

516-25  
OAL Dkt. No. EDU 13211-25  
Agency Dkt. No. 223-7/25

**New Jersey Commissioner of Education**  
**Final Decision**

J.L., on behalf of minor child, J.L.,

Petitioner,

v.

Board of Education of the Borough of Riverton,  
Burlington County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by petitioner pursuant to *N.J.A.C. 1:1-18.4*, and the Riverton Board of Education's (Board) reply thereto, have been reviewed and considered.<sup>1</sup>

Petitioner appealed the Board's determination that her child, J.L.,<sup>2</sup> committed an act of harassment, intimidation, and bullying (HIB) when he called another student a liar. The Administrative Law Judge (ALJ) found that there was no evidence of a distinguishing characteristic, as required by the Anti-Bullying Bill of Rights Act (Act). Accordingly, the ALJ reversed the Board's decision.

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<sup>1</sup> Petitioner filed a sur-reply to the Board's reply, which was not considered because sur-replies are not permitted under the applicable regulations.

<sup>2</sup> As petitioner and her child share initials, references herein to "J.L." will mean petitioner's child, and petitioner will be referred to as "petitioner."

The Board did not take exception to the ALJ's decision. Upon review, the Commissioner concurs with the ALJ that there is no evidence of a distinguishing characteristic and that the Board's decision must therefore be reversed.

Petitioner also did not take exception to the ALJ's conclusion. However, in her exceptions, petitioner requests that the Board be required to pay for J.L. to attend school in another district as a consequence for its actions. According to petitioner, she "had to" remove J.L. from the Board's schools because "he could not get the education he is entitled to due to the false allegations against him."<sup>3</sup>

In response, the Board argues that the decision to withdraw J.L. from its schools was solely petitioner's and that the Board is prepared to re-admit J.L. at any time. The Board notes that petitioner had previously requested that the Board pay for J.L. to attend school in another district, but withdrew that request during the course of the proceedings, and it was therefore not part of the ALJ's decision and not properly raised as an exception. The Board also contends that there is no legal authority to order a public school district to send a student to another district because its HIB decision was reversed.

The Commissioner concludes that there is no basis in the Act to order a board of education to pay for a student to attend school in another district because it made a HIB determination that was later reversed. Even in matters where a parent requested such a remedy for a child who was a victim of an act of HIB, the Commissioner has found that the Act does not provide for an out-of-district placement. *J.R. o/b/o P.R. v. Bd. of Educ. of Westampton*, Commissioner Decision No. 24-25 (Jan. 21, 2025). With regard to the alleged aggressor, the Act

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<sup>3</sup> Petitioner later emailed the Office of Controversies and Disputes to withdraw this request.

provides that a board's decision may be appealed to the Commissioner, but it does not provide that an out-of-district placement may be imposed when a board of education's decision is reversed. The standard remedy granted in cases of reversal is that references to the incident be removed from the student's records. As such, petitioner's request for an out-of-district placement for J.L. is denied.

Accordingly, the Initial Decision is adopted as the final decision in this matter. The Board is ordered to remove all references to the HIB incident at issue from J.L.'s records.

IT IS SO ORDERED.<sup>4</sup>



COMMISSIONER OF EDUCATION

Date of Decision:      October 31, 2025  
Date of Mailing:       November 3, 2025

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<sup>4</sup> 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**

OAL DKT. NO. EDU 13211-25

AGENCY DKT. NO. 223-7/25

**J.L. ON BEHALF OF MINOR CHILD, J.L.,**

Petitioner,

v.

**BOARD OF EDUCATION OF**

**THE BOROUGH OF RIVERTON,**

Respondent.

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**J.L.**, petitioner, on behalf of minor child, **J.L.**, pro se

**Susan Hodges**, Esq., for respondent (Parker McCay, P.A., attorneys)

Record Closed: September 22, 2025

Decided: September 24, 2025

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

**STATEMENT OF THE CASE**

Petitioner **J.L.**, on behalf of minor child **J.L.**, challenges the decision of respondent, the Board of Education of the Borough of Riverton (Board), that **J.L.** engaged in an act of harassment, intimidation, or bullying (HIB) under the New Jersey Anti-Bullying Bill of Rights Act (the Act), N.J.S.A. 18A:37-13 to -37.

