

26-23
OAL Dkt. No. EDU 11614-22
Agency Dkt. No. 374-12/22

New Jersey Commissioner of Education

Final Decision

D.S., on behalf of minor child, M.S.,

Petitioner,

v.

Board of Education of the Township of
Hamilton, Mercer County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), and the exceptions filed by the petitioner¹ pursuant to *N.J.A.C. 1:1-18.4* have been reviewed and considered.

Petitioner's minor child, M.S., was involved in a fight at Steinert High School (Steinert) in December 2022. Petitioner filed an application for emergent relief, alleging that M.S. was unsafe at Steinert and seeking M.S.'s immediate transfer to Hamilton High School-West (HHS-West). The Administrative Law Judge (ALJ) concluded that petitioner failed to establish irreparable harm, noting that there is no more evidence that A.C. targeted M.S. than evidence that M.S. targeted A.C., and that there is insufficient evidence to conclude that A.C. presents a risk of irreparable harm to M.S. The ALJ further indicated that, to the extent that petitioner alleged that a School Resource Officer (SRO) used excessive force when responding to the fight, petitioner has made clear her

¹ Following the issuance of the Initial Decision, petitioner sent two emails to the Commissioner, which the Commissioner deems to be petitioner's exceptions to the Initial Decision. The Board did not file a reply to petitioner's exceptions.

intent to file a civil lawsuit against the SRO and others, such that redress in the form of monetary damages is available to her and therefore any harm is not irreparable. The ALJ further concluded that petitioner failed to demonstrate a likelihood of success on the merits of her claim regarding the transfer, as a discretionary decision of a board of education will not be overturned unless the board acted in bad faith or in disregard of the circumstances. Here, the ALJ found that the Hamilton Township Board of Education (Board) has a strong basis for its decision to deny petitioner's transfer request based on a history of conflict during M.S.'s previous enrollment at HHS-West. Finally, the ALJ concluded that the balance of the equities does not favor a transfer. Accordingly, the ALJ denied the application for emergent relief.

The ALJ also indicated that petitioner previously filed a separate petition of appeal seeking M.S.'s transfer to HHS-West on the grounds that petitioner had purchased a home within the residency zone for HHS-West. In the Initial Decision, the ALJ indicated that the proceedings in that case, docketed as *D.S., on behalf of minor child, M.S. v. Bd. of Educ. of the Twp. of Hamilton, Mercer Co.*, OAL Dkt. No. EDU 10144-22, will continue.

In her exceptions, petitioner indicates that she disagrees with the decision and believes that she has met the prongs for emergent relief. Petitioner also noted that there has been no civil suit filed against the Steinert administration or the Hamilton Township Police Department.

Upon review, for the reasons detailed in the Initial Decision, the Commissioner concurs with the ALJ that petitioner has failed to demonstrate entitlement to emergent relief pursuant to the standards enunciated in *Crowe v. DeGioia*, 90 N.J. 126 (1982), and codified at N.J.A.C. 6A:3-1.6. While petitioner's exceptions express her disagreement with the Initial Decision, she offers no legal basis for that disagreement. Furthermore, with regard to petitioner's contention that no civil suit has been filed, the Commissioner notes that the availability of monetary damages is what precludes

a finding of irreparable harm; whether petitioner has filed such a suit at this time is not relevant. Additionally, petitioner is required to meet all four prongs of the emergent relief standard for her application to be granted, and the prong regarding irreparable harm is not the only prong that petitioner failed to meet. The Commissioner concurs with the ALJ that petitioner also failed to demonstrate a likelihood of success on the merits of her claim or that the balance of equities favors a transfer. Accordingly, the Commissioner concludes that the ALJ appropriately denied petitioner's request for emergent relief.

Generally, when a request for emergent relief is denied, the case continues on the merits of the underlying claim. However, here, as the ALJ noted, the underlying issue of M.S.'s transfer is pending in a separate matter. Therefore, there is no need for further proceedings on the merits of the transfer claim in the instant matter.

