

370-25
OAL Dkt. No. EDU 09176-25
Agency Dkt. No. 154-5/25

New Jersey Commissioner of Education
Final Decision

Joseph M. Muniz,

Petitioner,

v.

Board of Education of the Hudson County Schools of
Technology, Hudson 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 that the petition of appeal was untimely pursuant to *N.J.A.C. 6A:3-1.3(i)*.

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


COMMISSIONER OF EDUCATION

Date of Decision: July 25, 2025
Date of Mailing: July 28, 2025

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

INITIAL DECISION

MOTION TO DISMISS

OAL DKT. NO. EDU 09176-25

AGY REF NO. 154-5/25

JOSEPH MUNIZ,

Petitioner,

v.

**BOARD OF EDUCATION OF THE HUDSON
COUNTY SCHOOLS OF TECHNOLOGY,
HUDSON COUNTY,**

Respondent

Stephen J. Edelstein, Esq., for petitioner (Weiner Law Group, attorneys)

Roshan Shah, Esq. and Chris Khatami, Esq., for respondent (Shah Law Group, attorneys)

Record Closed: June 26, 2025

Decided: June 26, 2025

BEFORE **THOMAS R. BETANCOURT, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner filed a motion for Emergent Relief with the Office of Controversies and Disputes in the New Jersey Department of Education (DOE). The contested matter was transferred to the Office of Administrative Law (OAL), pursuant to N.J.A.C. 17:6A-12.1, where it was filed on May 23, 2025, to be heard on an emergent basis.

Petitioner seeks, inter alia, reinstatement to his position of employment with the Respondent. Petitioner is currently suspended with pay.

Respondent filed a Notice of Motion to dismiss in lieu of an Answer.

Oral argument on the motion for emergent relief was heard on June 2, 2025. The motion for emergent relief was denied by the undersigned by Order dated June 2, 2025.

Petitioner submitted his reply to the respondent's motion to dismiss on June 16, 2025. Respondent submitted their response thereto on June 25, 2025.

FACTUAL BACKGROUND

Petitioner is employed as the Assistant Business Administrator and Board Secretary for the Respondent District. He has been employed by the District for twenty years.

On November 25, 2024, Petitioner was suspended with pay pursuant to a letter issued by then Superintendent Amy Lin-Rodriguez. Thereafter, Petitioner received a Rice Notice that his employment would be discussed at a Board meeting on December 12, 2024. Superintendent Lin-Rodriguez was also suspended after she issued her letter of suspension, and prior to the December 12, 2024 Board meeting. That suspension

was then approved by the Board at said meeting. Petitioner remains suspended with pay to date.

The basis for the suspension, pursuant to Superintendent Lin-Rodriguez' letter of November 25, 2024, was due to "your conduct today was unprofessional, insubordinate, profane, and threatening."

Petitioner filed his petition and motion for emergent relief on May 21, 2025, with the Office of Controversies and Disputes.

LEGAL ANALYSIS AND CONCLUSION

N.J.A.C. 6A:1-3(i) states:

The petitioner shall file a 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. This rule shall not apply in instances where a specific statute, regulation, or court order provides for a period of limitation shorter than 90 days for the filing of a particular type of appeal.

It is undisputed that the Board acted on December 12, 2024, to approve the Superintendent's recommendation to suspend petitioner with pay pursuant to N.J.S.A. 18A:27-4.1. (Busch Certification)

It is also undisputed that petitioner did not file his petition and motion for emergent relief until May 25, 2025, which is substantially more than 90 days from December 12, 2024.

Petitioner argues that the late filing is excusable as the alleged violation of due process is an ongoing violation, and cites Sheperd V. Hunterdon Developmental Ctr., 1 N.J. 1 (2020) in support of this assertion. Sheperd is not remotely applicable to the

current matter. There simply is no continuing violation. “The premise underlying the doctrine is that the conduct becomes actionable because of its ‘continuous, cumulative, synergistic nature.’” Roa v. Roa, 200 N.J. 555, 566-567 (2010)(citing Wilson v. Wal-Mart Stores, 158 N.J. 263, 272 (1999)).

Petitioner was suspended on December 12, 2024. That is a single act. He had 90 days from that date to file his petition of appeal. He failed to do so and is time barred.

Based upon the foregoing I **CONCLUDE** that respondent’s motion to dismiss be **GRANTED**.

ORDER

It is hereby **ORDERED** that respondent’s motion to dismiss is **GRANTED**.

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.



June 26, 2025

DATE

THOMAS R. BETANCOURT, ALJ

Date Received at Agency

Date Mailed to Parties:

db

APPENDIX

List of Moving Papers

For Petitioner:

Reply brief dated June 16, 2025, with Exhibits A and B

For Respondent:

Notice of Motion to Dismiss

Letter brief dated June 1, 2025, with Exhibits A and B

Certification of Jonathan Busch, Esq.

Responsive brief dated June 25, 2025, with Exhibit A

Petitioner Exhibits:

Reply brief dated June 16, 2025

Ex. A. Letter from Stephen J. Edelstein, Esq. to Jonathan M. Busch, Esq., dated 1/13/25

Ex. B. Letter from Jonathan M. Busch, Esq., to Stephen J. Edelstein, Esq., dated 1/15/25

Respondent Exhibits:

Letter Brief dated June 1, 2025

Ex. A. Certification of Jonathan Busch, Esq. (also attached to responsive brief)

Ex. B Board of Education Organization Chart