

New Jersey Commissioner of Education
Final Decision

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

Petitioners,

v.

Board of Education of the Township of Holmdel,
Monmouth 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.

In this matter, the petition alleges that respondent, Board of Education of the Township of Holmdel (Board), is enforcing its attendance policy in a discriminatory manner by failing to account for the unique needs of students with disabilities as required under the Individuals with Disabilities Education Act (IDEA) and unspecified state law. The instant conflict arose after petitioners' daughter, C.C., who has a visual processing disorder, missed five days of school during the 2024-2025 school year prior to October 29, 2024. The Board deemed the absences unexcused. No punitive action was taken against C.C.; however, petitioners maintain that the absences should be excused due to illness and anxiety related to her disability. Additionally, they request review and revision of the attendance policy to ensure that it includes provisions for

disability-related absences, as well as ongoing compliance monitoring to ensure that policy enforcement respects the needs and rights of students with disabilities.

The Board moved for summary decision on grounds that petitioners failed to state a claim upon which relief can be granted. It maintains that its attendance policy is consistent with federal and state law, and that it has not applied the policy in a discriminatory manner. It asserts that petitioners have not directly challenged the content of the policy or its adoption, nor have they alleged any instances in which its enforcement was contrary to a student's individualized education program (IEP), accommodation plan, or individualized healthcare plan. It also alleges that petitioners never provided documentation of illness or other condition to support excusal of C.C.'s five absences, and that her IEP lacks an exemption or accommodation related to attendance or an anxiety diagnosis. Petitioners filed opposition to the Board's motion, claiming that material factual disputes existed.

The Administrative Law Judge (ALJ) issued an Initial Decision granting the Board's motion for summary decision upon finding that none of the material facts were disputed. First, the ALJ concluded that the attendance policy complies with relevant federal and state laws as well as *N.J.A.C. 6A:16-7.6*. Second, as to the application of the policy to C.C., the ALJ found no evidence of discrimination and concluded that the Board properly categorized her five absences as unexcused. The ALJ cited petitioners' acknowledgment that C.C.'s IEP did not contain exemptions or accommodations related to the attendance policy. The ALJ further found that petitioners did not specify an illness or other valid reason that the absences should have been excused under the policy, and that the Board took no punitive action against C.C. due to the absences.¹

¹ C.C. had eight absences during the entirety of the 2024-2025 school year and was not deemed truant or otherwise disciplined.

In their exceptions, petitioners argue that the Commissioner should reject the Initial Decision because the ALJ mischaracterized their challenge to the Board's attendance policy and erred as a matter of law. They claim that the ALJ erroneously framed the dispute as pertaining to C.C.'s IEP implementation rather than a facial challenge to the Board's attendance policy as written and applied generally.

While their motion opposition focused primarily upon C.C.'s individual circumstances, petitioners assert that the ALJ should have concluded that the Board's rigid attendance policy is discriminatory and unlawful because it fails to provide for reasonable modifications or individualized consideration for all students with disabilities. They allege that the policy violates Section 504, the Americans with Disabilities Act, and *N.J.A.C. 6A:16-7.6(b)*, and that to comply with law, the policy must have a built-in mechanism to ensure that disability-related absences are excused or reasonably accommodated. They assert that the policy as written has a disparate impact upon disabled students and withholds certain academic benefits from them.

Additionally, petitioners claim that the ALJ incorrectly relied upon the lack of punitive action taken by the Board against C.C. and the lack of a provision in C.C.'s IEP regarding attendance, and disregarded the fact that C.C.'s IEP was still under development when the absences occurred. They also contend that the ALJ failed to afford them a fair and equitable hearing. While they primarily seek to have the Commissioner order the Board to revise and rewrite the attendance policy, they also ask that C.C.'s five absences be changed to excused if same would be consistent with a revised policy.

Upon review, the Commissioner adopts the Initial Decision as the final decision in this matter. 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. Bd. of Educ. of W. Orange*, 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), *aff’d*, 131 N.J. Super. 37 (App. Div. 1974).

