. (Pe.Br., Ex. L). In said email, the student stated that she was writing “at the request of Mr. Stasiak, who invited me to participate in Marching Band for the coming academic year.” (Pet. Br., Ex. L). The student is referring to an email from Stasiak dated February 20, 2025, which appears to be a form letter sent to all students that expressed interest in the High School Band. (Pet. Br. Ex. A). Stasiak’s February 20, 2025, email indicated that the time commitment for High School Marching Band begins with weekly practices “from March-May.” (Pet. Br. Ex. A).³ The student sent a follow-up email on July 21, 2025. Id. Piccapietra did not respond to either of these emails. (Pet. Br. at 3).

On August 18, 2025, the student contacted the Board via email again requesting to join the High School Band. (Pet. Br., Ex. B). On August 22, 2025, the Hoboken Public Schools Superintendent, Dr. Christine Johnson (Dr. Johnson), replied to the student’s email, scheduling a meeting for August 28, 2025, and noting that a decision would not be forthcoming until after the Board meeting on September 4, 2025. (Pet. Br., Ex. C). On August 28, 2025, the student met with Dr. Johnson. (Johnson Cert. at ¶17).

On September 12, 2025, Dr. Johnson notified the student via email that the Board had denied her request. (Pet. Br., Ex. D). Therein, Dr. Johnson cited the following reasons for the Board’s decision: (1) the student’s knowing selection of high school without a marching band program; (2) the availability of HCST’s Jazz Club and other music-related extracurriculars; (3) the Board’s established practice of not allowing High Tech student’s to participate in Hoboken High School Music and Theater Programs due

³ This commitment had already elapsed prior to the student’s initial request to Piccapietra on July 15, 2025. (Pet. Br., Ex. L).

to course requirements; (4) financial and logistical burdens because of the high number of Hoboken residents attending HCST schools; and (5) the competitive marching band season being well underway. (Pet. Br., Ex. D).

On September 14, 2025, the student contacted Stasiak via email, requesting information regarding “a mandatory marching band class.” (Pet. Br., Ex. E). Stasiak responded that while there is a “class that has some marching band kids in it,” “there is no marching band class,” and requested additional information about the student’s meeting with Dr. Johnson. Id. The student responded by requesting a syllabus for the class. Id. Stasiak responded noting that the syllabus was “available online” but that “most of the marching band is not in the class,” and reiterating his question about the meeting. Id.

On September 15, 2025, the student responded stating that they mostly discussed the mandatory marching band class and included a quote from Dr. Johnson’s email stating that the Board had “established courses that students must take within their years at Hoboken High School in order to participate. These courses require students to be enrolled with us.” Id.

Arguments

The student disputes the Board’s characterizations of: (1) the Advanced Instrumental Music course as being a requirement for participation in the Hoboken Marching Band; and (2) the availability of equivalent musical programming at HCST. (Pet. Br. at 3). These objections primarily address the reasoning for denial supplied by Dr. Johnson in her September 12, 2025, email. (Pet. Br., Ex. D).

In sur-reply, the student further disputed the Board’s characterization of the participation of certain Hoboken Middle School Band students in High School Band Activities, as described in the Certification of Dr. Johnson filed with the Board’s reply brief. (Pet. Sur-reply at 1-3).

LEGAL ANALYSIS AND CONCLUSIONS

I. Summary Decision standard.

A Motion for Summary Decision shall be granted “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(a). If “a Motion for Summary Decision is made and supported, an adverse party in order to prevail, must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” Ibid.

A Motion for Summary Decision before the OAL must be analyzed, “in accordance with the principles set forth by the New Jersey Supreme Court in Brill v. Guardian Life Insurance Company of America, 142 N.J. 520, 540 (1995).” Nat’l Transfer v. New Jersey Dep’t of Env’tl. Prot., 347 N.J. Super. 401, 408 (App. Div. 2002). A determination that there is a genuine issue of material fact requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. Brill, 142 N.J. at 540-41.

In order to defeat the motion, the opposing party must establish the existence of genuine disputes of material fact relevant to the case. The facts upon which the party opposing the motion relies to defeat the motion must be something more than “facts which are immaterial or of an insubstantial nature, a mere scintilla, ‘fanciful, frivolous, gauzy or merely suspicious.’” Brill. at 529 (citations omitted).

