441-26
OAL Dkt. No. EDU 07532-26
Agency Dkt. No. 157-04-26

New Jersey Commissioner of Education

Final Decision

E.D., on behalf of minor child, J.M.,

Petitioner,

v.

Sayreville Board of Education, Middlesex County,

Respondent.

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

In this matter, petitioner challenges the Board's decision to suspend J.M. for three days after he recorded a fight in the school hallway on his cell phone. While she does not dispute that he engaged in the misconduct, petitioner contends that the Board's treatment of the misconduct as a "Severe Violation of Technology Acceptable Use Agreement" (Severe Violation) was excessive and that it should have been treated as a "Violation of Technology Acceptable Use Agreement" (Violation).

The Student Handbook states that "[s]tudents are forbidden from taking any photographs or recordings for personal use without approval from the building principal" and that those "found in violation of this policy may be subject to suspension and confiscation of the equipment

because of a severe technology violation." Under the Board's Student Code of Conduct (Code), a first offense for a Severe Violation in grades 9-12 warrants a three-day, out-of-school suspension, and a three-week suspension of technology privileges. In contrast, a first offense for a Violation in grades 9-12 warrants a one-day Saturday detention and a two-week suspension of technology privileges.

During the contested hearing at the OAL, J.M. testified on his own behalf. Richard Labbe, Superintendent, and Richard Gluchowski, Principal, testified on behalf of the Board. J.M. admitted that he recorded the fight but testified that he deleted the video after walking away from the scene.

Labbe and Gluchowski agreed that J.M. was a good student with no disciplinary history. Labbe testified that any recording of another student at school constitutes a Severe Violation, regardless of whether the video is shared. Gluchowski testified that any recording of another student at school constitutes a Severe Violation because the student is often unaware of the recording.

Additionally, Labbe testified that the same discipline had been imposed in the past upon other students for misconduct involving recording. In some of those instances, the video was shared; in others, the video was not shared or it was unknown whether it had been shared. Labbe further testified that examples of a Violation not considered to be a Severe Violation include improper internet searches, inappropriate messaging between students, or using social media during school hours.

The ALJ concluded that the Board's imposition of discipline upon J.M. was not arbitrary, capricious, or unreasonable. The ALJ found the discipline to be appropriate and consistent with

past practice as well as the penalty specified in the Code for a first offense. The ALJ further found that the Student Handbook and multiple public address (PA) announcements made by Gluchowski made clear that recording of other students at school is not permitted. The ALJ agreed with the Board that such misconduct is a Severe Violation, regardless of whether the video is shared with others. The ALJ credited the Board's insistence on treating J.M. as it had treated other similarly situated offenders to ensure consistent and equitable application of the Code.

In her exceptions, petitioner does not dispute the ALJ's finding that J.M. engaged in misconduct by recording a fight on his cell phone. However, she continues to disagree with the Board's treatment of the misconduct as a Severe Violation. She argues that the ALJ's conclusion that the Board did not act arbitrarily, capriciously, or unreasonably relies on improper speculation, unproven hypotheticals, unadmitted evidence, and an overbroad interpretation of District policy.

In particular, petitioner claims that the ALJ, like the Board, erroneously assumed that J.M. intended to share the video; that the ALJ erroneously accepted testimony from the Board that any recording of a student is automatically treated as a Severe Violation, and that other cases involving recording were treated the same way, without knowing the facts of the other cases; that the ALJ failed to consider the mitigating circumstances specific to J.M. or the Student Handbook's statement that suspension is discretionary; that the ALJ's reliance on the PA announcements was flawed because one of them occurred after the incident and the prior announcements had inconsistent phrasing; and the ALJ relied on R-5 – an exhibit not in evidence – as well as irrelevant hypotheticals to support the conclusion that a Severe Violation penalty is necessary for deterrence.