When a party seeks summary decision, “[t]he 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). To prevail, the opposing party “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*. Petitions are subject to dismissal “on the grounds that the petitioner has advanced no cause of action even if the petitioner’s factual allegations are accepted as true.” N.J.A.C. 6A:3-1.10. This standard also appears in *New Jersey Court Rule 4:6-2(e)*. See *Jonathan Wadley v. N.J. Dep’t of Educ., Office of Student Prot.*, OAL Dkt. No. EDU 09223-22, Initial Decision at 4-5 (Mar. 10, 2023), *adopted*, Commissioner Decision No. 110-23 (Apr. 11, 2023) (assessing N.J.A.C. 6A:3-1.10 motions like *Rule 4:6-2* motions seeking dismissal for failure to state a claim). Such motions “must be evaluated in light of the legal sufficiency of the facts alleged” in the petition. *Sickles v. Cabot Corp.*, 379 N.J. Super. 100, 106 (App. Div. 2005) (quoting *Donato v. Moldow*, 374 N.J. Super. 475, 482 (App. Div. 2005)).

Attendance at school is compulsory for students between the ages of six and sixteen. N.J.S.A. 18A:38-25; *Joye v. Hunterdon Cent. Reg’l High Sch. Bd. of Educ.*, 176 N.J. 568, 641 (2003). Toward that end, boards of education are required to “develop, adopt, and implement policies

and procedures regarding the attendance of students.” *N.J.A.C. 6A:16-7.6(a)*. Those policies and procedures must include “a definition of unexcused absence that counts toward truancy.” *N.J.A.C. 6A:16-7.6(a)(3)*. Truancy occurs when a student accumulates ten or more unexcused absences. *N.J.A.C. 6A:16-7.6(a)(4)(iii)*.

“For a student with a disability,” the board of education’s “attendance plan and its punitive and remedial procedures shall be applied, where applicable, in accordance with the student’s individualized education program, pursuant to 20 *U.S.C. §§ 1400 et seq.*, the Individuals with Disabilities Education Act; the procedural protections set forth in *N.J.A.C. 6A:14*; accommodation plan under 29 *U.S.C. §§ 794 and 705(20)*; and individualized healthcare plan and individualized emergency healthcare plan, pursuant to *N.J.A.C. 6A:16-2.3(b)3xii*.” *N.J.A.C. 6A:16-7.6(b)*.

Consistent with the regulations, Board Policy 5200 includes definitions of excused and unexcused absences. Under the policy, absences may be excused for numerous reasons as specified, including student illness “supported by a written letter from the parent upon student’s return to school.” The policy further provides that absences may be excused, where appropriate, consistent with a student’s IEP, the IDEA, accommodation plans, and individualized healthcare plans. In addition, the policy states that parents may request permission in writing for other types of absences not specified in the policy to be deemed excused by the principal and that their written request must specify the reason for the absences. Furthermore, the policy explains that parents or students are responsible for requesting missed assignments and related assistance, and that teachers will provide make-up assignments as necessary.

The Commissioner finds nothing arbitrary, capricious, or unreasonable about the Board’s attendance policy as written, or as applied to C.C. The record is devoid of facts to support a claim

that the Board’s attendance policy as written, or as applied to C.C. or any student, violates federal law, state law, or regulations. Moreover, the Commissioner rejects petitioners’ assertion that the ALJ mischaracterized their position.

The Initial Decision reflects that the ALJ considered both petitioners’ general challenge to the attendance policy as well as the policy’s application to C.C. See Initial Decision at 5 (“Petitioners challenge the policy and its application to the five (5) days on which C.C. was absent from Indian Hill.”). The ALJ went on to conclude that the attendance policy “complies with both federal and state law.” Initial Decision at 12. While the petition alleges that the attendance policy violates the IDEA, petitioners failed to provide adequate factual or legal support for this claim. Thus, the Commissioner agrees with the ALJ that petitioners have failed to establish that the attendance policy violates federal or state law.² Accordingly, petitioners have not shown that the attendance policy as written is arbitrary, capricious, or unreasonable.

