

55-26
OAL Dkt. No. EDU 15809-24
Agency Dkt. No. 326-10/24

New Jersey Commissioner of Education
Final Decision

N.B. and R.B., on behalf of minor child, N.B.,

Petitioners,

v.

Board of Education of the Henry Hudson Regional
School District, Monmouth County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed and considered.

Upon review, the Commissioner concurs with the ALJ that petitioners failed to sustain their burden of establishing that respondent acted in an arbitrary, capricious, or unreasonable manner in finding that their child, N.B., committed an act of harassment, intimidation, and bullying.

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.¹


ACTING COMMISSIONER OF EDUCATION

Date of Decision: February 17, 2026
Date of Mailing: February 17, 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

AMENDED

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 15809-24

AGENCY DKT. NO. 326-10/20

N.B. AND R.B. ON BEHALF OF N.B.,

Petitioners,

v.

HENRY HUDSON REGIONAL SCHOOL

DISTRICT BOARD OF EDUCATION,

MONMOUTH COUNTY,

Respondent.

Allan C. Roth, Esq., for petitioners (Ruderman & Roth, LLC, attorneys)

Danielle N. Pantaleo, Esq., for respondent (Busch Law Group, LLC, attorneys)

Record Closed: November 7, 2025

Decided: January 7, 2026

BEFORE **NICOLE T. MINUTOLI**, ALJ:

STATEMENT OF THE CASE

Petitioners' son was accused of being intentionally verbally abusive by making racist remarks to another student. Respondent investigated the incident and concluded that there was an incident of harassment, intimidation, or bullying (HIB) under the Anti-

Bullying Bill of Rights Act, N.J.S.A. 18A:37-13, et seq. (Act). Should respondent's findings be overturned? No. A school board acting within the scope of its authority is "entitled to a presumption of correctness . . . unless there is an affirmative showing that such decision was arbitrary, capricious or unreasonable." Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965).

PROCEDURAL HISTORY

On September 24, 2024, respondent, Henry Hudson Regional School District Board of Education (Board), upheld a May 10, 2024, finding that N.B. committed an act of HIB on April 18, 2024. On October 14, 2024, petitioners N.B. and R.B., on behalf of N.B., appealed the Board's decision to the Department of Education (DOE). The DOE transmitted the matter to the Office of Administrative Law (OAL), where it was filed on November 1, 2024, for hearing as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

Prehearing conference calls were held on January 21, 2025; May 28, 2025; and July 28, 2025. The parties agreed to file cross-motions for summary decision. On or about October 1, 2025, respondent filed its motion for summary decision, contending that the Henry Hudson School District (District) followed all the necessary procedures in its investigation under the Act in determining that N.B.'s acts constituted HIB. On or about October 21, 2025, petitioners filed their opposition to respondent's motion for summary decision and cross-motion for summary decision, contending that the District's investigation was flawed and that the Board's decision was arbitrary, capricious or that it warrants reversal.

DISCUSSION AND FINDINGS OF FACT

Based upon the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following **FACTS**:

On April 21, 2024, the principal of Henry Hudson Regional School (School), Kevin McCarthy, received a complaint from a parent reporting bullying at the School.

Respondent's Motion for Summary Decision, Certification of Kevin McCarthy (McCarthy Cert.), ¶ 4.¹ On April 22, 2024, McCarthy spoke to the alleged victim (AV). McCarthy Cert., ¶ 5. After speaking with the AV, McCarthy completed the HIB 338, Mandatory Reporting Form. Respondent's Motion for Summary Decision, Ex. A.

On April 22, 2024, McCarthy assigned the investigation to the District's anti-bullying specialist (ABS), Scott Isaacs, to conduct an HIB investigation. McCarthy also contacted N.B.'s parents and the parents of the other two alleged student offenders (AO2 and AO3) to advise them that the students had been named as alleged offenders in an HIB investigation. McCarthy Cert., ¶¶ 6, 7.

