394-26
OAL Dkt. No. EDU 04921-26
Agency Dkt. No. 054-02-26

New Jersey Commissioner of Education

Final Decision

T.L., on behalf of minor child, S.L.,

Petitioner,

v.

North Bergen Board of Education, 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 ALJ that petitioner filed her appeal regarding two harassment, intimidation, and bullying investigations before the North Bergen Board of Education (Board) had rendered its final decisions. The Commissioner further agrees with the ALJ that the appeal was therefore premature under *N.J.S.A.* 18A:37-15(b)(6)(e), which provides that only the final decision of a board of education may be appealed to the Commissioner.

Accordingly, the Initial Decision is adopted as the final decision in this matter. The Board's motion to dismiss is granted, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.[1]

COMMISSIONER OF EDUCATION

Date of Decision: September 30, 2026
Date of Mailing: September 30, 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 TO DISMISS
OAL DKT. NO. EDU 04921-26
AGENCY DKT. NO. 054-02-26

T.L ON BEHALF OF MINOR CHILD, S.L.,
Petitioner,
v.
NORTH BERGEN BOARD OF EDUCATION,
HUDSON COUNTY
Respondents.

T.L., petitioner, pro se

James M. Ryglicki, Esq., for respondents (Ryglicki & Gillman, P.C. attorneys)

Record Closed: August 12, 2026 Decided: August 20, 2026

BEFORE **KIMBERLY K. HOLMES,** ALJ:

STATEMENT OF THE CASE

On February 12, 2026, T.L., the petitioner, filed an appeal concerning two incidents involving her minor child before these incidents were reported to the respondent and prior to a final BOE determination. Must the petition stand when the statutory right to appeal had

not yet accrued? "No." Under N.J.S.A. 18A:37-15(b)(6)(e), the right to appeal arises only after the BOE has issued its final decision affirming, rejecting, or modifying the Superintendent's determination.

PROCEDURAL HISTORY

On or about January 29, 2026, an alleged HIB incident occurred during a basketball game where the petitioner's child, S.L., was hit in the face by M.D., another student. This incident was investigated by the respondent under N.J.S.A. 8A:37-15(b)(6).

On February 16, 2026, the results of the investigation were reported to the Superintendent.

On February 18, 2026, this first matter was presented to the BOE.

On March 18, 2026, the Board issued a final determination.

On or about February 6, 2026, a second incident was alleged to have occurred with the petitioner's minor child, S.L., and the same student (M.D.) from the January 29, 2026, alleged HIB incident.

This second incident was investigated by the respondent under N.J.S.A. 18A:37-15(b)(6) and the petitioner's minor child, S.L., was suspended.

On February 18, 2026, the results of the second investigation were reported to the Superintendent.

On March 18, 2026, the second incident was presented to the BOE.

A final determination of the February 6, 2026, second incident was not rendered by the respondent.

On February 12, 2026, the petitioner filed an appeal with the Department of Education, Bureau of Controversies and Disputes.

On February 17, 2026, the Office of Administrated Law received the appeal.

On February 18, 2026, the petitioner was afforded the opportunity to request and participate in hearing before the Board but failed to exercise that right under N.J.S.A. 18A:37-15(b)(6)(d).

On March 23, 2026, the respondent filed a Motion to Dismiss ("Motion") under N.J.S.A. 18A:37-15(b)(6)(e),

On March 25, 2026, the Bureau transmitted this case to the Office of Administrative Law as a contested case 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 -13.

On April 8, 2026, I was assigned this case.

On April 30, 2026, I held an initial prehearing conference.

On May 19, 2026, I held a status conference and established a briefing schedule for the Motion.

On July 10, 2026, I held a final status conference and advised the petitioner that any opposition to the Motion was due by August 12, 2026. Petitioner, who appeared for the prehearing conference and for all status conferences, never filed any opposition.

On August 12, 2026, I closed the record.

FINDINGS OF FACT

Based on the documents submitted in support of the motion to dismiss, I **FIND** the following as **FACT** for purposes of this motion:

1. On or about January 29, 2026, an HIB incident was alleged to have occurred during a basketball game where the petitioner's child, S.L., suffered a nosebleed after having been hit in the face by M.D., another student. (R-1); (R-2)

2. This incident was investigated by the respondent under N.J.S.A. 8A:37-15(b)(6). (R-1); (R-2)

3. On February 16, 2026, the results of the investigation were reported to the Superintendent. (R-1); (R-2)

4. On February 18, 2026, this first matter was presented to the BOE. (R-1)

5. On March 18, 2026, the Board issued a final determination. (R-1); (R-2)

6. On or about February 6, 2026, a second incident was alleged to have occurred with the petitioner's minor child, S.L., and the same student (M.D.) from the January 29, 2026, alleged HIB incident. (R-1); (R-2)