The record reflects that the attendance policy as written does allow for evaluation of absences on a case-by-case basis, provided that parents submit letters explaining the reasons for the absences. It is not unreasonable for the Board to require parents to provide information concerning reasons for a child’s absences to allow its staff to evaluate the situation. Additionally, as written, the attendance policy provides that absences may be excused, where appropriate, consistent with a student’s IEP, the IDEA, accommodation plans, and individualized healthcare

² To the extent petitioners attempt to raise new arguments in their exceptions pertaining to Section 504, the Americans with Disabilities Act, and N.J.A.C. 6A:16-7.6(b) that were not raised in their petition or before the ALJ, the Commissioner need not consider them. See *Nieder v. Royal Indem. Ins. Co.*, 62 N.J. 229, 234 (1973) (declining to consider questions or issues not raised below); *Azzaro v. Bd. of Educ. of Trenton*, 477 N.J. Super. 427, 435 n.2 (App. Div. 2023) (citing *Nieder* and declining to consider issue not properly raised before the ALJ).

plans. Thus, the Commissioner holds that the Board's attendance policy is consistent with *N.J.A.C. 6A:16-7.6(b)*.

Furthermore, the Commissioner finds that the record is devoid of facts to suggest that the Board has acted in a discriminatory manner with respect to enforcement of its attendance policy as to C.C. or any other student. Based upon the lack of documentation provided by petitioners regarding C.C.'s illness or condition that necessitated her absences, it was reasonable for the Board to categorize C.C.'s five absences as unexcused. In addition, nothing in C.C.'s IEP (which was not finalized until after the absences occurred) provides an exemption from or accommodations related to the attendance policy. Moreover, petitioners have failed to explain why C.C.'s absences must be deemed excused pursuant to the IDEA or any other law or regulation and have not identified legal authority which adequately supports their position. While petitioners' exceptions allude to a vague withholding of academic benefits from disabled students when absences are unexcused, they have not alleged any specific facts that would suggest C.C. or any other child has suffered any academic harm or an inability to make up assignments following unexcused absences from school.

With respect to petitioners' remaining exceptions, the Commissioner finds nothing incorrect about the ALJ's consideration of the lack of punitive action taken by the Board against C.C., and the lack of a provision in C.C.'s IEP regarding attendance. These circumstances are relevant. Notably, the fact that C.C.'s IEP was still under development when the unexcused absences occurred does not mean that petitioners had no recourse. As discussed herein, pursuant to the plain language of the attendance policy, petitioners could have provided documentation to the principal explaining the reason for C.C.'s absences—irrespective of the status of her IEP. They failed to do so.

Finally, petitioners' contention that the ALJ failed to afford them a fair and equitable hearing is unsupported by the record. The ALJ is not permitted to relax the burden of proof for *pro se* litigants. *N.J.A.C. 1:1-1.3(c)* ("The burden of proof shall not be relaxed."). As noted, to successfully oppose a motion for summary decision, a party "must by responding affidavit set forth specific facts showing that there is genuine issue which can only be determined in an evidentiary proceeding." *N.J.A.C. 1:1-12.5(b)*. The Commissioner agrees with the ALJ that petitioners failed to satisfy this burden.

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.³



COMMISSIONER OF EDUCATION

Date of Decision: October 20, 2025
Date of Mailing: October 20, 2025

³ 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 17022-24

AGENCY DKT. NO. 358-11/24

K.C. AND M.C. ON BEHALF OF C.C.,

Petitioners,

v.

TOWNSHIP OF HOLMDEL

BOARD OF EDUCATION,

MONMOUTH COUNTY,

Respondent.

K.C. and M.C. on behalf of C.C., petitioners, pro se

Eric L. Harrison, Esq., for respondent (Methfessel & Werbel, PC, attorneys)

Record Closed: June 23, 2025,

Decided: July 29, 2025

Before: **WILLIAM T. COOPER III, ALJ:**

STATEMENT OF THE CASE

Petitioners, K.C. and M.C. (referred to collectively as petitioners), filed a petition alleging that the Township of Holmdel Board of Education (respondent or Board) discriminately enforces its attendance policy by failing to address the needs of their

daughter C.C., who is a student with a disability, as required under the Individuals with Disabilities Education Act (IDEA).¹ The Board denies these allegations and avers that the petitioners have failed to identify any aspect of the Board's policy that violates any state or federal provisions or is discriminatory toward petitioners' daughter, C.C.

The specific question presented by petitioners is whether the Board's attendance policy is discriminatory as applied to C.C., a student with a disability, in violation of state and/or federal provisions.

Answer: No, the Board's attendance policy does not violate state or federal provisions, and it is not discriminatory as applied to C.C.

