

331-25R
OAL Dkt. No. EDU 16366-24
Agency Dkt. No. 330-10/24

New Jersey Commissioner of Education
Final Decision

J.C. and M.C., on behalf of minor child, M.C.,

Petitioners,

v.

Board of Education of the Township of
Randolph, Morris County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), and the exceptions filed by petitioners pursuant to *N.J.A.C. 1:1-18.4* have been reviewed and considered. Respondent Board of Education of the Township of Randolph (Board) did not file a reply.

This matter involves petitioners' contention that the Board violated the Strengthening Gifted and Talented Education Act (the Act), *N.J.S.A. 18A:35-34 to 39*, by failing to identify their child as a gifted and talented student during the 2020-2021, 2021-2022, and 2022-2023 academic years until May 2023, and failing to provide him with appropriate instructional level content and educational modifications to suit his abilities.

By way of background, in May 2024, petitioners filed a complaint with the Board alleging non-compliance with the Act pursuant to *N.J.S.A. 18A:35-38*. On July 19, 2024, the Board issued a written decision denying the allegations and maintaining that the district properly identified

the child as gifted and talented, adequately assessed his ability and instructional level via multiple measures, provided accommodations and modifications to his instruction, and documented the child's continued academic growth.¹

The petition of appeal now before the Commissioner seeks the following relief: (1) reimbursement for the child's out of district placement² and psychological testing; (2) compensatory education in art, reading, writing, and math; (3) an order requiring the district to establish a legally compliant identification process for gifted and talented students and public dissemination of the identification process within the Randolph community; (4) appointment of a gifted and talented coordinator for the district; and (5) professional development for school leaders on gifted education.

The Board filed a motion to dismiss the petition on grounds that it was time-barred, and further argued that the Commissioner lacked jurisdiction to grant petitioners' requests for compensatory education, reimbursement of costs, and appointment of a district gifted and talented coordinator. Petitioners filed a reply reiterating their position. Upon transmittal to the OAL, the assigned Administrative Law Judge (ALJ) held telephone conferences and scheduled oral argument on the motion for January 7, 2025.

The day before oral argument, on January 6, 2025, petitioners filed a request to amend their petition which included six additional requests for relief, a 21-paragraph document signed

¹ On August 6, 2024, petitioners filed a second complaint with the Board alleging violations of the Act with respect to art and music programming for their child. On August 16, 2024, the Board responded in writing by noting that petitioners had already filed a complaint regarding violations of the Act which was denied. The Board explained that the new complaint reiterates the same concerns, albeit more specifically involving art. It informed petitioners that it stood by its initial determination and that it would continue to provide the child with enrichment and differentiated instruction to meet his needs.

² Their child now attends school in another public school district on a tuition basis.

by the child's father, and a 72-paragraph document signed by the child's mother setting forth new facts and requests. The Board filed opposition and argued that petitioners improperly sought to expand the scope of their petition and cure deficiencies raised in the motion to dismiss on the eve of oral argument. The Board further contended that the amendments were not in the interest of efficiency and would prejudice the Board.

On or about February 10, 2025, petitioners submitted a letter to the ALJ which requested a hearing and asserted that the matter was not appropriate for summary disposition. They argued that the crux of the issue was whether the district complied with the Act, and that they were entitled to a determination as to whether the Board's actions were arbitrary or capricious. They further claimed that the matter was not moot even though their child was no longer a student in the district.

At some point thereafter, petitioners retained an attorney who, on March 21, 2025, submitted a letter brief in response to the ALJ's request for clarification of the standard of review and the requests for relief. In the brief, petitioners maintained that the matter was a contested case, not a request for a declaratory ruling, and emphasized that the standard of review was whether the Board's decision was arbitrary, capricious, unreasonable, or lacked fair support in the record. They argued that the Commissioner has authority to determine all issues in the case and to order appropriate relief, including compensatory education and monetary reimbursement.

Additionally, petitioners indicated that the facts were disputed, and that they intended to present documentary evidence which showed that the district failed to comply with the Act's requirements for instruction and programming at the K-3 grade level. Finally, they asserted that

their motion to amend the petition should be permitted as it was not prejudicial, it clarifies the issues to be decided, and it is more akin to a bill of particulars detailing what they intend to prove at the hearing and the evidence upon which they will rely. The Board filed a reply reiterating that the Commissioner lacked jurisdiction to award the relief sought, and that the motion to amend should be denied as it sought to expand the issues before the ALJ and was prejudicial.

