442-26
OAL Dkt. No. EDU 10899-26
Agency Dkt. No. 254-06-26

New Jersey Commissioner of Education

Final Decision

K.P., on behalf of I.M.,

Petitioner,

v.

Pascack Valley Regional High School District Board of Education, Bergen 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) that the petition of appeal was untimely pursuant to *N.J.A.C.* 6A:3-1.3(i) and must therefore be dismissed.[1]

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.[2]

COMMISSIONER OF EDUCATION

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

[1] The Commissioner recognizes that the ALJ held in the Initial Decision that the petition must be dismissed for lack of standing and lack of jurisdiction. However, because the Commissioner agrees with the ALJ that the petition must be dismissed as untimely, it is unnecessary to review and rule upon alternative grounds for dismissal.

[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 ON
MOTION TO DISMISS
OAL DKT. NO. EDU 10899-26
AGENCY DKT. NO. 254-06-26

K.P. ON BEHALF OF MINOR CHILD, I.M.,

Petitioners,

v.

PASCACK VALLEY REGIONAL HIGH SCHOOL DISTRICT, BOARD OF EDUCATION, BERGEN COUNTY

Respondent.

K.P. on behalf of minor child I.M., *pro se*, petitioners

Joseph M. Naeem, Esq. (Fogarty, Hara, LaPira & Cherry, LLC, attorneys), for respondent

Record Closed: September 8, 2026 Decided: October 1, 2026

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

STATEMENT OF THE CASE

Petitioners, K.P. on behalf of minor child I.M., brings an action against respondent, Pascack Valley Regional High School District, Board of Education, Bergen County, alleging violations of N.J.S.A. 18A:1-1 et seq, and New Jersey Law Against Discrimination

(NJLAD), N.J.S.A. 18A:1-1, et seq., for school year 2023-2024, in denying I.M. school lunch benefits, and related violations of student privacy and equal treatment obligations therein.

PROCEDURAL HISTORY

On June 15, 2026, Petitioners, K.P. on behalf of minor child I.M., (K.P. and collectively Petitioners) initiated this matter by filing a Pro Se Petition of Appeal ("Petition") with the New Jersey Department of Education, Office of Controversies and Disputes ("NJDOE"). Petitioners allege the following violations by respondent, Pascack Valley Regional High School District, Board of Education, Bergen County (the Board or Respondent) for "discriminatory and improper denial of my daughter's school lunch benefits for the 2023-2024 school year, and for related violations of student privacy and equal treatment obligations applicable to all New Jersey public schools under N.J.S.A. 18A:1-1 et seq. and the New Jersey Law Against Discrimination (NJLAD), N.J.S.A. 10:5-1 et seq and not only discrimination and retaliation from superintendent of PV district [Pascack Valley Regional High School District] and board members of PV district on September 11,2023." (Petition).

On or about July 6, 2026, the Board filed a Motion to Dismiss in Lieu of an Answer (motion) with the NJDOE in response to the petition. The Board argues in its motion the following: (1) the NJDOE Commissioner of Education ("Commissioner") must dismiss this matter because it is barred by the statute of limitations; (2) Petitioner K.P. lacks standing to pursue this claim on behalf of I.M., who has reached the age of majority and is no longer a student in the school district, and (3) the Commissioner must dismiss this matter because Petitioner fails to state a claim under the school laws.

The NJDOE transferred this matter to the Office of Administrative Law (OAL), as a contested matter, where it was filed therein on July 8, 2026.

A prehearing status conference was held on August 11, 2026. Petitioners did not appear at the status conference. The Board requested that its motion file with the NJDOE now be heard at the OAL. A motion schedule was issued therein, requiring Petitioners to

file their opposition on August 28, 2026, and for the Board to file their reply, if any, on September 4, 2026. Petitioners did not file an opposition to the within motion and the Board did not file a reply. I closed the record on September 8, 2026.

FINDINGS

Upon reviewing the petition and attached exhibits filed herein, and reviewing the Board's moving papers submitted, I make the following **FINDINGS of FACT**:

K.P. is the mother of I.M., a student who attended high school in the Board's school district and graduated in 2024. K.P. alleges in the Petition that in September-October 2025 as a result of emails provided to her through an OPRA request, she became aware of a "misconduct" by a Board employee who sent an email commenting negatively on I.M.'s possession of a car in the context of her alleged inability to pay for school lunch. K.P. claims that in seeking to obtain lunch program for I.M. under the National School Lunch Program ("lunch program"), she was subjected to requests for additional documentation, and that ultimately, her application for lunch program was denied.

K.P. invokes the "discovery rule" in alleging that the Petition is timely filed because the conduct described in her Petition "was entirely concealed from me and was only discoverable through the OPRA process in September-October 2025." (Petition).

Additionality, Petitioners claim that the Board subjected them to discrimination, violated I.M.'s right to privacy under FERPA and state law, and failed "to apply uniform eligibility criteria", in the context of her attempt to obtain the lunch program for her daughter. (Petition).

LEGAL ANAYALYSIS AND CONCLUSIONS

A Motion to Dismiss is not specifically enumerated under the Administrative Code; however, administrative law judges are explicitly granted the discretion to use procedures that are not expressly granted, and to relax rules in the interest of justice. The Administrative Code explicitly directs that "[i]n the absence of a rule, a judge may proceed

in accordance with the New Jersey Court Rules, provided the rules are compatible with [the] purposes" of achieving "just results, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay." N.J.A.C. 1:1-1.3(a).