Accordingly, petitioner's application for emergent relief is denied, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.²


ANGELINA ALLEN McMILLAN, J.D.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: January 26, 2023
Date of Mailing: January 26, 2023

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

DENYING EMERGENT RELIEF

OAL DKT. NO. EDU 11614-22

AGENCY DKT. NO. 374-12/22

D.S. ON BEHALF OF M.S.,

Petitioner,

v.

**HAMILTON TOWNSHIP BOARD
OF EDUCATION, MERCER COUNTY,**

Respondent.

D.S., petitioner, pro se

Patrick F. Carrigg, Esq., for respondent (Lenox, Socey, Formidoni, Giordano,
Cooley, Lang & Casey, attorneys)

Record Closed: January 4, 2023

Decided: January 5, 2023

BEFORE **TRICIA M. CALIGUIRE**, ALJ:

STATEMENT OF THE CASE

In this emergent matter, petitioner D.S. on behalf of M.S. seeks the immediate transfer of M.S. from Hamilton High School-East, also known as Steinert High School (Steinert), to Hamilton High School-West (HHS-West) on the grounds that M.S. is unsafe

at Steinert due to allegedly being the victim of harassment, intimidation, and bullying (HIB) on or about December 19, 2022, and as a result of allegedly being subjected to excessive force by the school resource officer (SRO) immediately following the December 19, 2022, incident. Respondent Hamilton Township Board of Education, Mercer County (Board), opposes petitioner's request on the grounds that she has not satisfied the requirements to obtain emergent relief.

PROCEDURAL HISTORY

On November 10, 2022, petitioner filed a petition of appeal with the New Jersey Department of Education (DOE), Office of Controversies and Disputes, to challenge the decision of respondent to deny her request to enroll M.S. at HHS-West. The petition was transmitted to the Office of Administrative Law (OAL) on November 15, 2022, 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 and docketed as EDU 10144-22.

On December 21, 2022, petitioner filed the request for emergent relief with the DOE, which transmitted the emergent petition to the OAL, where it was scheduled for hearing on January 4, 2023. Oral arguments on the emergent petition were made on January 4, 2023, and the record closed.

FACTUAL DISCUSSION AND FINDINGS

Based on the petition for emergent relief, the videos proffered by petitioner, and the documents and videos proffered by respondent, and solely for the purpose of deciding this emergent appeal, I **FIND** the following undisputed **FACTS**:

The Hamilton Township School District (District) operates three high schools and assigns students within the District to a specific high school based on pre-determined residential boundary lines. M.S. is an eighteen-year-old female who receives special education and related services pursuant to an individualized education plan. When M.S. began high school, in September 2019, she lived with her mother, D.S., at an address within the HHS-West zone and attended HHS-West.

During the 2019–2020, and 2020–2021, school years, M.S. was charged by respondent with seven counts of HIB against another HHS-West student. D.S. appealed the Board’s decision by emergent and due process petitions. The request for emergent relief, OAL Dkt. No. EDU 09096-20, was denied on October 6, 2020, and affirmed by the Commissioner on November 12, 2020. While the due process petition, OAL Dkt. No. EDU 07830-20, was pending, D.S. on behalf of M.S. brought a lawsuit against certain administrators and staff of HHS-West, including Principal Brian Smith, alleging racial profiling, discrimination, harassment, and bullying of M.S.¹ This matter was resolved prior to trial.

The S. family moved from New Jersey prior to the end of M.S.’s tenth grade year; she began the 2021–2022 school year in eleventh grade at Gateway High School in Florida. On or before November 1, 2021, M.S. moved with her mother, D.S., back to New Jersey and took up residence in Hamilton Township within the geographic zone assigned by the District to Steinert.

On or before October 29, 2021, D.S. applied to the District for an attendance zone waiver by which M.S. would attend high school at HHS-West rather than Steinert. By letter dated October 29, 2021, the District denied petitioner’s application. The District stated that its decision was supported by the earlier allegations made by D.S. on behalf of M.S. regarding HHS-West administrators and staff, the case D.S. filed in Superior Court, and D.S.’s conduct during the 2020–2021 school year.²

On February 1, 2022, during M.S.’s junior year at Steinert, M.S. was disciplined by respondent for fighting with another student, A.C., and posting video of the fight on social media. After a manifestation determination meeting, respondent concluded that the conduct of M.S. constituted a disciplinary infraction neither related to nor caused by her disability. D.S. sought an expedited ruling overturning that decision and the discipline

¹ Somma on behalf of M.S. v. Smith, et al., MER-L-528-21 (Mercer County Super. Ct. 2016).