In response, the Board argues that the Commissioner should adopt the Initial Decision and uphold the Board's disciplinary decision. It contends that the fact that J.M. did not distribute the recording is irrelevant because dissemination is not a requirement for a Severe Violation under the Code; that petitioner's allegation that the ALJ failed to consider the facts of prior disciplinary incidents and mitigating circumstances specific to J.M. is without merit; that there is ample evidence that J.M. had notice of the relevant policies and consequences for recording on a cell phone in school; and that the ALJ's hypothetical examples illustrating why recording other students is inappropriate need not be relied upon when adopting the Initial Decision.

Upon review, the Commissioner adopts the Initial Decision, with minor modification, as the final decision in this matter. Board action conducted within the ambit of its broad discretionary authority "may not be upset unless patently arbitrary, without rational basis or induced by improper motives." *Kopera v. W. Orange Bd. of Educ.*, 60 *N.J. Super.* 288, 294 (App. Div. 1960). Board determinations are "entitled to a presumption of correctness." *Thomas v. Bd. of Educ. of Twp. of Morris*, 89 *N.J. Super.* 327, 332 (App. Div. 1965), *aff'd*, 46 *N.J.* 581 (1966). The heavy burden of demonstrating that board action was arbitrary, capricious, or unreasonable rests upon the petitioner. "[T]o prevail, petitioner[] must demonstrate that the Board acted in bad faith, or in utter disregard of the circumstances before it." *G.H. and E.H., on behalf of K.H. v. Bd. of Educ. of Borough of Franklin Lakes, Bergen Cnty.*, EDU 13204-13, Initial Decision at 20 (Feb. 24, 2014), *adopted*, Comm'r, Final Decision No. 157-14 (Apr. 10, 2014).

The Legislature granted local boards of education sweeping authority to enact rules regarding operation of their public schools. *N.J.S.A.* 18A:11-1(c), (d); *Bd. of Educ. of City of Plainfield v. Cooperman*, 105 *N.J.* 587, 596 (1987). Boards may suspend a student from school if

the student's conduct constitutes "good cause" for suspension. *N.J.S.A.* 18A:37-2. While the statute lists several examples of conduct that satisfy the good cause standard, boards may suspend a student for other reasons so long as the good cause standard is met. State education regulations require boards to implement a code of student conduct aimed at "foster[ing] the health, safety, and social and emotional well-being of students" and the "maintenance of civil, safe, secure, supportive and disciplined school environments conducive to learning" which must establish parameters for discipline and include a description of conduct that will result in suspension. *N.J.A.C.* 6A:16-7.1(b).

The Commissioner agrees with the ALJ that the Board's disciplinary determination in this case was not arbitrary, capricious, or unreasonable, and finds petitioner's exceptions to be unavailing. The discipline imposed is consistent with the Code, which warrants a three-day, out-of-school suspension for a first offense Severe Violation in grades 9-12. It was appropriate for the ALJ to consider the testimony of Labbe and Gluchowski, who explained why the Board consistently treats recording of students as a Severe Violation, along with examples of misconduct that fall under the lesser Violation category. It was also appropriate for the ALJ to consider Labbe's testimony regarding the fact that the same level of discipline had been imposed in the past upon students for making unauthorized recordings at school. It was not necessary, as petitioner contends in her exceptions, for the ALJ to have knowledge of the specific facts of each prior incident to consider Labbe's general testimony about the prior incidents.

Because the Board has broad discretionary authority to decide whether to suspend a student, the Commissioner cannot overturn a disciplinary decision absent evidence of arbitrary, capricious, or unreasonable action. *See Bayshore Sewerage Co. v. Dep't of Envt'l Prot.*, 122 *N.J.*

Super. 184, 199-200 (Ch. Div. 1973), *aff'd*, 131 N.J. Super. 37 (App. Div. 1974) ("Where there is 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."). Petitioner's disagreement with the Board's decision does not render it arbitrary, capricious, or unreasonable.