## **PROCEDURAL HISTORY**

On June 4, 2024, petitioner filed a petition of appeal with the New Jersey Department of Education (DOE), Office of Controversies and Disputes. On July 17, 2025, DOE transmitted the due-process petition to the Office of Administrative Law (OAL), pursuant to N.J.S.A. 52:14B-1 to -15, and N.J.S.A. 52:14F-1 to -23. On July 28, 2025, petitioner filed an application for emergent relief, and on July 29, 2025, the request for emergent relief was transmitted to the OAL. On August 6, 2025, after a prehearing conference, petitioner withdrew the emergent petition (OAL Dkt. No. EDU 13172-25).

On August 11, 2025, a prehearing order was issued in the due process proceeding, OAL Dkt. No. EDU 13211-25, and the hearing was scheduled for August 22, 2025.

On August 21, 2025, the parties participated in a prehearing telephone conference, during which petitioner requested leave to file a motion for summary decision. This motion was filed on August 22, 2025. On September 15, 2025, respondent filed a brief in opposition to the motion for summary decision. On September 16, 2025, petitioner filed a reply. On September 22, 2022, without leave, respondent filed a supplemental reply and certification in response to petitioner's reply brief. On September 22, 2025, petitioner submitted a final letter in response, clarifying the relief requested, and the motion is now ripe for review.

## **FACTUAL DISCUSSION**

Based on the documents filed in this matter by the parties, the following **FACTS** are undisputed, and therefore, I **FIND**:

1. Petitioner is the parent of J.L., a twelve-year-old boy who was enrolled in sixth grade at Riverton Middle School during the 2024–2025 school year.
2. E.Q.<sup>1</sup> is a twelve-year-old girl who was also enrolled in sixth grade at Riverton Middle School during the 2024–2025 school year.

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<sup>1</sup> E.Q. is alternately referred to as "L.Q." in some documents, "L." being a nickname.

3. The incidents involved in this matter took place during the 2024–2025 school year.
4. Prior to April 2, 2025, on a weekend, outside of school, J.L. and E.Q. were involved with other Riverton students on a group chat (using their individual cell phones to participate).
5. Prior to April 2, 2025, E.Q. claimed that J.L. sent her an inappropriate image via the chat.
6. Prior to April 2, 2025, J.L. denied sending an inappropriate image to E.Q. (or any person) via the chat and called E.Q. a “liar” for accusing him of doing so.
7. In school, on April 2, 2025, in the classroom, the teacher overheard J.L. and E.Q. discussing E.Q.’s allegations and heard J.L. call E.Q. a “liar.”
8. In school, on or about April 2, 2025, witnesses, including students and teachers, heard J.L. repeatedly call E.Q. a “liar.”
9. At least two other students were heard in the school on or about April 2, 2025, calling E.Q. a “liar.” The District did not initiate HIB proceedings against any other student.
10. The Riverton Middle School administration conducted a HIB investigation and as a result, determined that J.L. engaged in an act of HIB.
11. The decision of the Riverton Middle School administration was submitted to the Board which, at the May 27, 2025 Board meeting, determined that J.L. engaged in an act of HIB of E.Q. By letter dated May 28, 2025, J.L.’s parents were notified of the Board decision. This appeal followed.

### **LEGAL ANALYSIS AND CONCLUSIONS**

Summary decision is the well-recognized administrative counterpart to summary judgment, a procedure for resolving cases in which the facts that are crucial to the determination of the matters at issue are not actually in dispute. By applying the applicable law and standard of proof to the undisputed facts, a decision may be reached in a case without the necessity of a hearing at which evidence is presented and testimony is taken. N.J.A.C. 1:1-12.5. Here, petitioner bears the burden of demonstrating that the

decision of the Board finding that J.L. engaged in HIB of E.Q. was arbitrary, capricious, or unreasonable. Titusville Acad. v. N.J. Dep't of Educ., EDU 00651-06, Initial Decision (May 21, 2007), adopted, Comm'r (July 6, 2007), <<http://njlaw.rutgers.edu/collections/oal/>>; Cath. Fam. & Cmty. Servs. v. N.J. Dep't of Educ., EDU 01051-01, Initial Decision (Jan. 14, 2003), adopted, Comm'r (Mar. 3, 2003), adopted, State Bd. of Educ. (July 2, 2003), <<http://www.nj.gov/education/legal/>>.