PROCEDURAL HISTORY

On December 3, 2024, the Department of Education, Office of Controversies and Disputes transmitted the matter to the Office of Administrative Law (OAL), where it was filed as a contested case pursuant to N.J.S.A. 52:14F-1 to -13 and N.J.S.A. 52:14B-1 to -15.

On January 31, 2025, the undersigned conducted a telephone conference with the parties, and after discussing the issues, permitted counsel for the Board to file the within motion. The Board was instructed to submit the motion on or before March 3, 2025. The petitioners were instructed to provide a response on or before April 3, 2025. Oral argument on the motion was scheduled for May 2, 2025, but was adjourned at the request of the petitioners to June 23, 2025.

FACTUAL DISCUSSION

Most of the salient facts surrounding this matter are not in dispute, and having reviewed the briefs in support of and against the motion for summary decision, I **FIND as FACTS:**

¹ Petitioners' pleading alleges that the Board's attendance policy discriminates against "students with disabilities"; however, petitioners admitted during oral argument on June 23, 2025, that the allegations only pertain to their daughter C.C.

1. Petitioners' daughter C.C. is a fifth-grade student attending the Indian Hill School (Indian Hill) located at 735 Holmdel Road, Holmdel, New Jersey, which is administered by the Board.
2. The Board adopted Policy and Regulation 5200 governing attendance (the policy) on August 20, 2023.
3. The attendance policy provides the relevant part as follows:

N.J.A.C. 6A:16-7.6(a)(3) requires the Board of Education policies and procedures to contain, at a minimum, a definition of unexcused absences that count toward truancy, student conduct, promotion, retention, and the award of course credit.

- a. "An unexcused absence that counts toward truancy" is a student's absence from school for a full or a portion of a day for any reason that is not an "excused absence" as defined in B.2.b. below.
- b. "An excused absence" is a student's absence from school for a full day or a portion of a day for the observance of a religious holiday pursuant to N.J.S.A. 18A:36-14 through 16, or any absence for reasons listed below:
 - The student's illness; supported by a written letter from the parents upon student's return to school; and supported by notification to the school by the student's parents;
 - The students' required attendance in court;
 - Where appropriate, when consistent with Individualized Education Programs, the Individuals with Disabilities Act, accommodation plans under 29

U.S.C. §§ 794 and 705(20); and individualized health care plans;

- The student's suspension from school;
- Family death (at the principal's discretion);
- College visit(s), up to 3 days per school year for students in grades eleven or twelve;
- Interviews with a prospective employer or with an admissions officer of an institution of higher education;
- Examination for a driver's license;
- Take Our Children to Work Day;
- Religious observance, pursuant to N.J.S.A. 18A:36-14 through 16; or
- An absence considered excused by the Commissioner of Education and/or a New Jersey Department of Education rule.

4. The Student/Parent Handbook provides information with respect to a student's absence:

- It is required that the school be advised via telephone (732) 946-1045 x1 to report the student's absence or if he/she will be late.
- Religious observations and death in the family are considered reasons for excused absences from school. Vacations, visits to relatives, etc., are considered unexcused absences. Although parental permission may be granted for such absences, they are still considered unexcused absences. There are key points parents need to take into consideration when a student is taken out of school for recreational purposes. Since these absences are classified as "unexcused absences," district policy states teachers are not to issue make-up work in advance. It is the student's responsibility to catch-up with all missing assignments when they return. Another major ramification is that it is virtually impossible for a student to

replay the lessons and lectures that took place during their absence. Parents need to consider the value of instructional time and should limit the absence of their son/daughter from school for non-valid reasons.