For instance, it was not unreasonable for the Board to impose discipline upon J.M. for a first offense Severe Violation even though he was a good student without a disciplinary history. Nothing in the Code or the Student Handbook requires the Board to reduce the severity of discipline based upon mitigating factors. Moreover, it was not unreasonable for the Board to treat the recording incident as a Severe Violation even if the video was not shared, or there was no proof that the video was shared. Nothing in the Student Handbook or Code requires that the recording be shared for the misconduct to be treated as a Severe Violation. As for petitioner's contention that the Student Handbook states that suspensions for unauthorized recording are discretionary and not mandatory, that fact does not render the Board's decision in this case arbitrary, capricious, or unreasonable.

Turning to the remaining contentions in petitioner's exceptions, she asserts that Exhibit R-5, the Board's Policy 2363 – Student Use of Privately-Owned Technology – was not in evidence, and therefore it should not be relied upon in the Initial Decision. Because the Exhibit List appended to the Initial Decision excludes R-5, the Commissioner agrees with petitioner that the short discussion of Policy 2363 on page 3 of the Initial Decision[1] should not be considered, and confirms that it has not been considered in issuing this final decision.

[1] The Commissioner notes that the ALJ did not cite Policy 2363 in support of his legal conclusions.

Petitioner also contends in her exceptions that the ALJ's reliance upon Gluchowski's PA announcements was improper because one announcement occurred after the recording incident, and the prior cautionary announcements were worded inconsistently. The Commissioner finds that even without considering the PA announcements in support of the Board's decision, the record contains ample evidence to support the ALJ's conclusion that the decision was not arbitrary, capricious, or unreasonable.

As for petitioner's objection to the ALJ's use of hypothetical examples to illustrate that the Board's treatment of the recording incident as a Severe Violation is necessary for deterrence, the Commissioner agrees that the hypothetical examples are not relevant and are not needed to support the conclusion that the Board's decision was not arbitrary, capricious, or unreasonable. The Board is not seeking to rely upon hypotheticals in support of its decision in this case, and Commissioner need not consider them.

Accordingly, the Initial Decision, as modified, is adopted as the final decision in this matter, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.[2]



COMMISSIONER OF EDUCATION

Date of Decision: October 29, 2026
Date of Mailing: October 30, 2026

[2] 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 07532-26
AGENCY DKT. NO. 157-04-26

E.D. ON BEHALF OF J.M.,
Petitioner,
v.
SAYREVILLE BOARD OF EDUCATION,
MIDDLESEX COUNTY,
Respondent.

E.D., petitioner, pro se

Marc G. Mucciolo, Esq., for respondent (Busch Law Group, LLC, attorneys)

Record Closed: September 2, 2026 Decided: September 16, 2026

BEFORE **JOHN K. MALONEY**, ALJ:

STATEMENT OF THE CASE

Petitioner seeks to have the designation of J.M.'s disciplinary infraction reduced from a "Severe Technology Agreement Violation" to a "Technology Agreement Violation." Was the level of J.M.'s infraction appropriate? Student discipline is within the

discretionary powers of a school board, and a board's decision regarding a disciplinary penalty should not be disturbed, absent evidence that the board's action was arbitrary, capricious, or unreasonable. J.D. and E.D. o/b/o B.D. v. Bd. of Ed. of Toms River Reg. Sch. Dist., EDU 6009-97 Initial Decision (December 29,1997 adopted, Comm'r (July 8, 1998)), http://lawlibrary.rutgers.edu/oal/search.html. Because Respondent's action was not arbitrary, capricious or unreasonable, J.M.'s infraction level and suspension was appropriate.

PROCEDURAL HISTORY

On April 21, 2026, J.M. recorded a fight in the school hallway on his phone. After reviewing the security video and conducting an investigation, the Sayreville War Memorial High School's (Sayreville) principal imposed a three-day, out-of-school suspension on J.M. On April 22, 2026, E.D., on behalf of her son J.M., appealed the determination.