In this matter both parties have filed a motion for summary decision, requiring the same analysis under Brill for both as moving parties. For the reasons discussed below, this matter is ripe for summary decision

II. Arbitrary and Capricious standard.

In general, a board of education's actions "are entitled to a presumption of lawfulness and good faith." Shuster v. Bd. of Educ. Montgomery Twp., 1996 N.J. AGEN LEXIS 620, *35 (April 10, 1996) (citing Schnick v. Westwood Bd. of Educ., 60 N.J. Super. 448 (App. Div. 1960); Quinlan v. North Bergen Bd. of Educ., 73 N.J. Super. 40, 46 (App. Div. 1962)). Where board actions are challenged, the challenger bears the burden of proving that such actions were unlawful, arbitrary, capricious or unreasonable. Id.

The "arbitrary, capricious and unreasonable" standard of review imposes a heavy burden on challengers of board actions. This standard has been defined by the New Jersey courts as follows:

In the law, "arbitrary" and "capricious" means having no rational basis Arbitrary and capricious action of administrative bodies means willful and unreasoning action, without consideration and in disregard of circumstances. Where there is no room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion has been reached Moreover, the court should not substitute its judgement for that of an administrative or legislative body if there is substantial evidence to support the ruling.

[Piccoli v. Bd. of Educ. of Ramapo Indian Hills Regional School District, OAL DKT. EDU 1839-98 (January 22, 1999) (citing Bayshore Sewage Co. v. Dept. of Envir. Protection, 122 N.J. Super. 184, 199-200 (Ch. Div. 1973), *aff'd* 131 N.J. Super. 37 (App. Div. 1974)).]

Absent a clear showing of abuse of discretion, the Commissioner will not substitute his own judgment for that of the Board of Education. Massaro v. Bd. of Educ. of the Borough of Bergenfield, 1965 S.L.D. 84, 85. In Kopera v. Bd. of Educ. of West Orange,

the Appellate Division relied on "the well established rule that action of the local board [of education] which lies within the area of its discretionary powers may not be upset unless patently without rational basis or induced by improper motives." 60 N.J. Super. 288, 294 (App. Div. 1960); see also G.M. v. Roselle Park Borough Bd. of Educ., 95 N.J.A.R. 2d (EDU) 107, 109 (where the Commissioner adopted the decision of the ALJ when in a challenge to board action, the ALJ stated, "it is the management prerogative of boards of education that will not be usurped or assumed by the Commissioner of Education absent a definitive showing of bad faith or arbitrary actions taken in bad faith without a rational basis.")

As long as the record reflects a rational basis for their action, as well as an absence of bad faith, the board's action shall be upheld. See e.g. Red Bank Teachers Ass'n v. Bd. of Educ. of Red Bank, OAL DKT. EDU 5328-80 (April 30, 1981) adopted Comm. Ed. (June 15, 1981); G.M., 95 N.J.A.R. 2d (EDU) 107. I agree.

III. Both Parties mischaracterize the relevant Commissioner Decision.

Petitioner almost exclusively premises the instant petition on a single Commissioner decision. See G.W.S. o/b/o A.F.S. v. William Petrino, Superintendent, and Rahway Bd. of Educ., Union County, 1999 N.J. AGEN LEXIS 1338 (November 29, 1999). Petitioner characterizes that decision as establishing that "excluding students from home district programs without a sound rational basis is arbitrary, capricious, and unreasonable." (Pet. Br. at 10). The Board argues that G.W.S. did not "mandate that all vocational school students be permitted to participate in their home district's extracurricular activities" but instead "held only that blanket exclusions targeting a particular category of students without any articulated rational basis are impermissible." (Resp. Br. at 10).

The decision in G.W.S. dealt with Rahway Board of Education Policy 6145, which originally disallowed participation of any students not enrolled in Rahway High School in extracurricular activities. 1999 N.J. AGEN LEXIS 1338 at *1. The Rahway Board subsequently revised that policy to allow students residing in Rahway but attending a vocational school enrolled in grades 10-12 to participate in extracurricular and athletic

activities at Rahway High School. Id. The petitioner in G.W.S. was a ninth-grade student residing in Rahway but attending vocational school, seeking to participate in swimming, soccer, and other extracurriculars such as drama club at Rahway High School. Id. at *5-6.