An administrative law judge may relax or disregard "procedural rules … if the judge determines that adherence would result in unfairness or injustice." N.J.A.C. 1:1-1.3(b). The New Jersey Court Rules state that a motion to dismiss based on "lack of jurisdiction over the subject matter" shall be made "by motion, with briefs" and "before pleading if a further pleading is to be made." R. 4:6-2. Such motion "shall be heard and determined before trial." R. 4:6-3. Furthermore, while generally applicable prior to transmittal to the OAL, the Administrative Code provides that petitions before the Commissioner may be dismissed "on the grounds that 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:3-1.10.

I **CONCLUDE** that the Board's motion to dismiss filed with the NJDOE may be heard before the OAL as the same pertains to a request for the dismissal of the Petition as they argues that Petitioners are barred by the statute of limitations; Petitioner K.P., lacks standing to assert these claims, as she brings them on behalf of her daughter, I.M., who is over eighteen and graduated from the school district two years ago, and the Petition fails to state a claim on the various theories claimed in the Petition.

The Board makes the following arguments in its motion: (1) the Commissioner must dismiss the Petition because it is barred by the statute of limitations; (2) Petitioner K.P. lacks standing to pursue this claim on behalf of I.M., who has reached the age of majority and is no longer a student in the school district, and (3) the Commissioner must dismiss this matter because Petitioner fails to state a claim under the school laws. The Board's arguments will be addressed below.

The Petition is subject to the limitations of when a petition may be filed with the Commissioner under N.J.A.C. 6A:3-1.3(i). This regulation sets forth the applicable statute of limitations for this claim, which requires a petitioner to file his or her petition "no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other

action by the district board of education, individual party, or agency, that is the subject of the requested contested case hearing." Id.

The Petition alleges that the actions that form the basis of the Petition occurred in and around August and September of 2023, which is more than three years from June 15, 2026, the date the Petition was filed with the NJDOE.

Petitioners' attempt to circumvent the time constraints set forth in N.J.A.C. 6A:3-1.3(i) by invoking the "discovery rule as a defense. However, this argument is unavailing because even utilizing the date provided by Petitioners of "September-October 2025", as the "discovery" date, Petitioners would have been required to file their petition not later than January 2026. The Petition containing the allegations against the Board was filed with the NJDOE on June 15, 2026, which is more than the time allowed under N.J.A.C. 6A:3-1.3(i), and I **CONCLUDE** that said allegations are plainly barred by the statute of limitations.

The Board argues that the Petition is "plagued by pleading deficiencies", as K.P. does not have standing to bring the within Petition as the same contains allegations of misconduct that affects I.M. only. A review of the Petition reveals that the same contains allegations that the Board violated the NJLAD that forms a "discriminatory denial of benefits" for I.M.; the Board violated FERPA and I.M.'s "student privacy" and the Board failed to apply uniform eligibility criteria of lunch programs utilized by I.M. K.P. brings no claims on her own behalf and she will not be affected by the outcome in this matter in a direct and meaningful way. I agree.

Under the Uniform Administrative Procedure Rules, "pleading requirements are governed by the agency with subject matter jurisdiction over the case." N.J.A.C. 1:1-6.1. The Administrative Code dictates that a petition before the Department of Education shall include, *inter alia*:

> [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; the relief petitioner is seeking; and a statement of verification or certification in lieu of affidavit for each

> petitioner. The petition should also cite, if known to petitioner, the section(s) of the school laws under which the controversy has arisen.
>
> [N.J.A.C. 6A:3-1.4.]

I **CONCLUDE** that K.P. lacks standing to bring the within Petition before the Commissioner as all of the allegations and claimed relief apply to her daughter, I.M. who is now of age and may bring a cause of action, and therefore, the claims made in the Petition do not satisfy the requirements of N.J.A.C. 1:1-6.1.

The Petition claims that the Board violated the NJLAD when it wrongfully denied I.M. lunch program benefits. The Board argues that this claim is deficient because the Petition fails to assert a cause of action under the NJLAD, as Petitioners do not claim membership in a protected group. While I agree with the Board's argument, it is imperative to note that Petitioners claim of alleged violations by the Board of the NJLAD are improperly filed with the NJDOE. The NJDOE handles educational program compliance, school operations, and specific federal program disputes (such as ESEA complaints), but it does not have the jurisdiction to adjudicate or enforce NJLAD discrimination claims.

The NJDOE Commissioner's jurisdiction is defined by statute and is limited to "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. Our courts have held that, "[w]here the controversy does not arise under the school laws, it is outside the Commissioner's jurisdiction even though it may pertain to school personnel." Bd. of Educ. of E. Brunswick v. Twp. Council of E. Brunswick, 48 N.J. 94, 102 (1966). Therefore, I **CONCLUDE** that Petitioners' claim that the Board violated the NJLAD is improper as the NJDOE does not have jurisdiction to adjudicate the same.

I **CONCLUDE** that the Board's motion to dismiss the Petition in lieu of an answer is **GRANTED** as the Petition is time bared under N.J.A.C. 6A:3-1.3(i); the NJDOE lacks jurisdiction concerning the claims the Board violated the NJLAD, and the claims that the

Board violated FERPA and failed to apply uniform eligibility criteria under N.J.A.C. 6A:33 do not comport with the requirements of N.J.A.C. 6A:3-1.4.

ORDER

IT IS hereby **ORDERED** that the Board's motion to dismiss the Petition filed by the Petitioners herein is **GRANTED** and the Petition is **DISMISSED.**

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.

October 1, 2026 — Julio Morejon

DATE — **JULIO C. MOREJON**, ALJ

Date Received at Agency: October 1, 2026

Date E-Mailed to Parties: October 1, 2026

JCM/lr