² D.S.’s conduct was at issue in the emergent petition she filed on March 2, 2021, alleging that she was harassed, intimidated, and bullied by employees of respondent. D.S. v. Bd. of Educ. of the Twp. of Hamilton, OAL Dkt. No. 02205-21, Initial Decision (March 10, 2021) (denying emergent relief).

imposed on M.S. The requested relief was denied, and the discipline upheld. D.S. obo M.S. v. Bd. of Educ. of the Twp. of Hamilton, OAL Dkt. No. EDS 01033-22, Final Decision (March 15, 2022).

On April 4, 2022, petitioner filed with the DOE an appeal of respondent's denial of the attendance zone waiver. The matter was transmitted to the OAL and on July 5, 2022, an initial decision was entered granting summary decision in favor of the District, which was affirmed by the Commissioner of Education. D.S. on behalf of M.S. v. Bd. of Educ. of the Twp. of Hamilton, OAL Dkt. No. EDU 02521-22, Initial Decision (July 5, 2022), Final Decision (August 15, 2022).

Before the decision in EDU 02521-22 was issued, petitioner asked respondent if M.S. could participate in end-of-year activities at HHS-West with the rest of the HHS-West Class of 2023 and, on June 13, 2022, respondent denied that request. Petitioner appealed that decision by petition dated August 23, 2022. That matter is pending at the OAL as EDU 07264-22.

After the 2022–2023 school year began, D.S. informed respondent that she had contracted to purchase (but not yet closed on) a home within the geographic zone assigned to HHS-West and, on October 7, 2022, petitioner filed the above-described residency appeal (EDU 10144-22). On November 9, 2022, respondent stated that it would not permit M.S. to enroll in HHS-West in the event of a permanent change in residency. In making this decision, respondent relied on its November 5, 2021, letter to D.S. from counsel explaining the basis for respondent's denial of petitioner's request for an attendance zone waiver. This letter stated in pertinent part:

[Y]ou, individually, and on behalf of [M.S.], have accused multiple administrators, including the Principal and the Athletic Director, and multiple certified staff members assigned to [HHS-West] of harassment and discrimination toward [M.S.] and you arising from [bullying], disciplinary incidents, and other circumstances. . . It is confounding that you would insist on having [M.S.] assigned to a school against which you have made such allegations. Nevertheless, while the District denies those allegations and avers that it has engaged in unbiased decisions toward you and [M.S.], those claims and

past circumstances justify [M.S.'s] assignment to a high school other than [HHS-West] which is in the best educational interest of [M.S.] and the [HHS-West] staff.

[Ltr. of Patrick F. Carrigg, Esq., to D.S. (November 5, 2021), at 2.]

In the current petition for emergent relief, petitioner alleges that on December 19, 2022, M.S. was jumped in the school hallway by A.C.³ A number of other students filmed the incident using their cell phone cameras. Prior to the hearing, petitioner submitted videos of the incident (presumably taken by these other students) which show that A.C. threw the first punch, M.S. fought back, and the students were separated by several male teachers. As M.S. is being pulled away, she can be seen on the video resisting and continuing to flail her arms.

Prior to issuing discipline to both A.C. and M.S.,⁴ the Steinert administration conducted an investigation, which included interviews with both students. Ltr. Br. of Respondent in Opposition to Petitioner's Request for Emergent Relief (January 3, 2023), Ex. F. A.C. claimed that she was provoked by M.S.'s action in posting the video of the February 2022 fight (described above). M.S. claims she only posted the video in the morning of December 19, 2022, because of reports that A.C. made disparaging remarks about her on social media the previous weekend. Ibid.

D.S. made an HIB claim against A.C. regarding this incident on December 19, 2022. The District has until January 10, 2023, to complete its investigation and issue findings. N.J.S.A. 18A:37-15(b)(6)(a).