7. This second incident was investigated by the respondent under N.J.S.A. 18A:37-15(b)(6) and the petitioner's minor child, S.L., was suspended. (R-1); (R-2)

8. Petitioner requested that the suspension and days of absence be removed and that M.D. be held accountable. (P-1)

9. On February 18, 2026, the results of the second investigation were reported to the Superintendent. (R-1); (R-2)

10. On March 18, 2026, the second incident was presented to the BOE. (R-1); (R-2)

11. A final determination of the February 6, 2026, second incident was not rendered by the respondent. (R-1); (R-2)

12. On February 18, 2026, the petitioner was afforded the opportunity to request and participate in hearing before the Board but failed to exercise that right under N.J.S.A. 18A:37-15(b)(6)(d). (R-1); (R-2)

13. The statutory right to appeal for the January 29, 2026 incident began to accrue on March 18, 2026. (R-1); (R-2)

14. The statutory right to appeal for the February 6, 2026 incident had not begun to accrue. (R-1); (R-2)

CONCLUSIONS OF LAW

Under N.J.S.A. 8A:37-15(b)(6)(e), the petitioner's right to appeal is after the BOE issues a final decision affirming, rejecting or modifying the Superintendent's determination. In fact, "the petitioners' right to appeal does not accrue until after the Board makes a final determination…petitioners' appeal…was premature." R.Z. & L.D. o/b/o Northern Valley Regional High School District, OAL Dkt. No. EDU 05870-23. (R-1)

Moreover, "only after the final decision by the "[BOE] did the Legislature create a right to appeal [to avoid] adjudicate[ing] HIB matters in a piecemeal fashion." M.M. o/b/o minor child v. Board of Education of the Township of Lafayette, 2020 N.J. AGEN LEXIS 374. (R-1)

Finally, courts have reasoned that a Motion to Dismiss for Failure to State a Cause of Action "should be granted if even a generous reading of the allegations [do] not reveal a legal basis for recovery" and that such "motion[s] may not be denied rather the legal prerequisites for the plaintiffs' claim must be apparent from the complaint itself." Camden County Energy Recovery Assocs. V. N.J. Dep't of Envtl. Prot., 320 N.J. Super 59, 64-65 (1999) (R-1)

In this case, the petitioner filed the appeal prematurely. (P-1); (R-1). The appeal was filed on February 17, 2026, which was prior to a final Board action. When the petitioner filed the appeal, the statutory process was not complete. There was no appealable decision. (R-1) Under N.J.A.C. 6A:3-1.10 and R. 4:6-2(e), the Petition is legally insufficient, and I **FIND** that it must be **DISMISSED**.

Furthermore, the HIB statutory framework sets out a mandatory and multi-step administrative process that culminates to a Board decision prior to an appellate review is permitted. In this case, the petitioner bypassed the required process by filing before a formal Board action was rendered and failed to avail themselves of an opportunity to be heard before the Board. (P-1); (R-1). The petitioner did not exhaust the administrative remedies. While the Board issued a final determination as it related to the January 29, 2026, incident, that action does not retroactively cure the jurisdictional defect that existed at the time of the filing. Therefore, I **FIND** that this petition must be **DISMISSED** because it was premature when filed.

Finally, in searching this case with the depth and liberality with which I must, the remaining claims in the Petition, namely that the school failed to act in any incident of “derogatory name calling or physical assaults” do not have a factual basis, are vague and fail to provide a cause of action where the respondent can act. Here, the respondent addressed cognizable claim which resulted in a suspension of the petitioner’s minor child. I FIND that any other claim must be DISMISSED because there is no sufficient factual basis in which a cause of action can be gleaned. Thus, I **CONCLUDE** that petitioner filed this Petition prematurely under N.J.S.A. 8A:37-15(b)(6)(e), and that this case must be **DISMISSED**.

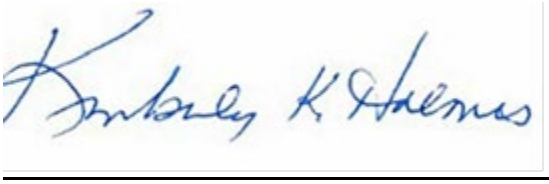
ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the respondent's motion to dismiss 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 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.



August 20, 2026
DATE

KIMBERLY K. HOLMES, ALJ

Date Received at Agency: August 20, 2026

Date Emailed to Parties: August 20, 2026

as

APPENDIX

EXHIBITS

For Petitioner:

P1 Pro Se Petition of Appeal dated February 12, 2026

For Respondent:

R1 Brief in Support of Motion to Dismiss dated March 23, 2026

R2 Certification of Dr. G.S., School Superintendent dated March 23, 2026

R3 Certification of Service dated March 23, 2026