In G.W.S. the Commissioner found that the blanket exclusion of ninth-grade students from participation in athletics violated Article V(G), CL3 of the NJSIAA Bylaws, which permits vocational student participation in public athletics upon agreement of both principals, because it had “the effect of precluding Rahway High School’s principal, under any circumstance, from entering into [such] an agreement.” Id. at *12. The Commissioner further found that, with respect to non-athletic extracurricular activities, the Rahway Board revision (emphasis added):

[E]xceeds its discretionary authority because the record is totally devoid of any rational basis for the Board to have taken action to allow the participation of Magnet school students currently enrolled in grades 10, 11 and 12 but to have excluded the participation of students enrolling in the Magnet School as ninth graders effective September 1, 1999. To create a blanket exclusion of a particular group or category of public school students from extracurricular activities or intramural athletic programs without a sound rational basis for such exclusion is inherently arbitrary, capricious and unreasonable. Such an exclusion as has occurred in the instant matter, whether in terms of a particular student or a group of students, cannot be deemed to be within a board's lawful discretionary authority in the absence of the board's (or the principal's, in the case of interscholastic athletic programs) having determined that participation is not practicable or reasonable because of scheduling constraints, transportation costs or logistical difficulties, or other valid considerations.

[1999 N.J. AGEN LEXIS 1338 at *14.]

The Commissioner further noted that a board is not required “to take unreasonable or extraordinary steps to accommodate a county vocational student's participation in

extracurricular activities.” Id. at n.2. The central issues in G.W.S. were that: (1) the board’s revision, without providing a rational basis, excluded a class of students (ninth-grade vocational students residing in Rahway) from participating in activities that were allowed for similarly situated students (10-12 grade vocational students residing in Rahway); and (2) the board’s revision, as a blanket policy, precluded reasonable review of students in the class to even discover a rational basis.

I **CONCLUDE** that the decision in G.W.S. does not mandate participation as petitioner contends, nor is it limited to groups of students as the Board contends. Rather, I **CONCLUDE** the G.W.S. standard provides only that a board of education cannot, under a blanket policy, exclude a particular student or group of students from participating in an extracurricular activity without a sound rational basis. Id.

This standard has been repeatedly upheld by subsequent administrative decisions. See S.G. o/b/o R.G. v. Fair Lawn Bd. of Educ., 2000 N.J. AGEN LEXIS 552 (August 8, 2000) (upholding board policy denying vocational student access to public district scholarship program on the rational basis of logistical and administrative burden); D.M.T. o/b/o A.R.T. v. Bd. of Educ. of the Cumberland Regional High School District, 2016 N.J. AGEN LEXIS 796 (September 22, 2016) (denying emergent relief to vocational student challenging board decision denying her participation in athletics on the rational basis of financial and logistical difficulties); Bd. of Educ. of the Cumberland County Technical Education Center v. Bd. of Educ. of the Cumberland Regional High School District, 2016 N.J. AGEN LEXIS 721 (August 23, 2016) (denying emergent relief to vocational school challenging a public school decision to bar vocational students from participating in athletics because there was no blanket policy mandating the bar); Bd. of Educ. of the Cumberland County Technical Education Center v. Bd. of Educ. of the Cumberland Regional High School District, 2018 N.J. AGEN LEXIS 214 (March 29, 2018) (upholding public school decision to bar vocational students from participating in athletics on the rational bases of finances, logistics, eligibility, and discipline).

IV. Petitioner mischaracterizes the standard of review.

Petitioner claims that the central issue in this matter is not “whether the Board has articulated reasons” for its decision, but instead “whether those reasons are grounded in fact.” (Pet. Br. at 10). This is a mischaracterization of the relevant standard. As discussed above, the heavy burden lies with the challenger, not the Board. Once the Board articulates a rational bases for its decision, the burden rests with A.H. to make a definitive showing that the Board’s decision was either premised on bad faith or that it was not premised on the rational bases articulated.

In rebutting the Board’s policy at issue herein, petitioner characterizes the Board’s reasons as: (1) “a financial argument unsupported by financial evidence”; (2) “a coursework requirement contradicted by the program’s own director and not enforced against current participants”; and (3) “a regulatory distinction that misidentifies the source of the right at issue”; and dismisses these as “unsupported assertions.” *Id.* However, for the reasons explained below, I **CONCLUDE** that the Board has met its minimal burden to demonstrate a rational basis in each of these instances and petitioner’s characterization otherwise does not amount to the definitive showing required to upset the Board’s stated reasoning.