On April 22, 2024, Isaacs commenced the HIB investigation. Id. at ¶ 7. The investigation included interviews with the AV, the alleged offenders, and several witnesses, including District staff members and students.

On April 22, 2024, Isaacs interviewed the AV, who reported that on or about April 18, 2024, N.B., AO2, and AO3 said racist remarks to her during the past month, including the "N" word and the word "hagway," which the AV said means the "N" word in Chinese.² Respondent's Motion for Summary Decision, Certification of Scott Isaacs (Isaacs Cert.), ¶ 4. The AV stated that the AOs' conduct was worse during baseball season because she had previously served as the baseball team's manager. Ibid. She said that they would kick her and hit her in her arm. Ibid. The AV reported that the bullying had started because N.B. had expressed that he wanted to be in a relationship with her, and she had not wanted to be in one with him. Ibid. She stated that the alleged offenders would say offensive things to her at the beginning or end of class, when "things tend to be noisy."

¹ McCarthy is an anti-bullying specialist as well as the anti-bullying coordinator (ABC) and is formally trained and certified to conduct HIB investigations. McCarthy also annually participates in HIB training and online certification programs. Respondent's Reply to Petitioners' Opposition to Respondent's Motion for Summary Decision and in Opposition to Petitioners' Cross-Motion for Summary Decision, Supplemental Certification of Kevin McCarthy (McCarthy Supp. Cert.), ¶ 3.

² Although the record uses the spelling "hagway," that spelling is not connected to any Mandarin or Cantonese word; the AV is likely referring to the Chinese term "Hei Gui," which is a racial slur that can be translated to the "N" word and is pronounced similarly to "hagway." See <<https://en.wiktionary.org/wiki/%E9%BB%91%E9%AC%BC>>.

Id. at ¶ 5. The AV reported that the “N” word was allegedly used in English class, and the AV was sure that co-teacher Thomas Dietz (Dietz) had heard it. Ibid.

On April 22, 2024, Isaacs interviewed a student who stated that she heard all three alleged offenders call the AV the “N” word, but found her not to be a credible witness to corroborate the allegations against N.B. and the two AOs. Id. at ¶ 6.

On April 23, 2024, and April 26, 2024, Isaacs interviewed the two AOs, each of whom denied saying the “N” word. One of the AOs instead claimed that they told someone’s stance as a baseball catcher needed to be “bigger.” Id. at ¶ 7.³

On April 25, 2024, Isaacs interviewed Dietz. Dietz denied hearing the “N” word but did say he heard the alleged offenders going back and forth with the AV. Id. at ¶ 8.

On April 26, 2024, Isaacs interviewed N.B., who denied saying the “N” word. N.B. stated that during class, he and the other two AOs were discussing baseball and how one of the AOs needs to get his stance as a catcher bigger. N.B. stated that the A.V. thought they said the “N” word. Id. at ¶ 9.

On May 3, 2024, at the conclusion of the interviews, Isaacs determined that an act of HIB was unfounded against N.B., AO2, and AO3 because the investigation did not reveal any reliable corroborating evidence for the use of racial slurs. Isaacs Cert., ¶ 11. Isaacs imputed the results of his investigation in the HIBster Report. Respondent’s Motion for Summary Decision, Ex. A. On the same day, Dr. Tara Beams, superintendent of schools, Henry Hudson Regional School District Board of Education, received a copy of the HIBster Report and its findings that an act of HIB was unfounded against N.B., AO2, and AO3. Certification of Dr. Tara Beams (Beams Cert.), ¶ 3.

On May 10, 2024, a student unknown to Isaacs during the original investigation, John Doe, came to see McCarthy, claiming he had witnessed the alleged bullying of the AV. McCarthy Cert., ¶ 9; Respondent’s Reply to Petitioners’ Opposition to Respondent’s

³ Isaacs wouldn’t interview N.B. because he was absent from school that day.