On April 17, 2025, the ALJ issued an Initial Decision granting the Board's motion to dismiss, which was treated as a motion for summary decision. To begin with, the ALJ determined that no issues of material fact existed "having read the briefs and certifications and having reviewed the exhibits."³ Initial Decision, at 7. As for her legal conclusions, the ALJ found the petition was timely filed; denied the request to amend the petition; and determined that the matter was ripe for summary decision. Ultimately, the ALJ held that compensatory education and costs were not available under the Act, that no changes could be made to the child's educational services because he no longer attends school in the district, that the Board thoroughly reviewed petitioners' May 2024 complaint, and that its actions were not arbitrary, capricious, or unreasonable.

In their exceptions, petitioners dispute both the ALJ's findings of fact and conclusions of law. With respect to the ALJ's factual findings, they dispute, among other things, that they placed the child in a private school; that the child was ever referred to the child study team; that the child moved through content areas at his own pace; and that the child demonstrated academic growth. As for the ALJ's legal conclusions, they argue that the ALJ should have granted their

³ The record does not contain any certifications or a statement of undisputed facts from either party, and the Initial Decision does not list the exhibits that were considered.

request to amend the petition; that the grant of summary decision to the Board was erroneous because it failed to comply with the Act during the 2023-2024 school year; that the ALJ provided no analysis regarding the conclusion that the Board's decision was not arbitrary, capricious, or unreasonable; and that reimbursement of costs is an available remedy under *School Committee of the Town of Burlington v. Department of Education of Massachusetts*, 471 U.S. 359 (1985).

Upon review, the Commissioner adopts the Initial Decision in part, and rejects it in part. At the outset, the Commissioner finds no error in the ALJ's discretionary denial of petitioners' request to amend the petition on the eve of oral argument. *N.J.A.C. 1:1-6.2(a)* provides that "[u]nless precluded by law or constitutional principle, pleadings may be freely amended when, in the judge's discretion, an amendment would be in the interest of efficiency, expediency and the avoidance of over-technical pleading requirements and would not create undue prejudice." The Commissioner agrees with the ALJ that amending the petition was not in the interest of efficiency or expediency as the amendment would neither simplify nor clarify the issues. Instead, petitioners sought to expand the scope of the petition by including six additional requests for relief, a 21-paragraph document signed by the child's father, and a 72-paragraph document signed by the child's mother setting forth new facts and requests. Moreover, to allow petitioners to attempt to cure deficiencies in the petition only after those deficiencies were brought to their attention by the Board's motion to dismiss would prejudice the Board.

In addition, the Commissioner concurs with the ALJ that compensatory education and monetary reimbursement are not remedies available to petitioners under the Act. Petitioners' reliance upon *Burlington*, a United States Supreme Court ruling decided pursuant to the federal Education for All Handicapped Children Act (now known as the Individuals with Disabilities

Education Act (IDEA), 20 U.S.C. §§ 1400-1500), is not applicable to the present matter brought under state law. No violations of the IDEA are alleged here. Even assuming compensatory education was an available remedy, it could not be implemented by the Board as a practical matter because the child no longer attends school in the district.

Other broad compliance-related remedies sought by petitioners that are not specific to their child, *i.e.*, requiring the district to establish a legally compliant identification process for gifted and talented students, public dissemination of the process, appointment of a district gifted and talented coordinator, and professional development for school leaders, are likewise unavailable to them under the Act. The Commissioner is tasked with monitoring compliance with the Act pursuant to *N.J.S.A.* 18A:35-37(b), which requires districts to submit an annual report to the state coordinator detailing: (1) the gifted and talented continuum of services, policies, and procedures implemented; (2) the total number of students receiving gifted and talented services in each grade level; (3) the professional development opportunities provided for teachers and staff pertaining to gifted and talented students' needs; and (4) the number of staff whose job responsibilities include identification and providing services to gifted and talented students.