At petitioner's request, during oral argument, respondent introduced videos of the incident from the Steinert surveillance camera. (Due to confidentiality concerns for the minor students who can be identified in the video, this video will not be transmitted to DOE with this initial decision, nor was a copy provided to petitioner.) On this video, many

³ A.C. is the same student with whom M.S. fought in February 2022, and for which she received discipline. See EDU 01033-22, Initial Decision.

⁴ There is no evidence that either student appealed the discipline imposed on her; at oral argument, respondent stated that M.S. returned to school on January 3, 2023, after completing the discipline imposed on her.

students are seen walking to class; a student and teacher are standing outside the door to Room 123. M.S. approaches the student and hugs her. A.C. walks up, drops her backpack (or large bag), and takes a swing at M.S.

As the male teachers are pulling the students apart and moving them away from each other, SRO David Leonardi (Leonardi) can be seen moving toward M.S., who is, as described above, resisting and flailing her arms. Leonardi pulls M.S. away and pushes her up against the wall. There is no audio on the school video, but even if M.S. was using the profanity clearly heard on the students' videos, Leonardi does appear to push M.S. with some force. After that, Leonardi is seen pulling M.S. in the opposite direction from where she appears to be moving. In the last video, Leonardi and M.S. are walking toward the principal's office. Leonardi has one hand on M.S.'s shoulder and the other on her arm, but here he appears to be guiding her and, possibly, preventing her from walking away.

Neither party introduced evidence of the guidelines the SRO is required to follow; the number of other incidents, if any, in which Leonardi restrained or even interacted with M.S.; the statements M.S. made to Leonardi or the statements Leonardi made to M.S.; any directions either M.S. or Leonardi were given by the other teachers or administrators who were present; and/or any physical harm M.S. suffered, including reports from her doctor, or urgent medical care she may have received.⁵

Petitioner claims that due to the above-described incidents involving A.C. and Leonardi, M.S. does not feel safe, and it is not feasible for her to remain at Steinert. The only positive adult relationship⁶ that M.S. has found is with her guidance counselor, Anthony Belfiore, who maintains an office at HHS-West but has worked with M.S. during the current school year. The District administration is "being spiteful" in retaliation for the civil lawsuit petitioner filed in 2020.

⁵ Petitioner made clear that she has filed (or soon will file) an action against the Steinert administrators and Leonardi. Presumably, such evidence would be included with this complaint.

⁶ Petitioner also spoke well of HHS-West Principal Smith, despite having brought a civil action against him. "We have moved on," she stated.

LEGAL ANALYSIS AND CONCLUSIONS

The standards for emergent relief are set forth in Crowe v. DeGioia, 90 N.J. 126 (1982), and are codified at N.J.A.C. 6A:3-1.6. The petitioner bears the burden of proving:

1. that the party seeking emergent relief will suffer irreparable harm if the requested relief is not granted;
2. the existence of a settled legal right underlying the petitioner's claim;
3. that the party seeking emergent relief has a likelihood of prevailing on the merits of the underlying claim; and
4. when the equities and the interests of the parties are balanced, the party seeking emergent relief will suffer greater harm than the respondent.

[Crowe, 90 N.J. at 132-34.]

On December 21, 2021, petitioner signed and filed a form of petition which included her obligation to demonstrate that the above standards—as set forth on the form—have been met and provided the citations to the regulations and the Crowe case. As summarized above, this is the third emergent petition filed by D.S.; the decisions in the two prior cases included extensive discussions of the Crowe test.

Petitioner did not, in her petition or at oral argument, specifically address any of the Crowe prerequisites for emergent relief. She argued that M.S. is not safe at Steinert; despite the history of fighting between M.S. and A.C., respondent assigned them to three of the same classes in the current school year; and M.S. is afraid of and was harmed by Leonardi. In an attachment to the petition, M.S. made the following five points, in summary:

1. After hearing of the incident on December 19, 2022, petitioner met with Principal Bryan Rogers at Steinert and viewed the hallway surveillance video described above, which she claims shows A.C. starting the fight and Leonardi using excessive force. Petitioner requested but was denied a copy of this video.

2. In the above meeting, M.S.'s Steinert guidance counselor "lied" to petitioner regarding who escorted M.S. to the Principal's office. This lie, which petitioner recorded and played for M.S., led M.S. to lose "all respect" for the guidance counselor.