The standing policy of the Hoboken Public School District regarding eligibility for extracurricular activities states that (emphasis added):

To be eligible to participate in extra-curricular activities, a student must be enrolled in the district. Hoboken residents enrolled in a school that is not operated by the Hoboken Board of Education (charter schools or private schools) shall not be eligible to participate in extra-curricular activities. However, pursuant to NJSIAA guidelines, if a charter school does not offer a particular sport that is offered by the district, resident students attending that charter school may participate in that sport upon the agreement of the Hoboken High School Principal and the Principal of the charter school.

[Hoboken Board of Education District Policy #2430 – Co-Curricular Activities.⁴]

Financial Considerations

Here, the Board cited two distinct financial concerns in its initial moving papers: (1) because of the large number of Hoboken residents that attend school outside of Hoboken Public Schools, deviation from the above policy would represent a burden that the Board “cannot financially or logistically accommodate”; and (2) because the Board is required to pay tuition for vocational students like A.H., “requiring the Board to also fund extracurricular participation for non-enrolled students would create a double financial burden.” (Resp. Br. at 12-13). The standard here does not require the Board to produce “financial evidence” as petitioner argues, it instead requires petitioner to provide evidence demonstrating that requiring Hoboken High School to allow non-enrolled student participation in extracurricular activities would not represent a financial burden.

Petitioner’s claim that “permitting one student who provides her own instrument and transportation to join . . . at no identified cost to the Board” is similarly unavailing. (Pet. Br. at 11). While A.H. may be one student, petitioner’s requested relief is representative of many students, especially given that “approximately 27% of the student population in Hoboken attend charter schools and 12% of the high school student population in Hoboken attend the county vocational school.” (Resp. Br. at 2). The Board is shielded by the above policy and the individualized review extended to student requests made by A.H.-were the Board to allow A.H. to join the High School Band, it would stand as a precedent that would preclude the Board from applying the Board policy in the future.

Coursework Requirement

⁴ Retrieved from <https://www.straussesmay.com/seportal/Public/DistrictPolicy.aspx?policyid=2430&id=f4cd983ee69e4d99afcd2d19e7826d19>. This policy is further demonstrative of the inapposite nature of the argued distinction between “co-curricular activities” and “extracurricular activities.” While titled “Co-Curricular Activities,” the body of this district policy refers exclusively to “extra-curricular activities.”

While there is some dispute about the exact nature of the Advanced Instrumental Music course, the Board's claim that it is a requirement for participation is supported by the record. See (Johnson Cert., ¶¶ 6-9) (Disler Cert., Ex. C). Petitioner repeatedly seeks to characterize this coursework requirement as "the Board's primary rationale" for its decision, despite it appearing third in Dr. Johnson's list of reasons, and raises myriad arguments attacking it, including: (1) Dr. Johnson's use of "linked" and failure to state that enrollment in the course is required; (2) no formal board action adopting the requirement; (3) the requirement not currently being enforced; (4) middle school student participation; (5) color guard participation; (6) Stasiak's statement that there is not a marching band class; (7) marching band practice occurring after school; and (8) participation requirements being communicated at an internal school event. (Pet. Br. at 6-7).

However, these arguments are unavailing. First, Dr. Johnson's certified statement is that Hoboken High School "linked participation in co-curricular activities to required coursework." (Johnson Cert., ¶ 6) (emphasis added). Second, no evidence has been offered that a "formal board action" is necessary to change the requirements for co-curricular participation at a single district school. Third, there is insufficient evidence that the requirement is not currently enforced. While petitioner claims that multiple current band members are participating without being enrolled in the course, no evidence thereof has been offered. Fourth, Hoboken Middle School students are "students enrolled in the district" and their participation is consistent with the above policy in a way that student's status would not be. Fifth, color guard is distinct from marching band and does not involve instruments. Sixth, Stasiak's statements do not override school policy, as admitted by petitioner, and further are not inherently inconsistent with the requirement. Stasiak stated that: (1) "there is no marching band class"; and (2) "most of the band is not in the class." (Pet. Br. Ex. E). The requirement begins "with the class of 2028" and applies to "students engaged in either the marching band or concert band." (Disler Cert., Ex. C).

