

New Jersey Commissioner of Education
Final Decision

A.G., S.D., A.G.-H., M.G., S.H., R.H., B.I., J.I., E.L., J.L.,
D.M., D.P., R.P., N.R., E.S., R.S., S.S., and D.Z., on
behalf of minor children,

Petitioners,

v.

Board of Education of the Bordentown Regional
School District, Burlington 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 (ALJ) that respondent Board of Education's unopposed motion for summary decision should be granted for the reasons expressed in the Initial Decision.

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: November 17, 2025
Date of Mailing: November 17, 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 06340-25

AGENCY DKT. NO. 98-4/25

**A.G., S.D., A.G.-H, M.G., S.H., R.H., B.I.,
J.I., E.L., J.L., D.M., D.P., R.P., N.R., E.S.,
R.S., S.S., AND D.Z. ON BEHALF OF
MINOR CHILDREN,**

Petitioners,

v.

**BORDENTOWN BOARD OF EDUCATION,
BORDENTOWN REGIONAL SCHOOL DISTRICT,**
Respondent.

A.G., petitioner, pro se

Cameron R. Morgan, Esq., for respondent (Cleary, Giacobbe, Alfieri & Jacobs,
LLC, attorneys)

Record Closed: September 8, 2025

Decided: October 6, 2025

BEFORE **ADVIA KNIGHT FOSTER**, ALJ:

STATEMENT OF THE CASE

On March 19, 2025, respondent, Bordentown Board of Education (Board), proposed a redistricting plan to balance the 2025–26 school budget, which provides, among other things, essential cost savings by eliminating five to six teachers yearly without sacrificing critical programming and ensures educational equity by requiring all students to transition from three to four schools. Must the board’s plan be overturned? No. The actions of a school board must not be disturbed unless unreasonable, arbitrary or capricious.” Kopera v. West Orange Bd. of Educ., 60 N.J. Super. 288, 294 (App. Div. 1960).

PROCEDURAL HISTORY

On April 8, 2025, petitioners filed a petition of appeal with the Department of Education seeking a stay of respondent’s redistricting plan.

On April 10, 2025, the Department of Education transmitted the case to the Office of Administrative Law under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the Act establishing the office, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the rules of procedure established by the Department of Education to hear and decide controversies and disputes arising under school laws, N.J.A.C. 6A:3-1.1 to -1.17.

Jurisdiction is conferred under N.J.S.A. 18A:6-9.

On April 16, 2025, I held oral argument and closed the record. On April 17, 2025, I denied petitioners’ request for emergency relief. On May 6, 2025, I held a prehearing telephone conference. During the conference, respondent requested leave to file a motion for summary decision, which I granted, and I set a briefing schedule. On July 7, 2025, respondent filed its motion; petitioners’ opposition was due on September 8, 2025, but on September they informed the court they would not be filing any opposition. I closed the record.

FINDINGS OF FACT

Based on the papers respondent submitted in support of and in opposition to the motion for summary decision, and reviewing them in the light most favorable to petitioners, I **FIND** the following as **FACT** for purposes of this motion only:

On March 19, 2025, the board held a public meeting to address the tentative budget for the 2025–26 school year for which proper advance forty-eight-hour notice was given to the public. Edward Forsthoffer III, interim superintendent, presented a PowerPoint presentation explaining the budget and the Board’s rationale and posted it on the Bordentown School District website. (R-1.) The PowerPoint included the fiscal budget and budget appropriations comparisons for transportation for the 2024–25 and 2025–26 school years with a projected 16 percent increase and an increase of \$408,210 in state aid. (Exh. 1.) The PowerPoint explained how the school district obtains state aid and why it projected the increase. (*Ibid.*) The PowerPoint also included sources of school funding and the tax levy distribution for the municipality of the school district. The final budget had to be submitted to the Department of Education (DOE) on or before May 14, 2025, according to N.J.S.A. 18A:22-32(b).

For the 2025–26 school year, there was a substantial budget gap of over \$8.3 million due to declining enrollment, losses in state aid, increased costs in special education and healthcare premiums, and loss of grant money. To balance its budget for the upcoming school year, the Board proposed a tentative budget that contained several cuts and reductions, including reducing summer curriculum writing, eliminating middle school sports, postponing the purchase of two buses, eliminating summer pay, and eliminating forty-seven and a half staff positions. The plan also eliminated five to six teachers without sacrificing critical programming. (R-1.)

The proposed tentative budget also contained a redistricting plan called One Bordentown. Prior to the 2025–26 school year, there were five schools in the district: Bordentown Regional High School, which houses grades 9–12; Bordentown Regional Middle School, which houses grades 6–8; MacFarland Intermediate School (MacFarland), which houses grades 3–5; Peter Muschal Elementary School (Peter

Muschal), which houses grades pre-K–2; and Clara Barton Elementary School (Clara Barton), which houses grades pre-K–2. Under the One Bordentown plan, only the elementary schools' enrollment changes. For example, Peter Muschal would house grades pre-K–1, Clara Barton would house grades 2–3, and MacFarland would house grades 4–5. This redistricting plan also has an impact on those children who could walk to school. The plan requires students to transition from three to four schools during their academic career. It also allows students from different districts to meet for the first time in earlier grades, promoting socialization skills.