On May 12, 2026, the Commissioner of Education transmitted this case to the Office of Administrative Law where it was filed for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

On September 2, 2026, I conducted a hearing. On September 8, 2026, after the Respondent's counsel submitted additional, requested documents (R-8, R-9), I closed the record.

FINDINGS OF FACT

I **FIND** the following to be the **FACTS** of this case.

J.M. is a rising senior at Sayreville. On April 21, 2026, a brief fight between two male students erupted in the school hallway. A school surveillance camera recorded the incident. (R-7) The video reveals the following:

0:23 – a male student wearing a gray hoodie (Gray) shoves another male student wearing a red hoodie (Red) into a locker. J.M. is seen with his cell phone in his hand as he walks behind Gray and Red. His phone's camera is not engaged.

0:27 – the two male students begin to fight. J.M. looks down at his phone and hits a button.

0:28 – J.M. lifts his phone and angles it towards the two males and begins recording.

0:28-0:38 – Red and Gray are fighting. J.M. takes a step back and continues recording.

0:38 – J.M. appears to still be recording, but the fight has reached a lull as Red took Gray to the floor and pinned him in a chokehold.

0:44 – a teacher enters the hallway from a nearby classroom.

0:45 – J.M. stops recording.

0:52 – the teacher separates the two combatants, and both are on their feet.

0:56-0:59 – J.M. approaches Gray and appears to direct him to leave the area.

1:01 – the teacher directs Gray not to leave.

1:06 – J.M. turns and leaves the scene. (R-7)

Paragraph N of Sayreville's Regulation 5600 entitled "Student Discipline/Code of Conduct," contains a "Chart of Discipline." (R-4) Under "Technology Offenses," the chart informs that for Grades 9-12, a first offense for a "Severe Violation of Technology Acceptable Use Agreement" carries a three-day, out-of-school suspension, and a three-week suspension of technology privileges. A first offense for the lesser-infraction of a "Violation of the Technology Acceptable Use Agreement" carries only a one-day Saturday detention and a two-week suspension of technology privileges.

Under Sayreville's Policy 2363 – Student Use of Privately-Owned Technology – students who use privately-owned technology, like a cell phone, must have such use approved by a student's parent or guardian and a school teaching staff member. Additionally, the use of privately-owned technology is limited to "the educational program during the school day" for "approved educational purposes." (R-5)

The Sayreville Student Handbook informs students that they "are forbidden from taking any photographs or recordings for personal use without prior approval. (R-9) The handbook warns that "[s]tudents found in violation of this policy may be subject to suspension… because of a severe technology violation. Id.

On November 18, 2025; March 10, 2026; April 7, 2026; and June 1, 2026, Sayreville Principal Richard Gluchowski, during morning announcements on the public address (PA) system, informed students that the use of a cellphone to record video of others in school was prohibited and would result in a three-day suspension as a severe technology violation. (R-8)

On April 21, 2026, the date of the incident, Vice Principal Katelyn Zurawski investigated the incident, which included a review of the school's security footage. While reviewing the footage, Zurawski saw J.M. video the fight on his cellphone. She expanded her investigation and interviewed J.M., who admitted to recording the fight. J.M., however, denied sharing the video and stated that he had deleted the video from his phone. After concluding her investigation, Zurawski briefed Principal Richard Gluchowski on her investigation results, which included J.M.'s actions and admission. Gluchowski instructed Zurawski to hold J.M. to the school's Code of Conduct and impose the appropriate discipline for a first offense. Zurawski then imposed the three-day, out-of-school suspension on J.M. for a first offense of a "Severe Technology Agreement Violation."

In the early morning, Gluchowski briefed Superintendent Richard Labbe of the hallway fight because the fight ended with a student in a chokehold. In the late morning, Gluchowski informed Labbe that a student had recorded the fight and was being disciplined. In the early afternoon, E.D. emailed Labbe to appeal the suspension. E.M. asserted that J.M. had not shared the video of the fight. Labbe then spoke with Gluchowski and Zurawski about the incident, reviewed the surveillance video, and agreed with Gluchowski's decision.