3. There was no need for Leonardi to use force with M.S. as the fight was already broken up.

4. Petitioner intends to file a civil suit against Steinert administrators, the Hamilton Township Police Department and Leonardi.

5. Petitioner had warned members of the Steinert administration of trouble between M.S. and A.C. at least three weeks earlier and they failed to respond.

[Petition (December 21, 2021), Attachment.]

Irreparable Harm

To obtain emergent relief, petitioner must demonstrate more than a risk of irreparable harm should M.S. remain at Steinert. Petitioner must make a "clear showing of immediate irreparable injury," or a "presently existing actual threat; (an injunction) may not be used simply to eliminate a possibility of a remote future injury, or a future invasion of rights, be those rights protected by statute or by common law." Cont'l. Group, Inc. v. Amoco Chems. Corp., 614 F. 2d 351, 359 (D.N.J. 1980). In an educational setting, "irreparable harm may be shown when there is a substantial risk of physical injury to the child or others, or when there is a significant interruption or termination of educational services." Ocean Twp. Bd. of Educ. v. J.E. and T.B. obo J.E., OAL Dkt. No. EDS 00592-04, 2004 NJ AGEN LEXIS 115, at *8 (February 23, 2004) (irreparable harm found where an eight-year-old's "physical aggressiveness and disruptive behaviors [posed] a safety concern to himself and others, and the district's behavior modification techniques [were] no longer effective"); Sparta Twp. Bd. of Educ. v. R.M. and V.M. obo C.M., OAL Dkt. No. 01975-20, 2020 NJ AGEN LEXIS, at *14 (February 21, 2020) (inappropriate interactions with other students and breaking a desk deemed "sufficient evidence of the risk of harm to [student], school staff, teachers and students that if [student] remained in school at this

time, other incidents could occur involving the health, safety and welfare of any of these individuals”).

Petitioner contends that irreparable harm is established because, essentially, the Steinert administration did not prevent the incident of December 19, 2022; A.C. “jumped” M.S.; and Leonardi used excessive force toward M.S. unnecessarily.

Respondent argues that M.S. is not at risk of harm from A.C., another student whose behavior was arguably provoked by M.S. As described above, the fighting between these two students did not begin—or escalate—in December 2022. There is no more evidence that A.C. targeted M.S. than evidence that M.S. targeted A.C. The above cases in which risk of physical injury was sufficient to present irreparable harm involved students who were placed on home instruction to prevent them from injuring themselves or other students. There are no cases to support removing a student who has been a victim of physical aggression, as petitioner claims happened here. While I agree with petitioner that placing A.C. and M.S. in three of the same classes was unwise, there was no discussion of the reasons for doing so and no evidence that respondent acted in bad faith. If it is necessary to change the students’ Steinert schedules to prevent future fights, respondent would be well advised to take such preventative measures. Even so, I **CONCLUDE** that there is insufficient evidence that A.C. presents a risk of irreparable harm to M.S.

With respect to the claim that M.S. is unsafe because Leonardi used excessive force when responding to the December 19, 2022, incident, respondent notes that harm is not irreparable if redress is available by monetary damages. Crowe, 90 N.J. at 132-33. Such is the case here; petitioner has made clear her intention to file a civil lawsuit against Leonardi and his employer, as well as members of the Steinert administration. I **CONCLUDE** that petitioner has not met the burden of establishing that irreparable harm may result unless M.S. is immediately transferred to HHS-West.

The Legal Right is Settled and Likelihood of Prevailing on the Merits

The second consideration is whether the legal right underlying petitioner's claim is settled, N.J.A.C. 6A:3-1.6(b)(2), and then third, petitioner must make a preliminary showing of a reasonable probability of success on the merits. Crowe, 90 N.J. at 133.

While respondent argues that there is no underlying due process claim, I disagree. As described above, the case docketed as EDU 10144-22, is a challenge by petitioner to the decision of respondent to deny her request to enroll M.S. at HHS-West. Even so, petitioner has not yet shown a likelihood of obtaining the relief sought in that case.