Motion for Summary Decision and in Opposition to Petitioners' Cross-Motion for Summary Decision, Supplemental Certification of Kevin McCarthy (McCarthy Supp. Cert.), ¶ 4. The witness, John Doe, was interviewed by the principal, McCarthy, and said that he witnessed the alleged bullying. McCarthy Supp. Cert., ¶ 4. McCarthy spoke with John Doe for approximately fifteen minutes, during which John Doe explained to McCarthy that he had been afraid to come forward earlier, fearing retaliation. McCarthy questioned John Doe regarding his eyewitness accounts and then requested that he submit a written statement. Ibid.

After McCarthy obtained a written statement from John Doe, John Doe confirmed to McCarthy that N.B. and AO3 used the "N" word to refer to the AV. He did not hear AO2 use any racial slurs. Id. at ¶ 5. John Doe stated that N.B. and AO3 spat sunflower seeds at the AV in the baseball dugout, even after she asked them to stop. McCarthy Cert., ¶ 9.

On May 10, 2024, after meeting with John Doe, McCarthy confirmed that John Doe had not communicated with the AV, either in person or via text, that day. McCarthy found John Doe to be a reliable, credible eyewitness and determined that he corroborated the prior witness's account of racial slurs made by N.B. against the AV. McCarthy Supp. Cert., ¶ 6.

On the same day, McCarthy reopened the investigation to include John Doe's statement. Id. at ¶ 7; Respondent's Motion for Summary Decision, Ex. A. Based on the new evidence that corroborated the AV's claims about the N.B. at AO3 using offensive racial epithets, the HIB determination was changed to being founded against N.B. and AO3. Ibid.; Isaacs Cert., ¶ 12.

On May 10, 2024, the revised HIBster Report and its findings were reported to Beams. McCarthy Cert., ¶ 11.

On May 22, 2024, the HIB investigation and findings, as outlined in the HIBster Report, were presented to the Board at its regular meeting. Beams Cert., ¶ 5. On May 23, 2024, N.B.'s parents were notified, in writing, that an incident of HIB was founded

against N.B. Id. at ¶12; Respondent’s Motion for Summary Decision, Ex. A. As a result of this finding of HIB, N.B. was given a two-day out-of-school suspension for targeted racial remarks. Id. at ¶ 13.

On July 22, 2024, N.B.’s parents appealed the HIB determination and requested a Board hearing. Beams Cert., ¶ 6.

On September 18, 2024, a hearing was conducted before the Board during an executive session. Id. at ¶ 7, Ex. C. During the hearing, petitioners’ counsel argued that John Doe was not an eyewitness to the alleged use of the racial slurs and that his statement was hearsay. Id. at ¶ 7. However, the Board found that John Doe was, in fact, an eyewitness to the use of the racial slurs and decided not to change its prior adoption of the finding of HIB. Ibid., Ex. D.

On September 24, 2024, N.B.’s parents were notified of the Board’s determination. Id. at ¶ 8, Ex. D.

ANALYSIS, DISCUSSION, AND CONCLUSIONS OF LAW

Standard for Summary Decision

Under N.J.A.C. 1:1-12.5(a), “[a] party may move for summary decision upon all or any of the substantive issues in a contested case.” A motion for summary decision is a common legal ploy to resolve a case without an evidentiary hearing. A motion for summary decision may 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(b). Additionally, “[w]hen 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 determination of whether a genuine issue of material fact exists that precludes summary decision requires the 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 fact finder to resolve the allegedly disputed issue in favor of the non-moving party. Our courts have long held that “if the opposing party . . . offers . . . only facts which are immaterial or of an insubstantial nature, a mere scintilla, ‘Fanciful frivolous, gauzy or merely suspicious,’ he will not be heard to complain if the court grants summary judgment.” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 529 (1995) (quoting Judson v. Peoples Bank and Trust Co., 17 N.J. 67, 75 (1954)).