- A note must be presented from the student's parent/guardian following each absence. The note should include the child's name and homeroom, date of absence and specific reason for the absence. Students who will be absent for more than two weeks consecutively because of illness or accident are entitled to home instruction.
 - Periodically, attendance letters will be sent out to keep parents/guardians informed about student absences. For a student that exceeds 17 days, a meeting will be required.
5. Petitioners challenge the policy and its application to the five (5) days on which C.C. was absent from Indian Hill. Specifically, C.C. was absent on September 12, 17 and 18, 2024, and October 10 and 28, 2024.
 6. No punitive action was taken against C.C. due to these five (5) absences.²
 7. Pursuant to the policy, all five days of absence were deemed as "unexcused absences:"
 - September 12, 2024: Petitioners reported by electronic mail that C.C. "is experiencing significant anxiety and is refusing to go to school."
 - September 17, 2024: Petitioners allege that they notified Indian Hill personnel that C.C. would be absent; they did not provide evidence

² During oral argument on June 23, 2025, the parties agreed that C.C. ended the 2024/2025 school year with eight (8) total absences, and there was no punitive action taken against CC.

or documentation of an illness or condition which would warrant excusal.³

- September 18, 2024: Petitioners allege that they notified Indian Hill personnel that C.C. would be absent; they did not provide evidence or documentation of an illness or condition which would warrant excusal.⁴
- October 10, 2024: Petitioners reported by electronic mail that C.C. “will be absent today.”
- October 28, 2024: Petitioners reported by electronic mail that “we are not going to send C.C. in today.”

8. C.C. is receiving special educational services due to being diagnosed with a visual processing disorder, which impacts her ability to process, synthesize, analyze and understand visual information.
9. C.C. has an Individualized Education Plan (IEP) with a start date of November 14, 2024, and a projected end date of November 14, 2025. The petitioners consented to the implementation of C.C.’s IEP on December 4, 2024.
10. The IEP contains a notation regarding potential stress on C.C.’s eyes while reading and writing. Further, there are several modifications and accommodations for C.C., including:
 - In-class Resource—Language Arts, twice daily for forty-eight minutes;
 - In-class Resource—Math, twice daily for forty-eight minutes;
 - In-class Resource—Science, once daily for forty-eight minutes;
 - In-class Resource—Social Studies, once daily for forty-eight minutes;
 - Occupational Therapy, weekly for thirty minutes.

³ Respondent advised during oral argument on June 23, 2025, that the record was modified subsequent to this appeal to reflect that the parent had contacted the school to report the student’s absence.

⁴ Respondent advised during oral argument on June 23, 2025, that the record was modified subsequent to this appeal to reflect that the parent had contacted the school to report the student’s absence.

11. The IEP does not provide any modifications and accommodations for anxiety or other disabling conditions impacting school attendance or adherence to the policy.
12. C.C. has not been diagnosed with anxiety or other disabling conditions requiring accommodation from the policy, and the petitioners have not provided any medical documentation that would excuse any of the five absences.
13. The IEP does not reflect a need for accommodation due to anxiety or other disabling conditions.
14. The IEP noted the following, submitted by C.C.'s parents as concerns on November 1, 2024:
 - "We are deeply concerned about the district's inadequate accommodations and overall lack of understanding and training regarding Visual Processing Disorder. C.C.'s education should not be an experiment. We cannot continue to guide you through your inability to provide a suitable learning environment and specific, effective accommodation.
 - a. The district failed to provide any evidence of experience serving students with Visual Processing Disorder.
 - b. The recommended accommodation, such as isolating C.C. with headphones, is both inappropriate and harmful.
 - c. The proposed inclusion classroom, with no guarantee of manageable class size, directly contradicts the IEE's recommendation for small-class setting.
 - d. The IEP completely ignores C.C.'s difficulties with large, noisy environments, impacting her attendance and engagement."

15. The petitioners acknowledged on June 23, 2025, that the only allegation raised here is that the attendance policy, as it was applied to C.C.'s five absences, was discriminatory, and that they do not contend that the policy as written is unconstitutional or violative of either federal or state regulations.
16. The petitioners did not request that the November 14, 2024, IEP include accommodation for anxiety or other disabling conditions, nor did they specifically request accommodation in the IEP from the school attendance policy.
17. The respondent acknowledged that, subsequent to the filing of the complaint, they had modified C.C.'s records to reflect that all five absences had been reported by petitioners.

LEGAL ANALYSIS AND CONCLUSIONS

Summary Decision:

The Board seeks summary decision. Under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, “[a] party may move for summary decision upon all or any of the substantive issues in a contested case.” N.J.A.C. 1:1-12.5(a). Such motion “shall be served with briefs and with or without supporting affidavits,” and “[t]he 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). When the motion “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.