The only administrative remedies available to petitioners under the Act are the right to file a complaint with the Board alleging non-compliance, as it has done here, and the right to appeal the Board's written decision to the Commissioner in accordance with *N.J.S.A.* 18A:6-9. *N.J.S.A.* 18A:35-38. The Commissioner will then review the Board's decision to determine whether it was arbitrary, capricious, or unreasonable. *Kopera v. W. Orange Bd. of Educ.*, 60 *N.J. Super.* 288, 294 (App. Div. 1960) (holding that when a local board of education acts within its discretionary authority, its decision is entitled to a presumption of correctness and will not be

disturbed unless there is an affirmative showing that the decision was “patently arbitrary, without rational basis or induced by improper motives”).

That said, the Commissioner finds that the ALJ erred when she granted summary decision to the Board and agrees with petitioners that the ALJ failed to properly analyze whether the Board’s decision was arbitrary, capricious, or unreasonable. Thus, for the reasons explained next, a limited remand to the OAL is warranted.

Summary decision is appropriate “if the pleadings, discovery and affidavits 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.” *Contini v. Bd. of Educ. of Newark*, 286 N.J. Super. 106, 121 (App. Div. 1995) (quoting N.J.A.C. 1:1-12.5(b)). Although petitioners repeatedly contested numerous material facts, no discovery took place and no affidavits were filed – perhaps because the Board moved to dismiss the matter on procedural and jurisdictional grounds. In any event, petitioners clearly alleged that the district failed to identify the child as a gifted and talented student until May 2023, several years after he enrolled; failed to provide him with appropriate instructional level content; and failed to modify his educational program in accordance with his capabilities.

While the Board maintained in its written decision that it has complied with the Act, petitioners are entitled to challenge that determination at a contested hearing.⁴ Many of the ALJ’s findings of fact in the Initial Decision appear to be taken directly from the Board’s July 19, 2024, written decision that petitioners are challenging. Furthermore, as noted, the record does not contain any certifications or a statement of undisputed facts from either party, and the Initial

⁴ Contested hearings are “designed to result in an adjudication concerning the rights, duties, obligations, privileges, benefits or other legal relations of specific parties over which there exist disputed questions of fact, law or disposition relating to past, current or proposed activities or interests.” N.J.A.C. 1:1-2.1.

Decision does not list the exhibits that were considered by the ALJ. Given the incomplete record, the Commissioner is unable to determine whether the Board's decision was arbitrary, capricious, or unreasonable.

For these reasons, the Commissioner holds that a limited remand is warranted to give petitioners the opportunity to establish that the Board's decision was arbitrary, capricious, or unreasonable—mindful of the applicable standard of review and the fact that the Commissioner cannot substitute his judgment for that of the Board. *See Bayshore Sewerage Co. v. Dep't of Env't Prot.*, 122 N.J. Super. 184, 199 (Ch. Div. 1973), *aff'd*, 131 N.J. Super. 37 (App. Div. 1974) (“[W]here there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration.”). Petitioners are also reminded that the remedies they have sought, including but not limited to compensatory education and monetary reimbursement, will not be available to them even if they successfully establish and obtain a finding that the Board's decision was arbitrary, capricious, or unreasonable.

Accordingly, the Initial Decision is adopted in part, and rejected in part. The matter is remanded to the OAL for further proceedings consistent with this decision.

IT IS SO ORDERED.


COMMISSIONER OF EDUCATION

Date of Decision: June 27, 2025
Date of Mailing: June 30, 2025



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 16366-24

AGENCY DKT. NO. 330-10/24

J.C. AND M.C. ON BEHALF OF MINOR

CHILD M.C.,

Petitioners,

v.

BOARD OF EDUCATION OF THE TOWNSHIP

OF RANDOLPH, MORRIS COUNTY,

Respondent.

Denise Lanchantin Dwyer, Esq. for petitioners (Law Office of Denise Lanchantin
Dwyer, LLC, attorneys)

Marc H. Zitomer, Esq., for respondent (Schenk, Price, Smith & King, LLC
attorneys)

Record Closed: April 11, 2025

Decided: April 17, 2025

BEFORE **PATRICE E. HOBBS**, ALJ:

STATEMENT OF THE CASE

Petitioners contend that their son was not receiving the proper programming in his Intervention and Referral Services (I&RS) Plan to meet his needs under the Strengthening Gifted and Talented Education Act (the Act), N.J.S.A. 18A:35-36. Petitioners unilaterally placed him in a private school and are seeking reimbursement and costs from the Randolph Township Board of Education (Randolph). Are respondents obligated to pay for these costs? No. A school board is responsible for providing students within its district the proper educational services under the Act, and any decision by a school board acting within the scope of its authority is “entitled to a presumption of correctness unless it’s arbitrary, capricious, or unreasonable.” Thomas v. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965).