The regulations provide that the decision sought by the movant “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). The rule further provides that an adverse party must respond by affidavit setting forth specific facts showing that there is a genuine issue that can only be determined at an evidentiary hearing. Ibid. The OAL rule is modeled on New Jersey Court Rule 4:46-2. The New Jersey Supreme Court has explained that when deciding a motion for summary judgment under R. 4:46-2,

a determination whether there exists a “genuine issue” of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party.

[Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995).]

The parties agree as to the facts described above. The issue in dispute is whether J.L.’s action in school on April 2, 2025, is HIB of another student, E.Q. I **CONCLUDE** that there is no dispute as to the material facts and the issue raised by the motion for summary decision can be decided as a matter of law.

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). Regarding HIB determinations, this standard has been explained as requiring a petitioner to “demonstrate that the Board acted in bad faith, or in utter disregard of the circumstances before it.” G.H. & E.H. ex rel. K.H. v. Bd. of Educ. of Borough of Franklin Lakes, Bergen Cnty., EDU 13204-13, Initial Decision (Feb. 24, 2014), adopted, Comm’r (Apr. 10, 2014), <<https://njlaw.rutgers.edu/collections/oal/>>.

The Act defines HIB as:

[A]ny gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in section 16 of P.L. 2010, c.122 (C.18A:37-15.3), that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

- a. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property;
- b. has the effect of insulting or demeaning any student or group of students; or
- c. creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

[N.J.S.A. 18A:37-14.]

The above requirements were detailed in the prehearing order issued to the parties, making clear that to uphold the Board's finding of HIB, three elements under the Act must be satisfied. First, the substantiated conduct must be reasonably perceived as being motivated by any actual or perceived characteristic expressly identified in the statute, or by any other distinguishing characteristic. Second, the conduct must substantially disrupt or interfere with the rights of other students or the orderly operation of the school. Ibid. Third, one of the three conditions set forth in subsections (a), (b), and (c) must be satisfied. Ibid.; Wehbeh v. Bd. of Educ. of the Twp. of Verona, Essex Cnty., 2020 N.J. AGEN LEXIS 50 (Feb. 4, 2020).

Here, there is no evidence J.L.'s conduct was motivated by an actual or perceived distinguishing characteristic of E.Q. The Board argues that J.L. "determined to target E.Q. in school for the perceived characteristic of being a 'liar,'" but without any legal support that holding yourself out as truthful is a characteristic for which a person can be protected by the Act. Resp't's Br. (Sept. 15, 2025), at 4. Petitioner argues that J.L. was the one who was being truthful, albeit in a discourteous manner. See Ltr. Reply Br. of Pet'r (Sept. 15, 2025) (Pet'r's Reply Br.), at 1. Conduct—even harmful or demeaning conduct—that is motivated only by a personal dispute does not come within the statutory definition of bullying. J.R. ex rel. P.R. v. Bd. of Educ. of Twp. of Westampton, 2024 N.J. AGEN LEXIS 1042 (Oct. 31, 2024) (dismissed on mootness), modified, Comm'r (Jan. 21, 2025) (citing K.L. v. Evesham Twp. Bd. of Educ., 423 N.J. Super. 337, 351 (App. Div. 2011)).

The Commissioner has consistently held that a finding of HIB requires the alleged bully to be motivated by an actual or perceived characteristic of the victim, even when the actor would be subject to other discipline under school policy. See S.A. v. Bd. of Educ. of Moorestown, 2019 N.J. Super. Unpub. LEXIS 2114 (App. Div. 2019) (upholding Board finding of no HIB because even if the teacher of the alleged victim "was insensitive or even unkind, there is no evidence [the teacher] was prompted by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical, or sensory disability, or by any other distinguishing characteristic"); A.P. ex rel. A.P. v. Burlington Bd. of Educ.,

