

New Jersey Commissioner of Education
Final Decision

C.W., on behalf of minor child, C.W.,

Petitioner,

v.

Board of Education of the Township of Mount
Olive, Morris 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, while the Commissioner concurs with the Administrative Law Judge (ALJ) that the Board did not act arbitrarily, without rational basis, or induced by improper motives in reaching its harassment, intimidation, and bullying (HIB) determination, the Commissioner finds that the Board did not fully comply with the procedural requirements of the Anti-Bullying Bill of Rights Act (Act). The Act requires that all acts of HIB be reported verbally to the school principal on the same day when the school employee witnessed or received reliable information regarding any such incident. *N.J.S.A. 18A: 37-15(b)(5)*. In this case, petitioner reported the alleged incident to her child's teacher on September 23, 2024; however, the principal was not informed verbally of the allegations until September 26, 2024. Nonetheless, the violation of *N.J.S.A. 18A:37-*

15(b)(5) did not substantively impact the case and therefore does not warrant a reversal of the Board's decision. The Board is reminded to adhere to the Act's timeframes in the future.

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: September 2, 2025
Date of Mailing: September 5, 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

SUMMARY DECISION

OAL DKT. NO. EDU 00362-25

AGENCY DKT. NO. 391-12/24

C.W. ON BEHALF OF MINOR CHILD C.W.,

Petitioner,

v.

BOARD OF EDUCATION OF THE TOWNSHIP

OF MOUNT OLIVE, MORRIS COUNTY,

Respondent.

C.W., petitioner appearing pro se

John G. Geppert, Esq. for respondent (Scarinci Hollenbeck, LLC, attorneys)

Record Closed: May 8, 2025

Decided: June 2, 2025

BEFORE: **KIMBERLY K. HOLMES**, ALJ

STATEMENT OF THE CASE

When a Board acts within its discretion, its decision must stand unless “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).

On September 23, 2024, petitioner alleged that a student said a “black person is a monkey” in front of her daughter in class. After a thorough investigation, respondent decided that the allegation was unfounded because no evidence exists to corroborate it.

Therefore, respondent’s decision must stand.

PROCEDURAL HISTORY

On September 23, 2024, petitioner alleged that a classmate of her daughter made inappropriate statements in front of her daughter, C.W., and asked the Board to investigate.

On September 26, 2024, the Board began an HIB investigation under N.J.S.A. 18A:37-13 et seq., and its HIB Policy. After thoroughly investigating the allegation, the Board concluded that it was unfounded because no one corroborated the statements.

On December 10, 2024, petitioner filed a petition of appeal with the Department of Education, Board of Controversies and Disputes, challenging the respondent’s determination.

On January 3, 2025, the Board of Controversies and Disputes transmitted the case to the Office of Administrative Law (OAL) as a contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to-15, and the Act establishing the OAL, N.J.S.A. 52:14F-1 to-13, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On February 10, 2025, and March 10, 2025, I held prehearing conferences and scheduled a hearing for May 19, 2025.

On April 3, 2025, the Board filed a motion for summary decision. On April 25, 2025, petitioner filed her opposition. On May 8, 2025, the Board filed its response, and I closed the record.

FINDINGS OF FACT

In considering the papers submitted in support of and in opposition to the motion for summary decision, and in viewing the evidence in the light most favorable to petitioner, I **FIND** the following as **FACT** for purposes of this motion only:

The Board is the public school district board for the Township of Mount Olive in Mount Olive, New Jersey. It is authorized under N.J.S.A. 18A:10-1 to operate the Mount Olive public schools, which is a pre-kindergarten through high school district. Mount Olive adopted District Policy 5512 Harassment, Intimidation, and Bullying on August 18, 2002, and revised it on May 8, 2023, to comply with the New Jersey Anti-Bullying Bill of Rights. N.J.S.A. 18A:37-13, et seq. (Resp. Ex. C.)

Petitioner is the mother of her minor child C.W. who was in the sixth grade in the school district on September 23, 2024, the date of the alleged incident.

On September 23, 2024, C.W. told her mother that another student, C.H., stated that “a monkey is a black person” in her presence and in the presence of another student while in science class.

On September 23, 2024, C.W. told her teacher, Nicolas Gonzalez, what C.H. allegedly said.