PROCEDURAL HISTORY

On October 18, 2024, petitioners J.C. and M.C., on behalf of minor child M.C., filed a petition of appeal with the Commissioner of Education, Office of Controversies and Disputes. The petition alleges a failure to identify M.C. as a gifted and talented student since 2021 and requests reimbursement for an out-of-district placement, compensatory education, the appointment of a gifted and talented coordinator, and professional development for school leaders.

On November 18, 2024, respondent filed a motion to dismiss instead of an answer, contending that the petition is out of time and because it requests relief that cannot be granted by the Commissioner under the Act. On November 19, 2024, the case was transmitted to the Office of Administrative Law as a contested case under N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

On December 9, 2024, petitioners filed their opposition to the motion to dismiss. On that date, I scheduled oral argument. On December 19, 2024, respondent filed its reply to the opposition. On January 6, 2025, petitioners filed an amended petition amending their prayer for relief by requesting a determination of whether Randolph complied with the Act based on its evaluation of M.C., whether its use of I&RS was

appropriate, whether the instruction being delivered to M.C. was appropriate, and whether the Randolph Township School District (District) has appropriately applied the Act for M.C. and for all students in the District. The amended petition includes a certification of additional facts from J.C. and M.C. consisting of more than ninety-three paragraphs of statements. Petitioners no longer sought the relief that was the subject of the motion to dismiss.

On January 7, 2025, I held a prehearing conference. At the prehearing conference, the parties requested that the motion to dismiss and its opposition be converted into a motion and a cross-motion for summary decision. I granted the request, converted the prehearing conference to oral argument, and gave the parties additional time to respond to the motions. On January 14, 2025, respondent submitted its responsive brief, and on January 17, 2025, petitioners submitted their response, and, on that date, I closed the record.

On February 18, 2025, petitioners requested another oral argument on the additional moving papers submitted. On March 3, 2025, I held oral argument, and, on that date, Ms. Dwyer entered her appearance on behalf of the petitioners and requested additional time to prepare a brief in opposition to the respondent's previously filed motion to dismiss. On March 21, 2025, petitioners filed their second opposition to the previously filed motion to dismiss. On April 11, 2025, respondents filed their reply, and, on that date, I closed the record.

FINDINGS OF FACT

Based upon the documents the parties submitted in support of and in opposition to the motions for summary decision, I **FIND** the following **FACTS**:

1. M.C. was a third-grade student at Randolph Township Schools in 2023–2024.
2. On May 30, 2024, J.C. and M.C. filed a complaint with Randolph alleging that they failed to identify M.C. as a gifted and talented student, failed to

assess M.C.'s ability and instruction level, failed to provide the appropriate adjustment and modification to instruction, and failed to confer a benefit to M.C. through his education at Randolph.

3. Randolph identified M.C. as a gifted and talented student in 2023.
4. Randolph referred M.C. to the child study team, and on April 20, 2023, I&RS created a plan for M.C.
5. On May 5, 2023, J.C. and M.C. approved and finalized the I&RS plan. Several follow-up meetings were scheduled with the petitioners to discuss M.C.'s progress.
6. Randolph utilizes multiple measures to identify a student's strength in intellectual ability, creativity or a specific academic area. M.C. was evaluated multiple times in 2023. Randolph's evaluations included Complete Comprehension, Words Their Way, NWEA, MAP Reading/Math, Writing Prompts, and Imagine Math. These academic evaluations assessed his abilities and enabled Randolph to determine the appropriate level of instruction to be implemented.
7. The I&RS plan stated that M.C. would be given advanced academic content by his general education teacher when he demonstrated an initial understanding of grade-level concepts, vocabulary, and necessary skills. The plan required that M.C. have an 85% mastery of the content in English Language Arts and Math to determine his participation in replacement activities. The plan also outlined the specific areas where instruction would be modified based on the assessment data.
8. M.C. was allowed to move through content areas at his own pace. He was afforded access to advanced learning areas if he mastered current units. He had self-directed learning, active exploration and inquiry discovery.

M.C. used curricular programs typically reserved for students in grades three and up.