On April 22, 2026, Labbe emailed E.D. denying the appeal. Labbe explained that a review of the video surveillance tape showed J.M. recording the fight on his phone and specified that J.M. had admitted to doing so. Labbe noted that although J.M. said he had not shared the video and had deleted it soon after taking it, Sayreville had no way of confirming J.M.'s assertion that he had not shared the video. He further remarked that "one could argue that his intent for videoing the incident was to share it." (R-3)

Labbe further explained that Sayreville had imposed the same consequence for the same infraction during the 2025-26 school year on other students, and "to ensure the consistent, fair, and equitable application of our code of conduct, [] [Sayreville] must impose the same consequence for [] [J.M] as [] [Sayreville] have done the others." Id. Moreover, Gluchowski informed E.D. that in the 2025-26 school year, four to five students were also suspended for recording on their phones, which happen every year.

Regarding the difference between a "Technology Agreement Violation" and a "Severe Technology Agreement Violation," Labbe explained that any videoing or photographing of students during school is considered "severe," regardless of whether the video is shared. In imposing the same discipline for the same violations in the past, Labbe stated that some of the videos had been shared, some had not, and others were unknown. Examples of "Technology Agreement Violations" are improper internet searches, inappropriate messaging between students, or engaging social media during school hours. Gluchowski asserted that any recording of another student, whether in a classroom, hallway, or bathroom or on a bus is considered "severe" because the student is often unaware of the recording.

Gluchowski reminds students multiple times each school year during school-wide announcements on the PA system that they are not to record anyone on their phones and that they will be suspended if they do so. (R-8) Despite J.M.'s contention that the school's PA system is "crackly" and hard to hear, Gluchowski announced to students at least four times that year that recording was not permitted and that they would be suspended if they did so. Additionally, the school district's Student Handbook, which is provided each school year to parents and students, instructs students not to record anyone on their phones during school hours or on school property. (R-9)

Both Labbe and Gluchowski testified that J.M. is a good student with no prior disciplinary history. Gluchowski described J.M. "as a good kid." Nevertheless, both concluded that the no-recording policy must be consistently and evenly applied and that other similarly situated students were subject to the same punishment as J.M.

J.M. stated that he came out of his first-period class, saw the fight begin, and "decided to film." J.M. further stated that post-fight he "realized how dumb it was and stopped recording." After he walked away from the fight, J.M. deleted the video.

In her summation, E.D. asserted that the classification of the incident as "severe" and the imposition of a three-day, out-of-school suspension is excessive. E.D. challenged Sayreville's decision by asserting that the district had no evidence that J.M. actually shared the video, and that the imposed punishment is harsher for this conduct than first offenses involving weapons offenses, harassment and intimidation, and sexual harassment.

CONCLUSIONS OF LAW

The legal issue in this case is whether the Sayreville School Board's disciplinary decision was arbitrary, capricious or unreasonable. While overseeing the orderly conduct of public schools, local school boards are vested with broad discretion in matters involving pupil discipline. Goss v. Lopez, 419 U.S. 565, 573 (1975); Boyle v. Riti, 175 N.J. Super. 158, 166 (App. Div. 1980). When a local board acts within its authority, such as imposing discipline on a student, its actions carry a presumption of validity and will not be disturbed, absent an affirmative showing that its judgment was arbitrary, capricious or unreasonable. Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965), *aff'd*, 46 N.J. 581 (1966); Quinlan v. North Bergen Bd. of Educ., 73 N.J. Super. 40, 46-7 (App. Div. 1962); J.D. and E.D. o/b/o B.D. v. Bd. of Ed. of Toms River Reg. Sch. Dist., EDU 6009-97 Initial Decision (December 29, 1997 adopted, Comm'r (July 8, 1998)), http://lawlibrary.rutgers.edu/oal/search.html.