Consequently, Advanced Instrumental Music could be properly characterized as "not a marching band class" because it is more than that, comprising a music elective that is additionally a requirement for both marching and concert band. Similarly, "most of the band" could be comprised of students in the classes of 2026 and 2027. Seventh, practice occurring after school in no way precludes a required class being associated. Finally,

petitioner offers no basis for the underlying claim that the course requirements “purport to affect” non-enrolled students – to the contrary the requirements are focused on enrolled students and their communication at an internal school event is reasonable. (Pet. Br. at 7). For these reasons, I **CONCLUDE** the Board’s claim that the Advanced Instrumental Music course is a requirement for participation in the High School Band is supported by the record.

Petitioner argues that the Board’s attempt to differentiate policy for athletics under NJSIAA and extracurriculars in the arts is a misapplication of the holding in G.W.S. (Pet. Br. at 9-10). As discussed above, this argument is premised on an overly expansive reading of the case law precedent. While petitioner is correct in stating that G.W.S. addresses extracurriculars independently from its treatment of athletics, that case notably does not establish a “right to participate in her home district’s marching band” as petitioner claims. Id. In fact, even if the student sought to participate in athletics, under the more restrictive standard, G.W.S. would still not compel action from the Board as even the NJSIAA rule is “permissive, not mandatory.” 1999 N.J. AGEN LEXIS 1338, *12. G.W.S. does not mandate that districts allow participation by non-enrolled students, it merely precludes district policies that would foreclose the agreement between principals contemplated by the NJSIAA Bylaws. The standard for non-athletic extracurricular activities affords districts even more leeway, as it is unburdened by the NJSIAA regulatory framework. Consequently, I **CONCLUDE** petitioner’s reading of G.W.S. is inappropriate and the argument derived therefrom is unavailing.

V. The factual disputes in this matter do not rise to the level of “genuine issue of material fact.”

Under the Brill standard, a genuine issue of material fact exists when “competent evidential materials [are] presented [which], when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party.” 142 N.J. 520, 540 (1995). Notably, a “non-moving party cannot defeat a motion for summary [decision] merely by pointing to any fact in dispute.” Id. at 529.

Here, the factual disputes amount to: (1) whether Advanced Instrumental Music is an actively enforced requirement of participation in the High School Band; (2) whether HCST offers musical programming substantially equivalent to the High School Band; and (3) the nature of Hoboken Middle School student participation in the High School Band. For the reasons already stated herein, I **CONCLUDE** that none of these disputes rise to the level of a genuine issue of material fact, as their resolution would not permit a ruling in petitioner's favor.

Based on the G.W.S. standard, the Board must only articulate a sound rational basis for its decision, which it did when Dr. Johnson cited the logistical and financial burdens that would ensue if the Board's extracurriculars were opened to non-enrolled students. The Board has consistently supported and elaborated on this rational basis throughout its briefings in this matter. Factual issues related to additional reasons provided by Dr. Johnson and the Board do nothing to challenge that sufficient rational basis. See Cumberland, 2018 N.J. AGEN LEXIS 214, *54 (noting that even if the impermissible purpose of discouraging district students from attending vocational school were proven, it would not outweigh the overriding rational bases of finances, logistics, eligibility, and discipline). Put more simply, Dr. Johnson and the Board did more than was required of them in providing a list of reasons to petitioner— they would have satisfied their burden by merely citing to the financial and logistical concerns – consequently, I **CONCLUDE** that factual disputes of those unnecessary additional reasons do not on their own permit a ruling in petitioner's favor.

While I am sympathetic to A.H.'s reasonable desire to pursue an extracurricular activity, and would gladly see the New Jersey education system reformed in such a way that her desire to pursue a specific area of study did not require the necessary sacrifice of her interest in marching band, the law is clear in this matter. The logistical and financial concerns cited by the Board represent a sufficiently sound and rational basis for their decision. Petitioner has not argued that allowing the significant vocational student population to enroll in Hoboken High School extracurriculars would not represent a financial and logistical burden, nor have they argued that the Board acted in bad faith by claiming such. Consequently, petitioner has simply failed to adequately challenge the

rational basis for the Board's decision. All else in this matter is immaterial, emotionally compelling though it may be.