The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” Brill, 142 N.J. at 540 (citing Anderson v. Liberty Lobby, 477 U.S. 242, 249 (1986)). When the evidence “is so one-sided that one party must prevail as a matter of law,” the trial court should not hesitate to grant summary judgment. Liberty Lobby, 477 U.S. at 252.

Having read the briefs and certifications and having reviewed the exhibits, I **CONCLUDE** that no issues of fact exist and that the case is ripe for summary decision.

The Anti-Bullying Bill of Rights Act (Act), N.J.S.A. 18A:37-13 et seq., is designed “to strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying of students that occur in school and off school premises.” N.J.S.A. 18A:37-13.1(f). Under the Act, “harassment, intimidation or bullying” (HIB) is defined as:

[A]ny gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in section 16 of

P.L.2010, c.122 (C.18A:37-15.3), that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

- a. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property;
- b. has the effect of insulting or demeaning any student or group of students; or
- c. creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

[N.J.S.A. 18A:37-14.]

Each school district must adopt a policy that prohibits HIB and provides for a prompt response to any alleged HIB incident. N.J.S.A. 18A:37-15(a). Once an alleged HIB incident is reported to the school principal, the principal or their designee must initiate an investigation within one school day of receiving the report. N.J.S.A. 18A:37-15(b)(6). A school anti-bullying specialist shall conduct the investigation, which must be completed within ten school days from the date of notification of the incident. Ibid. The Act also provides that the principal may appoint additional personnel who are not school anti-bullying specialists to assist in the investigation. N.J.S.A. 18A:37-15(b)(6)(a). The results of the investigation shall be promptly reported to the superintendent of schools, who may take appropriate remedial action. N.J.S.A. 18A:37-15(b)(6)(b). The results shall also be reported to the board of education "no later than the date of the board of education meeting next following the completion of the investigation, along with information on any services provided, training established, discipline imposed, or other action taken or recommended by the superintendent." N.J.S.A. 18A:37-15(b)(6)(c). Beyond the statutory deadlines, the statute does not specify the methods by which the investigation must be conducted.

District Policy 5512 on Harassment, Intimidation, and Bullying reflects the statutory language, stating that “[t]he investigation shall be conducted by the school Anti-Bullying Specialist appointed by the Principal [and t]he Principal may appoint additional personnel who are not school Anti-Bullying Specialists to assist the school Anti-Bullying Specialist in the investigation.” McCarthy Cert., ¶ 12; Respondent’s Motion for Summary Decision, Ex. B. The District’s policy does not provide specific requirements for the methods used during the investigation.

Courts have confirmed that “the Anti-Bullying Act does not require the Anti-Bullying Specialist to be the only school official who may conduct the investigation.” Dunkley v. Bd. of Educ., 216 F. Supp. 3d 485, 495 (D.N.J. 2016); see also A.M. & A.M. ex rel. B.M. v. Somerset Hills Pub. Sch. Dist. Bd. of Educ., EDU 08742-24, Initial Decision (March 6, 2025), adopted, Comm’r (May 23, 2025), <http://nj.gov/education/legal/commissioner/2025/270-25.pdf>. Both principals and vice principals may participate in the investigation. Ibid. Additionally, statements from students regarding the incident may be included in the HIB report, as “the rules of evidence need not be applied in school disciplinary proceedings.” Rockwell v. William Paterson Univ., 2016 N.J. Super. Unpub. LEXIS 140, at *26 (App. Div. Jan. 25, 2016) (alterations and quotations omitted). In bullying cases, the investigation specifically seeks out statements from students and teachers who may corroborate the allegation of bullying. See Somerset, EDU 08742-24, Initial Decision (February 7, 2025), <http://nj.gov/education/legal/commissioner/2025/270-25.pdf> at *4, *21.