9. M.C. demonstrated growth in all the areas of academic testing: Comprehensive Progress Monitoring, academic growth in Complete Comprehension, MAP Reading, Math fact fluency, word study, and writing. M.C. grew from reading level N to P. A student starting third grade at level N is expected to progress to level P by May. M.C. progressed as expected.
10. In spring 2023, M.C. had a Math MAP score in the 78th percentile and in spring 2024, it was in the 71st percentile. In that same period, M.C.'s Reading MAP score remained at the 87th percentile.
11. The I&RS plan required that Randolph continue to monitor and adjust M.C.'s assessment and data points during fourth grade, the 2024–2025 academic year.
12. On July 19, 2024, the Randolph Board of Education replied to the complaint filed by the petitioners and determined that Randolph was in full compliance with the education plan provided to M.C. under the Act, denied the requested relief and further informed them of their right to appeal within ninety days of the date of the letter.
13. J.C. and M.C. disenrolled M.C. from Randolph for the 2024–2025 school year.

CONCLUSIONS OF LAW

Timeliness of Appeal

All petitions for appeal of a Board of Education decision must be filed no later than the ninetieth day from receipt of the notice of a final action from a district board of education that is the subject of a contested case. N.J.A.C. 6A:3-1.3(i). This limitation for

the resolution of disputes serves both the litigants and the district by affording petitioners the fair opportunity to present their case and the board to defend it. Kaprow v. Bd. of Educ. of Berkeley Twp., 131 N.J. 572, 587 (1993).

Randolph alleges that the petition was not timely filed because it seeks redress of claims dating as far back as 2021, more than three years ago. While the petition does in fact have claims from 2021, it also has claims from 2023. Further, the first and only letter from Randolph that advised the petitioners of their rights to an appeal was dated July 19, 2024. The petition was filed on October 18, 2024, on the eighty-ninth day, within the required time limits. Therefore, I **CONCLUDE** that the petition was timely filed.

Amended Petition

A petitioner may amend their petition unless it is precluded by law, constitutional principle, or if in the judge's discretion, the amendment would be in the interest of efficiency and expediency. N.J.A.C. 1:1-6.2(a). There are general limitations on amending pleadings when they include new or additional matters not set forth in the original petition. Fidler v. Bd. Of Educ. Of the E. Camden Cnty. Reg'l Sch. Dist., Camden Cnty. et al., OAL Dkt. EDU 04726-22, 2024, Agency Dkt. No. 86-4/22 (2024).

Respondent argues that the petitioners' amendment does not fully cure the deficiencies highlighted by the motion to dismiss, does not clarify any issues, and expands the scope of their petition. Petitioners argue that they are not expanding the scope of their original petition with the additional statements and that the additional statements are succinct declarations clarifying the timeline and are an attempt to correct the deficiencies noted by the motion to dismiss. Here, the amendment to the petition requested a change only in the relief being sought to comply with the Act, but it did attach ninety-three additional statements from the petitioners. The change in the prayer for relief does not cure all the deficiencies in the petition, and the additional declarations are an expansion of the scope of the original petition. Such an amendment is beyond the limits of what is allowed under the applicable regulation and case law. Also, even if the case law is applied liberally, the amended petition still seeks relief under the Act and is therefore still subject to the same standard of review. I **CONCLUDE** that the petitioners

have not provided any legal argument to support their additional declarations and that the amendment does not comply with the general limitations on amendments; therefore, petitioner's motion to amend the petition must be denied.

Summary Decision

Summary decision "may be rendered 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). This rule is substantially like the summary judgment rule embodied in the N.J. Court Rules, R. 4:46-2. See Judson v. Peoples Bank & Trust Co. of Westfield, 17 N.J. 67, 74 (1954). All inferences of doubt are drawn against the party filing the motion and in favor of the party against whom the motion is directed. Id. at 75. The judge's function is to determine whether there are genuine issues of fact to be adjudicated. Brill v. Guardian Life Ins. Co., 142 N.J. 520 (1995).

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

Compensatory Education

The remedy of compensatory education is a judicially created remedy that was intended to compensate special education students for violations of the Individuals with Disabilities Education Act (IDEA). Lester H. v. Gilhool, 916 F.2d 865, 872 (3d. Cir. 1990). Damages to any person suffering a monetary loss because of an unlawful act of a third party is limited to a judicial proceeding. An administrative body does not have the power to award such damages unless granted by statutory authority. Jackson v. Concord Co. 101 N.J.Super. 126, 133 (App. Div. 1968).