CONCLUSIONS OF LAW

'An action of the local board which lies within the area of its discretionary powers may not be upset unless patently arbitrary, without rational basis or induced by improper motives." Kopera v. West Orange Bd. of Educ., 60 N.J. Super. 288, 294 (App. Div. 1960). The decision of a local board "is entitled to a presumption of correctness and will not be upset unless there is an affirmative showing that such decision was arbitrary, capricious or unreasonable." Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965). With respect to school laws in particular, the commissioner has jurisdiction to hear and determine all controversies and disputes arising under the school laws, except higher education, or under the rules of the State board or of the commissioner. N.J.S.A. 18A:6-9. Where the subject matter of the controversy is a particular course of action by a district board of education or any other party subject to the jurisdiction of the commissioner, the petitioner may include with the petition of appeal a separate motion for emergent relief or a stay of that action pending the commissioner's final decision in the contested case. N.J.A.C. 6A:3-1.6(a).

In this case, due to declining enrollment, losses in State aid and grants, and increased costs in healthcare premiums and special education, the Board had to close an \$8.3 million budget gap. The redistricting plan was devised out of that need to close the gap. In their Motion for Emergent Relief, petitioners sought a "halting" to the One Bordentown plan, citing among other things, harm to the children requiring them to transition between schools four times in their educational careers instead of three and removing the ability for students to walk to school. The financial considerations alone

render the Board's redistricting plan debatable, but that fact does not render the Board's decision arbitrary or capricious. Moreover, the board's redistricting plan is robust and well-reasoned since it provides educational cohesion by requiring students from different districts to meet in earlier grades. The plan also ensured educational equity by requiring all students to transition from three to four schools. In addition, it contained a prospective cost savings component in eliminating five to six teaching positions without sacrificing critical programming. Therefore, I **CONCLUDE** the Board's actions in devising the redistricting plan were honest, forthright, and thoughtful. I **CONCLUDE** the redistricting plan is not arbitrary, capricious, or unreasonable.

A motion for summary decision "shall be served with briefs and with or without supporting affidavits," and the 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). "The judge's function is not... to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." To defeat a summary decision motion, the adverse party must respond by affidavits setting forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary hearing. Ibid.

In this case, petitioners have not submitted any opposition to the motion for summary decision. They have not asserted any arguments that there are genuine issues of material fact that must be heard by this tribunal. However, in its brief, respondent conceded that the financial considerations for the redistricting plan are debatable, but because they are debatable does not make them material genuine issues of fact to be determined at a hearing by this tribunal since school board decisions are entitled to a "presumption of correctness" and should not be disturbed unless they are arbitrary, capricious or unreasonable. Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965).

In their motion for emergent relief, petitioners argue that the Board did not give proper notice under the Open Public Meetings Act, N.J.S.A. 10:4-6 to -21. Contrary to their assertion, the Board did provide proper and adequate notice under the Act because

the Board provided written notice forty-eight hours in advance by advertising the date, time, and location of the meeting, as well as the agenda. Moreover, petitioners conceded in their petition that the Board provided adequate notice. Therefore, I **CONCLUDE** that the board provided proper notice.

In their second claim, petitioners argue that the redistricting plan violates the Individuals with Disabilities Education Act (IDEA) by disproportionately affecting services for special education students and disrupting Basic Skills Instruction (BSI) programs. Under the IDEA, only a parent, guardian, or adult child may file a claim identifying an individual student, the nature of the problem as it relates to his or her educational rights, and a resolution of the problem. 20 U.S.C. § 1415(b)(7). For these reasons, I **CONCLUDE** that the petitioners have no standing to bring this IDEA claim.

In their third claim, petitioners argue that the redistricting plan will cause substantial financial consequences and that the Board has not been transparent about the transportation costs. Petitioners specifically argue that the Board failed to provide a financial breakdown of transportation costs or savings, an analysis of transportation expenses, and a detailed budget explaining how increased transportation costs will be covered. The Board announced and detailed the tentative 2025–26 budget at its meeting in March and included a PowerPoint presentation on its website after the meeting. (R-1.) The PowerPoint included the fiscal budget and budget appropriations comparisons for transportation for the 2024–25 and 2025–26 school years with a projected sixteen percent increase. (Exh. 1.) It also explained how the school district obtains state aid and why it projected the increase. (*Ibid.*) The PowerPoint also includes sources of school funding and the tax levy distribution for the municipality of the school district. I **CONCLUDE** that the Board's actions were transparent and comprehensive regarding costs and aid for transportation.

In the final claim, petitioners argue that the redistricting plan will significantly increase traffic demands and cause “unintended consequences for traffic safety, air quality, and district operations,” and, therefore, the Board is required to do a traffic-congestion and road-safety study. Again, petitioners failed to provide any evidence to support this assertion. Since no genuine issues of material fact exist, and the Board's

redistricting plan is neither arbitrary and capricious nor unreasonable, I **CONCLUDE** that respondent is entitled to summary decision as a matter of law.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the 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.

October 6, 2025

DATE

A handwritten signature in cursive script, appearing to read "Advia Knight Foster", written over a horizontal line.

ADVIA KNIGHT FOSTER, ALJ

Date Received at Agency:

Date Mailed to Parties:

AKF/tc