The standard governing agency determinations under N.J.A.C. 1:1-12.5 is “substantially the same as that governing a motion under Rule 4:46-2 for summary judgment in civil litigation.” L.A. v. Bd. of Educ. of Trenton, 221 N.J. 192, 203 (2015)

(citing Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 121–22 (App. Div. 1995) (citations omitted), certif. denied, 145 N.J. 372 (1996)). “In other words, a court must ascertain ‘whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party.’” Id. at 204 (quoting Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995)); see also Contini, 286 N.J. Super. at 121–22.

The petitioners contend that there are genuine issues as to material facts which would preclude the granting of a summary decision; however, a careful review of these reveals that this contention is without merit.

The first issue raised by petitioners involves “[W]hether, after the filing of this complaint, the district updated C.C.’s record to reflect that they had been notified of all five (5) absences, contradicting their previous position.” Respondent acknowledged that, subsequent to the filing of the complaint, they had modified their records to reflect that all five absences had been reported by petitioners, and I **CONCLUDE** this has been eliminated as an issue of material fact.

The second issue raised by petitioners involves “[W]hether all five (5) absences were reported, and documentation of this reporting was previously provided to the district, contradicting its claims.” Respondent acknowledged that, subsequent to the filing of the complaint, they had modified their records to reflect that all five absences had been reported by petitioners, and I **CONCLUDE** this has been eliminated as an issue of material fact.

The third issue raised by petitioners involves “[W]hether the district failed to consider reasonable accommodations after being made aware of disability-related absences.” The IEP contains a number of accommodations and educational services for C.C. due to her Visual Processing Disorder. However, it is undisputed that the petitioners failed to request modifications and accommodation for anxiety or other disabling conditions that would prevent C.C. from attending school, and I **CONCLUDE** this is not an issue of material fact.

The fourth issue raised by petitioners involves “[W]hether the district failed to recognize anxiety, headaches, and school refusal as disability-related conditions requiring accommodation under IDEA and Section 504.” This is not an issue of material fact because C.C. has not been diagnosed with anxiety, headaches, or school refusal. Further, the petitioners have not provided any proof that C.C. is suffering from anxiety, headaches, or school refusal. Had the petitioners provided medical documentation to support any of the C.C.’s five absences, this may have raised an issue, but they did not, and I **CONCLUDE** that this is not an issue of material fact.

The fifth issue raised by the petitioners involves “[W]hether the district appropriately considered and accommodated disability-related absences before imposing punitive attendance measures.” C.C. had a total of eight (8) absences for the 2024–2025 school year, and there was no punitive penalty imposed against the student; as such, I **CONCLUDE** this is not an issue of material fact.

The sixth issue raised by the petitioners involves “[W]hether the district failed to engage in an interactive process to determine reasonable accommodations/modifications under the IDEA, Section 504, and the ADA.” Here, the parents, together with the Child Study Team (CST), went through the appropriate process to develop an IEP so that C.C. would receive a free and appropriate education. The petitioners participated in that process and, on December 4, 2024, consented to the implementation of the IEP that was developed jointly with the CST; as such, I **CONCLUDE** that the parties engaged in an interactive process, but the petitioners failed to request a reasonable accommodation from the school attendance policy; as such, this is not an issue of material fact.

The seventh issue raised by the petitioners involves “[W]hether the school’s application of the attendance policy was arbitrary, capricious, or unreasonable.” This is the issue to be determined by this tribunal, and I **CONCLUDE** it is not an issue of material fact.

The eighth issue raised by the petitioners involves “[W]hether the district refused to address the student’s anxiety in the IEP despite repeated requests from the

petitioners.” It is undisputed that C.C. has not been diagnosed with anxiety, and further, the petitioners did not raise this as a concern during the discussions with the CST in developing the IEP. Thus, I **CONCLUDE** this is not an issue of material fact.

The ninth issue raised by the petitioners involves “[W]hether the district failed to include functional goals in the IEP, despite the petitioners’ continued advocacy for their inclusion.” The issue to be addressed here is whether the Board’s attendance policy is discriminatory as applied to C.C., a student with a disability, in violation of state and/or federal provisions. I **CONCLUDE** the inclusion of functional goals in the IEP is not an issue of material fact in this matter.