An action by a board of education “is entitled to a presumption of correctness and will not be upset unless there is an affirmative showing that such decision was arbitrary, capricious or unreasonable.” Thomas, 89 N.J. Super. at 332. The Commissioner will not substitute their judgment for that of a board of education, whose exercise of discretion may not be disturbed unless shown to be “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). Our courts have held that “[w]here 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 Sew. Co. v. Dep’t of Env’tl. Prot., 122 N.J. Super. 184, 199–200 (Ch. Div. 1973),

aff'd, 131 N.J. Super. 37 (App. Div. 1974). Thus, to prevail, petitioners must demonstrate that the Board acted in bad faith or in utter disregard of the circumstances before it. T.B.M. v. Moorestown Bd. of Educ., EDU 02780-07, Initial Decision (February 6, 2008), <http://njlaw.rutgers.edu/collections/oal> (citing Thomas, 89 N.J. Super. at 332).

Here, petitioners argue that because Isaacs found one of the original witnesses to be incredible based on her interview, the Board should not have accepted a finding of HIB without an interview of John Doe. However, petitioners have not identified any legal principles demonstrating that the Board's acceptance of a student's written testimony, rather than a summary of the investigator's interview, was arbitrary, capricious, or unreasonable. Neither the Act nor District policy dictates specific methods by which witness statements must be collected and recorded. Moreover, John Doe was questioned and interviewed by McCarthy. While the HIB report should have noted that McCarthy interviewed John Doe, petitioners were not prejudiced by that omission.

The Commissioner has found that a procedural irregularity is an "insufficient reason to require the Commissioner to reverse the Board's substantive HIB determination." H.P. ex rel. R.S. v. Tenafly Bd. of Educ., EDU 07170-23, Initial Decision (Jan. 24, 2024), adopted, Comm'r (Mar. 26, 2024), <https://njlaw.rutgers.edu/collections/oal> at 1. When a board's actions amount to more than just an accidental misstep, such as affirmatively denying a hearing to an accused HIB violator, the proper remedy is still to remand the matter to the board for a hearing. Gibble v. Hunterdon Cent. Reg'l Sch. Dist. Bd. of Educ., EDU 02767-15, Initial Decision (April 12, 2016), modified, Comm'r (July 13, 2016), <https://njlaw.rutgers.edu/collections/oal>. Even when procedural protections are "largely ignored" by a board, the proper remedy is remanding for a hearing in compliance with the Act. Young-Edri v. City of Elizabeth Bd. of Educ., EDU 17812-18, Initial Decision (May 30, 2019) at 6, adopted, Comm'r (July 8, 2019), <https://njlaw.rutgers.edu/collections/oal>. Even a reversal of a substantive HIB finding is unnecessary when the investigation report reveals "a comprehensive investigation." Id. at 7.

Unlike the petitioners in the cases cited above, petitioners were not denied a hearing. Petitioners appeared before the Board on September 18, 2024. The lack of

notice of John Does's interview did not prejudice petitioners. No further credibility inquiry was required, and the investigation was complete. While the Board could have been more critical of the HIB report's limited information, the failure to document the interview did not violate any procedural rules. Additionally, McCarthy's involvement in the interview did not invalidate the investigation, as the Act, District policy, and case law allow a principal to assist in the investigation. The fact that petitioners had a hearing cured any possible procedural irregularity. Therefore, I **CONCLUDE** that petitioners failed to sustain their burden of establishing that the Board acted in an arbitrary, capricious, or unreasonable manner in finding that N.B. committed an act of HIB, and so its HIB determination must stand.

ORDER

Based on the foregoing, it is hereby **ORDERED** that petitioners' motion for summary decision is **DENIED**. It is further **ORDERED** that respondent's motion for summary decision is **GRANTED**.

I hereby **FILE** my 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**, which 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**. **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.

January 7, 2026

DATE



NICOLE T. MINUTOLI, ALJ

Date Received at Agency:

January 7, 2026

Date Mailed to Parties:

January 7, 2026

NTM/tc

APPENDIX

Exhibits

For petitioner:

Motion for Summary Decision and Reply to Respondent's Motion for Summary Decision

For respondent:

Motion for Summary Decision and Reply to the Petitioners' Motion for Summary Decision