Comm'r Decision No. 307-24 (Aug. 23, 2024), <<https://www.nj.gov/education/legal>> (“even if true, the lunch aide targeting [the alleged victim] due to the aide’s personal history with petitioner, while inappropriate, does not constitute a distinguishing characteristic under N.J.S.A. 18A:37-14”); N.M. ex rel. E.M. v. Voorhees Twp. Bd. of Educ, Comm'r Decision No. 305-23 (Oct. 13, 2023), <<https://www.nj.gov/education/legal>> (“[w]hile certainly inappropriate, the other student’s conduct toward [the alleged victim] in the kickball line does not constitute HIB under the Act”); R.Z. & L.D. v. Bd. of Educ. of Northern Valley Reg'l High Sch. Dist., 2025 N.J. AGEN LEXIS 78 (Feb. 12, 2025), adopted, Comm'r (Apr. 28, 2025) (coach’s actions, while inappropriate, were not motivated by alleged victim’s learning disability and therefore, no HIB was found), and M.A.T. ex rel. M.T. v. Bd. of Educ of the Twp. of Holland, EDU 07053-24, Initial Decision (Jan. 28, 2025), adopted, Comm'r (Mar. 17, 2025) (sensitivity of the alleged victim to the word “garbage” is not a distinguishing characteristic and therefore, use of the word, even though meant to distress victim, was not HIB).

In its brief opposing summary decision, the Board alleges that J.L. targeted E.Q. because he perceived her as being a liar, not because he believed she was lying. Resp’t’s Br. at 4.<sup>2</sup> The Board gives this twelve-year-old boy too much credit in its attempt to turn a personal dispute over social media and “what did he or didn’t he send to whom” into an HIB violation. The Board concedes that other students voiced their agreement that E.Q. had lied (or was continuing to lie once at school) about the events of the previous weekend by also calling E.Q. a liar. Curiously, the Board excuses its failure to similarly charge those students with HIB on the grounds that only J.L. continued after being asked by a teacher to stop. Id. at 5. If calling someone a liar is evidence of the perception that the person is a liar, and as the Board contends, “will lead to [the] perception that [the person’s] statements, however innocuous, may not be relied upon,” then the number of times the pejorative is used should be inconsequential. Id. at 6. Review of the undisputed facts leads to the conclusion that J.L. was not trying to convince anyone that E.Q. is unreliable generally, but that he accused her of not being honest specifically the previous

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<sup>2</sup> Respondent states that “it was in the wake of this dispute [over the group chat] that J.L. determined to target E.Q. in school for the perceived characteristic of being a ‘liar’.” Resp’t’s Br. at 4. Incredibly, the Board seems to be saying that the out-of-school argument over the group chat gave J.L. the opportunity to expose to all the sixth grade what he believed is E.Q.’s true character.

weekend and as the same story—about J.L.—was discussed in the classroom, a classic interpersonal dispute which courts routinely refuse to characterize as HIB.

In the absence of a distinguishing characteristic, I **CONCLUDE** that the Board's determination that J.L. performed an act of HIB was arbitrary, capricious, and unreasonable, and in disregard of the circumstances involved and, therefore, shall be reversed and removed from J.L.'s record.<sup>3</sup>

### **ORDER**

For the above reasons, I **ORDER** that the May 27, 2025, decision of the respondent Board of Education of the Borough of Riverton that J.L. engaged in harassment, intimidation, and/or bullying of E.Q., a classmate at Riverton Middle School, is **REVERSED** and shall be removed from J.L.'s record.

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

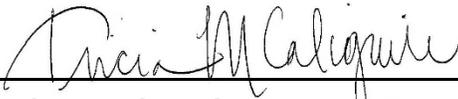
This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five 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.

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<sup>3</sup> Petitioner initially requested placement of J.L. in an out-of-district public school in a neighboring district at Board expense but withdrew that request. Pet'r's Supp. Ltr. (Sept. 22, 2025). In her petition, petitioner also asked for an apology from the Board, the school administration, and the current PTO president, but no longer stands by that request. See Pet'r's Reply Br. at 1.

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.

September 24, 2025  
\_\_\_\_\_  
DATE

  
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**TRICIA M. CALIGUIRE, ALJ**

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_