The tenth issue raised by the petitioners involves “[W]hether the district’s rigid enforcement of the attendance policy disregards the student’s individualized needs, violating federal disability laws.” Here, the parties collaborated and developed an IEP for the benefit of C.C. The petitioners did not request, nor does the IEP contain, an accommodation from the attendance policy. Further, the petitioners’ characterization of “rigid-enforcement” is misplaced, as C.C. did not suffer any penalty for the eight absences; accordingly, I **CONCLUDE** the enforcement of the school attendance policy is not an issue of material fact.

Here, the facts are generally undisputed by petitioners and respondent. It is the conclusion to be drawn from these facts that is the issue to be determined here, i.e., whether the Board discriminately enforces its attendance/truancy policy by failing to address the needs of C.C., a student with a disability.

Therefore, I **CONCLUDE** that the matter is ripe for a summary decision.

Arguments:

The respondent argues that it is entitled to a summary decision in its favor because the attendance policy follows N.J.A.C. 6A:16-7.6 and is uniformly applied to the students. Further, respondent argues that the petitioners have failed to state any issue that would establish that the policy is unconstitutional or is applied in a discriminatory fashion.

The petitioners claims that the motion should be denied because issues of material fact exist that require a plenary hearing.

New Jersey is a compulsory attendance state that requires every parent, guardian or other person having custody and control of a child between the ages of six and sixteen to ensure that such child regularly attends the public schools of the district or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades and attainments or to receive equivalent instruction elsewhere than at school. See N.J.S.A. 18A:38-25.

Pursuant to N.J.A.C. 6A:16-7.6, each district board of education shall develop, adopt and implement policies and procedures regarding the attendance of students at the public schools of the district or day schools in which students are provided with equivalent instruction. The regulation requires that the policies and procedures include the expectations and consequences regarding timely arrival to school and classes. N.J.A.C. 6A:16-7.6(a)(1). The policy shall also include the expectations and consequences regarding attendance at school and classes. N.J.A.C. 6A:16-7.6(a)(2). Furthermore, the policy shall include a definition of unexcused absence that counts toward truancy, which shall be consistent with the definition of a school day, pursuant to N.J.A.C. 6A:32-8.3. N.J.A.C.6A:16-7.6(a)(3). For a student with a disability, the attendance plan and its punitive and remedial procedures shall be applied, where applicable, in accordance with the student's IEP pursuant to 20 U.S.C. sec. 1400 et. seq. N.J.A.C. 6A:16-7.6(b)

A careful review of the attendance policy adopted by respondent reveals that it meets the requirements of N.J.A.C. 6A:16-7.6, as outlined above. Further, the petitioners do not contend that the attendance policy as written is unconstitutional or violative of either federal or state regulations. Accordingly, I **CONCLUDE** that the attendance policy complies with both federal and state law.

Here, the petitioners acknowledge that C.C.'s IEP for the 2024–2025 school year did not contain accommodation from the attendance policy. Further, the credible evidence

establishes that the petitioners' notification to the respondent for the absences in question did not specify an illness or provide a valid reason that would qualify as an excused absence. Accordingly, I **CONCLUDE** that the absences in question were properly categorized as unexcused. Finally, no punitive action was taken against C.C. as a result of the absences; accordingly, I **CONCLUDE** the petitioners' claims of discriminatory action are without merit.

ORDER

It is hereby **ORDERED** that the respondent's motion for a summary decision is **GRANTED**, and the petitioners' appeal is hereby **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.

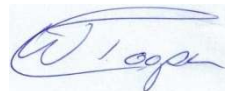
Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to ControversiesDisputesFilings@doe.nj.gov or by mail to **Office of Controversies 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.

July 29, 2025

DATE

Date Received at Agency:

Date E-Mailed to Parties:



WILLIAM T. COOPER III, ALJ

APPENDIX

Exhibits

For petitioners:

None

For respondent:

- R-1 Policy 5200 Attendance
- R-2 Indian Hill School Student and Parent Handbook
- R-3 Parent/Staff Special Education Reference Manual
- R-4 Emails (November 15, 2024) between petitioners and staff
- R-5 Emails (September 18, 2024) between petitioners and staff
- R-6 2024/2025 IEP
- R-7 Correspondence from respondent to Dept. of Educ., dated 11/26/24
- R-8 Correspondence from Indian Hill School to petitioners, dated 10/29/24