In matters involving the exercise of a local board's discretion, the scope of the Commissioner's review is "not to substitute his judgment for that of those who made the evaluation but to determine whether they had a reasonable basis for their conclusions." Kopera v. West Orange Bd. of Educ., 60 N.J. Super. 288, 296 (App. Div. 1960). "Where there is 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." Bayshore Sewage Co. v. Dept. of Envt'l. Protection, 122 N.J. Super. 184, 199-200 (Ch. Div. 1973), *aff'd*, 131 N.J. Super. 37 (App. Div. 1974). Therefore, a petitioner must demonstrate much more than simply a difference of opinion over the action taken by respondent. To satisfy the arbitrary and capricious standard, a petitioner must prove that respondent acted in either bad faith or in disregard to the circumstances. Neither is present here.

New Jersey's Administrative Code defines an "informal hearing" as "a discussion between a school administrator and a student regarding the student's alleged misconduct, …, in which the student is informed of the student's alleged violation of the district board of education's code of student conduct, and the basis for the accusation." N.J.A.C. 6A:16-7.1-7.2. During the informal hearing, a student is given the opportunity to explain the student's version of the facts and events regarding the alleged violation. N.J.A.C. 6A:16-1.3; see also N.J.A.C. 6a:17.7.2(a)(2). That part of the code also defines a "short-term suspension" as "removal of a student for one but not more than 10 consecutive school days from the general education program or the special education program, in accordance with N.J.A.C. 6A:14-2.8, but not the cessation of the student's educational services." N.J.A.C. 6A:16-1.3. Furthermore, in Goss, the U.S. Supreme Court observed that in the great majority of cases, the disciplinarian may informally discuss the alleged misconduct with the student minutes after it has occurred, and that the student is not entitled to a formal trial-type proceeding. Goss, 419 U.S. at 573.

Based on the testimony of Sayreville's witnesses and the email communications between Labbe and E.D., Sayreville conducted an informal hearing with J.M. on April 21, 2026, and imposed the three-day, out-of-school suspension on that same date. (R-3) This is borne out by the testimony of Gluchowski and Labbe and the fact that E.D. first emailed Labbe on April 21, 2026 at 12:11 p.m. Id. Similarly, Gluchowski's and Labbe's

testimony and Labbe's email of April 22, 2026, wherein he denies E.D.'s appeal, demonstrates that an informal hearing had been conducted, the video had been reviewed, and J.M. had been provided an opportunity to be heard. Id.

E.D. contends and J.M. testified that he did not share the video and, in fact, deleted it shortly after making it. Labbe correctly noted, however, that Sayreville had "no way of knowing for sure that [] [J.M.] did not share it." (R-3) Labbe's assertion, that one could argue that the reason for recording the fight was to share it, is logical and sound. Id. Additionally, if Sayreville bore the burden of proving a negative, "it would be saddled with a fairly impossible task, for it would be obligated to prove a negative proposition in circumstances in which the area of disproof is extremely wide." M.C. o/b/o L.C. v. Board of Educ. of the Freehold Regional High School District, 1999 N.J. AGEN LEXIS 678, *66-67, OAL Dkt. No. EDU 8229-98 (October 29, 1999). Oftentimes, "[i]t is not possible to prove a negative, *i.e*., that mail was not received" or, in this case, that J.M. did not share the video. See Department of Children and Families, Division of Youth and Family Services v. Pamela Morton, 2010 N.J. AGEN LEXIS 502, *9, OAL. Dkt. No. CSV 08877-09 (September 20, 2010). The Student Handbook and Gluchowski's PA announcements made clear to Sayreville students that recording of other students on school property is not permitted. Doing so is a "Severe Technology Agreement Violation," regardless of whether the video is shared.