Actions within a school board's authority, including the adoption and implementation of policies for the assignment of students, are entitled to a presumption of correctness and will not be upset by the courts unless there is an affirmative showing that a decision is arbitrary, capricious or unreasonable. Thomas v. Bd. of Educ. of Morris Twp., 89 N.J. Super. 327, 332 (App. Div. 1965), affirmed, 46 N.J. 581 (1966). In general, a board of education's actions are entitled to a presumption of lawfulness and good faith. Where board actions are challenged, the challenger bears the burden of proving that such actions were unlawful, arbitrary, capricious or unreasonable. Schuster v. Bd. of Educ. of the Twp. of Montgomery, 96 N.J.A.R.2d (EDU) 670, 676 [citing Schnick v. Westwood Bd. of Educ., 60 N.J. Super. 448 (App. Div. 1960), and Quinlan v. North Bergen Twp. Bd. of Educ., 73 N.J. Super. 40 (App. Div. 1962)].

In matters involving the exercise of a board of education'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). 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 Sewage Co. v. Dep't of Env'tl. Prot., 122 N.J. Super. 184, 199–200 (Ch. Div. 1973), affirmed, 131 N.J. Super. 37 (App Div. 1974). To satisfy the arbitrary and capricious standard, petitioner must prove that respondent acted in either bad faith or in disregard to the circumstances.

As the factual record detailed above makes clear, respondent has a strong basis for its consistent decision to refuse to enroll M.S. at HHS-West. Notwithstanding that M.S. is more mature now, has maintained a productive relationship with her HHS-West guidance counselor, and has reconsidered her prior claims against Principal Smith, it is unlikely that petitioner will be able to show that respondent's decision was arbitrary and/or capricious. For the above reasons, I **CONCLUDE** that petitioner meets the second prong, but not the third prong of the emergent relief standard.

Balance of Equities and Interests

The final prong of the above test is whether the equities and interests of the parties weigh in favor of granting the requested relief to petitioner. Here, again, petitioner claims that greater harm will result to M.S. if she remains at Steinert because she is not safe there. The Board summarized the reasons it disagrees as follows:

If the Court were to . . . order M.S. back to [HHS-West], it would require revision to M.S.' schedule, for her to meet new teachers in a new setting that she has not attended since March 2021, and place her in a school setting that she has previously claimed was hostile because of the principal, staff, and students. It is a school setting where she previously was found to have harassed multiple students in a violation of the HIB policy and where she claimed to have been the victim of multiple incidents of HIB perpetrated by other students and staff. It is a setting where many struggles arose. In contrast, [Steinert] is a setting where she has done significantly better notwithstanding the recent altercation. Placement of M.S. back at [HHS-West] is not in her best interest.

[P]lacement at [HHS-West] would invite a resurgence of the claims of harassment and conflict between D.S., M.S., and the school officials. It would be a hardship to the district administration and staff members at [HHS-West], previously defendants against allegations of racism that they vehemently dispute, to have to scurry to accommodate M.S. with a program as she moves toward graduation all the while on eggshells that any decision to discipline M.S. or conflict between M.S. and her peers would again result in their

professional reputations being attacked as they have been numerous times before.

[Ltr. Br. of Respondent, at 7.]

M.S. is just months away from graduation and, as petitioner stated, a fresh start at college. In the meantime, I **CONCLUDE** that petitioner has not shown that the equities favor changing M.S.'s enrollment to HHS-West.

I **CONCLUDE** the petitioner has failed to meet the applicable requirements to obtain emergent relief.

ORDER

For the reasons stated above, I hereby **ORDER** that the application for emergent relief of petitioner D.S. on behalf of M.S. seeking the immediate transfer of M.S. from Steinert to HHS-West is hereby **DENIED**. Proceedings in the underlying due process petition, EDU 10144-22, will continue. The evidentiary hearing will be scheduled by my judicial support specialist at the earliest mutually available date.

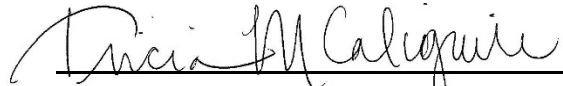
I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

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.

January 5, 2023

DATE



TRICIA M. CALIGUIRE, ALJ

Date Received at Agency:

Date Mailed to Parties:

TMC/nn