No viable claim of action for enforcement of gifted and talented education programs exists against a school if the student is no longer attending a school within the

district. The student's claim becomes moot because this enrollment in another school district destroys the concrete and immediate adversity that is necessary to sustain a controversy. Spivak v. Clark, 97 N.J.A.R.2d (EDU) 270 (N.J. Adm. 1996).

Strengthening Gifted and Talented Education Act

A board of education must ensure that appropriate instructional adaptations and educational services are provided to gifted and talented students to enable them to participate in, benefit from, and demonstrate knowledge and application of the New Jersey Student Learning Standards. N.J.S.A. 18A:35-36(3)(a). Any parent who believes that a school district has not complied with the Act can file a complaint with the board of education. The board must then issue their decision. The board shall issue a decision, in writing, to affirm, reject, or modify the district's action in the matter. N.J.S.A. 18A:35-38(5)(a). If a parent disagrees with the board's decision, they may file a petition of appeal of the board's written decision to the Commissioner of Education. N.J.S.A. 18A:35-36(5)(b).

When a local board of education acts within its discretionary authority, its decision is entitled to a presumption of correctness and will not be disturbed unless there is an affirmative showing that the decision was "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). Furthermore, "where there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration," and the commissioner will not substitute his judgment for that of the board. Bayshore Sewerage Co. v. Dep't of Env't. Prot., 122 N.J. Super. 184, 199 (Ch. Div. 1973).

Respondent argues that this appeal should be dismissed because it failed to state a claim upon which relief could be granted by the Commissioner of Education. Petitioner requests reimbursement for an out-of-district placement, compensatory education, the appointment of a gifted and talented coordinator, and professional development for school leaders under Strengthening Gifted and Talented Education Act (the Act), N.J.S.A. 18A:35-36 et seq. The Act has no provision for compensatory education or for

reimbursement of costs. Indeed, petitioner concurs that such relief is limited to students who are eligible for special education and related services under the IDEA.

Randolph evaluated M.C. as it was required to under the Act. Randolph utilized all the relevant assessments for gifted and talented students. After the evaluations, M.C. was provided with an I&RS plan that continued to be monitored and assessed. J.C. and M.C. participated in all the meetings with the Randolph I&RS team and even made suggestions and comments. For the 2023–2024 school year, Randolph was in full compliance with the Act. M.C. was assessed by the child study team, and a plan for his education for that year was provided and approved by the petitioners. Randolph was in full compliance with their obligations to M.C. for the 2023–2024 school year.

M.C. was removed from the school district for the 2024–2025 school year, and Randolph did not have any opportunity to reassess or make any changes to the I&RS plan. There was no vehicle by which Randolph could provide instructional adaptations or educational services, reassess or reevaluate M.C. since he was no longer a part of the school district.

The respondent, as the moving party, bears the burden of proof to demonstrate by a preponderance of the credible evidence that the case should be dismissed. Therefore, after considering all the arguments, I **CONCLUDE** that while the petitioner's appeal was timely, the petition must be dismissed because compensatory education and costs are not permissible under the Act, the student is no longer within the board's jurisdiction and therefore cannot make any changes to his instruction or educational services, the board completed a thorough review of the petitioner's May 30, 2024, complaint under the Act and their actions were not arbitrary, capricious, or unreasonable.

ORDER

I **ORDER** that respondent's motion for summary decision 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**. 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.

April 17, 2025

DATE



PATRICE E. HOBBS, ALJ

Date Received at Agency:

April 17, 2025

Date Mailed to Parties:

April 17, 2025

Isr

APPENDIX

Moving Papers for Petitioner:

Appeal, dated October 17, 2024, including Complaint to Randolph, dated May 30, 2024

Opposition to Motion to Dismiss, dated December 9, 2024

Motion to Amend and Amended Petition, dated January 5, 2025

Response to Opposition Letter, dated January 17, 2025

Moving Papers for Respondent:

Respondent's letter to J.C. and M.C., dated July 19, 2024

Motion to Dismiss, dated November 18, 2024

Respondent's Reply, dated December 19, 2024

Opposition letter to Motion to Amended, dated January 14, 2025

EXHIBITS

For Petitioner

None

For Respondent:

None