On September 23, 2024, petitioner asked Gonzalez and another teacher, Shannon Carlson, to conduct an HIB investigation.

On September 25, 2024, the vice principal, Daniel Barcia, advised petitioner how to file an HIB complaint.

On September 27, 2024, the principal, Agatha Wilke, advised petitioner that the Board had received her complaint.

On October 8, 2024, petitioner met with Wilke and the anti-bullying specialist, Anna Crumm, who conducted the HIB investigation.

In investigating the complaint, Crumm followed all district policies and state law. She interviewed both students, C.W. and C.H.; the two teachers, Gonzalez and Carlson; and two other students, Student One and Student Two. Crumm also reviewed the school's CCTV footage. The school's CCTV footage contains video; it does not contain audio.

In her written statement, C.W. reported that she felt comfortable returning to class on the day of the alleged incident.

On October 2, 2024, Crumm interviewed C.H. who denied making any statement about a monkey being a black person.

Crumm also interviewed Student One, who sat near C.H. on the day of the alleged incident and reported that he did not hear C.H. make any statements about a monkey being a black person.

On October 4, 2024, Crumm interviewed Gonzalez and Carlson, both of whom were in class the day of the alleged incident and reported that they did not hear C.H. make any statements about a monkey being a black person.

On October 7, 2024, Crumm interviewed Student Two, who sat near C.W. on the day of the alleged incident and reported that she did not hear C.H. make any statements about a monkey being a black person. Student Two merely reported that C.W. was "getting called down to the office because C.H. said something racist to [C.W.] in class!" Student Two also reported that C.H. "does not target people in class but just says some things to make people laugh." No other students sat near either C.H. or C.W. on the date of the alleged incident.

Since no one corroborated that C.H. said that “a monkey is a black person” on the date of the alleged incident, the Board advised petitioner on October 8, 2024, that the HIB complaint was unfounded. The Board also advised that the HIB complaint was unfounded because C.W. felt comfortable returning to class on the day of the alleged incident and did not experience a substantial disruption to her education.

CONCLUSIONS OF LAW

When a local board of education acts within its discretionary authority, its decision is entitled to a presumption of correctness that 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). To overcome that presumption, the petitioner must prove by a preponderance of the evidence that the board “acted in either bad faith or in disregard to the circumstances.” T.B.M. v. Moorestown Bd. of Educ., EDU 2780-07 (February 6, 2008), aff’d, Comm’r (April 25, 2013) (citing Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965), aff’d, 46 N.J. 581 (1966)). In other words, the burden is a heavy one.

In this case, no one corroborated petitioner’s allegation that C.H., stated that “a monkey is a black person” in her daughter’s presence on September 23, 2024. No student, neither Student One nor Student Two, heard C.H. make that statement. Likewise, no teacher, neither Gonzalez nor Carlson, heard C.H. make that statement. Therefore, I **CONCLUDE** that the Board did not act arbitrarily, without rational basis, or induced by improper motives, and that it’s HIB determination must stand.

A party may move for summary decision upon any or all substantive issues in a contested case. N.J.A.C. 1:1-12.5(a). The motion for summary decision shall be served with briefs and may be served with supporting affidavits. Ibid. “The decision sought 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).

In this case, petitioner alleges that the Board acted in an arbitrary, capricious, or unreasonable manner because the Board failed to interview another student and review the CCTV footage. Petitioner asserts that the HIB allegation would have been substantiated had the Board interviewed another student and found a way to use the CCTV footage to hear Gonzalez speak with C.H. No other student, however, sat near either C.H. or C.W. on the date of the alleged incident. In addition, the CCTV footage contains no audio. Therefore, I **CONCLUDE** that no genuine issue of material fact exists concerning the corroboration of the alleged statement and that the Board is entitled to summary decision as a matter of law.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that respondent's motion for summary decision is **GRANTED** and that this case 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.

June 2, 2025

DATE

A handwritten signature in blue ink that reads "Kimberly K. Holmes". The signature is written in a cursive style with a large initial 'K'.

KIMBERLY K. HOLMES, ALJ

Date Received at Agency:

June 2, 2025

Date Mailed to Parties:
Isr

June 2, 2025