Gluchowski and Labbe testified that similar technology violations resulted in the same punishment for other students, even those who had no prior or very limited disciplinary history. Labbe informed E.D. of that fact in his response to her initial appeal. (R-3) Labbe's insistence on treating J.M. the same as other similarly situated offenders "to ensure the consistent, and equitable application of [] [the] code of conduct" is a foundational element in avoiding allegations of arbitrary, capricious or unreasonable action.

Sayreville established the student code of conduct and the various penalties for different categories of violations to "foster the health, safety, social, and emotional well-being of students." (R-4) E.D. argues that the classification of the incident as "severe"

and the imposition of a three-day, out-of-school suspension is excessive. J.M.'s penalty was consistent with a first offense. Thus, the three-day suspension was not excessive *if* the violation is "severe."

A student using his or her phone to surf the internet, message other students, or peruse social media constitutes a "Technology Agreement Violation." Although doing so is arguably serious and could result in someone's emotional upset, it is not the same as recording other students. While momentarily recording a brief scuffle between two students may appear harmless, it is the act of recording itself that is the issue. What if, rather than a brief fight between two boys in a hallway, the incident involved a female student suffering a wardrobe malfunction, a student suffering a seizure, or a teenager experiencing an emotional breakdown? Deterring and discouraging students from recording incidents on their phones in school is the objective. In cellphone parlance, one thinks of "sharing" as uploading something to social media; however, the simple act of showing the video on a phone to another student is "sharing."

Finally, E.D. challenges Sayreville's decision by asserting that J.M.'s punishment for his conduct was harsher than first offenses involving weapons offenses, harassment and intimidation, and sexual harassment. While one can debate the appropriate punishments for various offenses and what is or is not excessive, school board's actions, when acting within their authority, carry a presumption of validity, and they are vested with broad discretion when student discipline is involved. See Thomas, 89 N.J. Super. at 332; see also K.O.H., 95 N.J.A.R.2d at 276. E.D.'s believes that the designation of "severe" and the accompanying suspension is excessive. Sayreville does not. "Where there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration." Bayshore, 122 N.J. Super. at 199-200.

Therefore, I **CONCLUDE** that J.M. committed a "Severe Technology Agreement Violation" by recording the hallway altercation on April 21, 2026; that J.M.'s three-day, out-of-school suspension for a "Severe Technology Agreement Violation" was appropriate and is consistent with past practice and the penalty specified in District Policy 5600 (Student Discipline/Code of Conduct); and that Sayreville's action was not arbitrary, capricious or unreasonable.

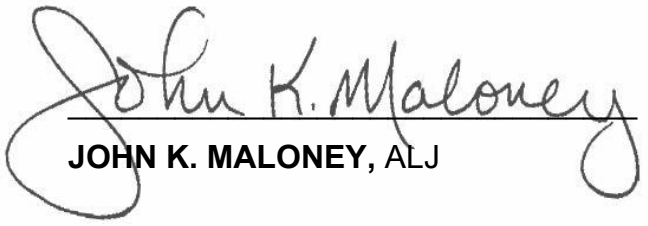
ORDER

I **ORDER** that Petitioner's application for relief is **DENIED**, and that this case is **DISMISSED.**

I **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 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 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.



September 16, 2026
DATE

JOHN K. MALONEY, ALJ

Date Received at Agency: _____

Date E-Mailed to Parties: _____

JKM/kl

APPENDIX

Witnesses

For petitioner:

J.M.

For respondent:

Richard Labbe, Superintendent

Richard Gluchowski, Principal

Exhibits

For petitioner:

None

For respondent:

R-1 Petition of appeal

R-2 Sayreville's answer to the petition

R-3 Correspondence between Petitioner and Sayreville

R-4 Sayreville BOE Regulations for Policy 5600 – Student Discipline

R-5 Not in evidence

R-6 Sayreville BOE Policy 5600 – Student Discipline

R-7 Video of April 21, 2026 Incident

R-8 Principal Gluchowski's Morning Announcements

R-9 Sayreville Student Handbook – regarding use of cellphones to video/photograph