For these reasons, I **CONCLUDE** that the Board is entitled to summary decision as the motion papers they submitted show that there is no genuine issue as to any material fact challenged and that the Board as moving party is entitled to prevail as a matter of law." N.J.A.C. 1:1-12.5(a), and their motion is **GRANTED** herein.

I **CONCLUDE** that petitioner is not entitled to summary decision in accordance with N.J.A.C. 1:1-12.5(a), as the factual disputes they argue do not rise to the level of a genuine issue of material fact, and their resolution would not permit determination in petitioners favor, and consequently, their motion is **DENIED**.

ORDER

IT IS hereby **ORDERED** that for the reasons set forth herein, the Board's motion for summary decision is **GRANTED** and petitioner's Petition is **DISMISSED**.

IT IS hereby **ORDERED** that for the reasons set forth herein, petitioner's cross motion for summary decision is **DENIED**.

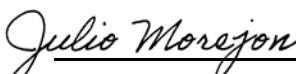
I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

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 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, 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.

July 16, 2026

DATE



JULIO C. MOREJON, ALJ

Date Received at Agency:

July 16, 2026

Date E-Mailed to Parties:

July 16, 2026

Ir

APPENDIX

For Petitioner:

Pleadings

Opposition and cross-motion for summary decision

Sur-reply

Exhibits

Exhibits A through L, submitted with Petitioner's Opposition to Respondent's Motion for Summary Decision and Cross-Motion for Summary Decision, filed March 18, 2026. Exhibits M and N, submitted with Petitioner's Sur-Reply in Further Support of Petitioner's Cross-Motion for Summary Decision, filed March 31, 2026.

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| Exhibit A | Email from Band Director David Stasiak, February 20, 2025 |
| Exhibit B | Letter from A.H. to the Hoboken Board of Education, August 18, 2025 |
| Exhibit C | Email from Superintendent Dr. Christine Johnson to A.H., August 22, 2025 |
| Exhibit D | Email from Superintendent Dr. Christine Johnson, September 12, 2025, denying A.H.'s request to participate in the Rockin' Redwings and setting out the Board's stated reasons for the denial. |
| Exhibit E | Email correspondence with Band Director David Stasiak, September 14–15, 2025 |
| Exhibit F | Excerpted passages from G.W.S. o/b/o A.F.S. v. Petrino and Rahway Board of Education, OAL Dkt. No. 9797-99, 1999 WL 33883913 (Comm'r Educ. Nov. 29, 1999). |
| Exhibit G | Hoboken Board of Education resolution, September 2024, appointing co-curricular advisors, listing among the positions so classified library monitor, Saturday detention, and drill instructor. |

- Exhibit H Email from Hudson County Schools of Technology transportation staff
- Exhibit I Screenshot of search results from the Hoboken Board of Education's BoardDocs public meeting records portal (*go.boarddocs.com*)
- Exhibit J Screenshot of the Rockin' Redwings program website, "D.C. Trip"
- Exhibit K Email from High Tech High School guidance staff
- Exhibit L Emails from A.H. to Hoboken High School Principal Robin Piccapietra, dated July 15, 2025, and July 21, 2025.
- Exhibit M Email from Band Director David Stasiak, dated June 3, 2024
- Exhibit N Screenshots of the Rockin' Redwings official public calendar (*rockinredwings.com*) for September 2025 and October 2025,

For Respondent:

Pleadings

Notice of Motion for Summary Decision

Letter brief in support of motion for summary decision

Letter brief in reply to opposition to motion for summary decision and in opposition to cross motion for summary decision

Certification of Dr. Christine Johnson

Certification of David L. Disler, Esq., In Support Of Motion For Summary Decision, with exhibits

Exhibits

- Exhibit A December 1, 2025, petition and exhibits served on the Hoboken Board of Education.
- Exhibit B Hoboken Public Schools' co-curricular and athletic activities, captured via PageVault.
- Exhibit C Hoboken High School music programs, captured via PageVault.

- Exhibit D 2023-2024 Hudson County Schools of Technology District NJ School Performance Report.
- Exhibit E 2025-2026 District Calendar for the Hudson County Schools of Technology, captured via PageVault.
- Exhibit F New Jersey State Interscholastic Athletic Association ("NJSIAA") 2025-2026 Bylaws.
- Exhibit G High Tech High School Clubs, captured via PageVault.
- Exhibit H County Prep's After-School Enrichment Programs Brochure.