

New Jersey Commissioner of Education
Final Decision

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

Petitioner,

v.

Board of Education of the Township of
Hackettstown, Warren County,

Respondent.

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

This matter involves the Board's determination that petitioner's child, J.M., committed an act of harassment, intimidation, or bullying (HIB). At issue is a conversation between J.M. and an African-American student, A.A., that occurred during lab time in chemistry class. A.A. questioned why society uses money as currency, and J.M. responded by asking what could be used instead, then saying "chicken bones." Petitioner also challenges a five-day suspension imposed on J.M. under the district's Code of Conduct for the same behavior.

Following a contested hearing at the OAL, the Administrative Law Judge (ALJ) found that the district's investigation was biased and that there was an arbitrary and capricious

predetermined outcome against J.M. in violation of his due process rights. The ALJ concluded that J.M.'s comment did not violate anti-bullying law and should not have resulted in a five-day suspension. Accordingly, the ALJ reversed the Board's decisions on both issues.

In its exceptions, the Board argues that the ALJ failed to apply the proper standard of review, did not explain which aspects of the Board's HIB and suspension decisions were arbitrary, capricious, or unreasonable, and did not conduct an adequate analysis of the statutory definition of HIB as applied to J.M.'s conduct. The Board takes exception to the ALJ's findings that the investigation was rushed and biased, and notes that the ALJ found that J.M.'s due process rights were violated without identifying any specific due process rights or procedures that had been violated. According to the Board, the suspension was consistent with the district's progressive discipline policy, and it was entirely reasonable for the Board to find that J.M.'s comment met all of the statutory criteria for an act of HIB.

In response, petitioner argues that the Board's actions relied upon false information due to a faulty investigation and lack of due process afforded to J.M. Petitioner notes that the Board's witnesses could not articulate what makes the words "chicken bones" racist, and if they could not do so, no one else could be expected to know that the phrase was perceived as racist. Petitioner contends that the ALJ reached his decision after three days of testimony and a detailed review of the record, and the decision should be affirmed.

Upon careful review of the record in its entirety, the Commissioner rejects the Initial Decision. The Commissioner finds that the ALJ improperly substituted his own judgment for that of the Board in his review of the procedures used by district staff during the investigation. In this case, district staff interviewed J.M., A.A., and three other students who were present during the

conversation. Notably, J.M admitted to using the phrase “chicken bones” in the conversation with A.A. It was entirely reasonable for the Board to consider and evaluate these accounts of what happened, alongside the statement from J.M., in rendering a HIB determination. By concluding that the district’s investigation was flawed, the ALJ wrote requirements into the Anti-Bullying Bill of Rights Act (Act) that the Legislature did not include and erroneously allowed that conclusion to influence the outcome of this matter.

Initially, the Commissioner notes that the ALJ found the majority of the Board’s witnesses credible. However, the ALJ did find Principal Kyle Sosnovick not to be credible in certain aspects of his testimony, finding that Sosnovick was defensive and seemed to evade complete answers. Initial Decision at 7-8. The ALJ found that it “seemed clear” that Sosnovick’s decisions were “biased and one-sided in favor of the alleged victim and the school and were pre-determined before J.M. could explain his version of the incident.” *Id.* at 8. The Commissioner acknowledges that the ALJ’s credibility determinations, “made after due consideration of the witnesses’ testimony and demeanor during the hearing,” are entitled to deference. *H.K. v. N.J. Dep’t of Human Servs.*, 184 N.J. 367, 384 (2005). *See N.J.S.A. 52:14B-10(c)* (“The agency head may not reject or modify any findings of fact as to issues of credibility of lay witnesses unless it is first determined from a review of the record that the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent, and credible evidence in the record.”). However, it is not clear from the Initial Decision precisely what testimony given by Sosnovick the ALJ did not believe. The ALJ’s conclusion that Sosnovick’s decisions were biased and pre-determined appear to be legal conclusions rather than findings of fact that the Commissioner could review under the required standard to determine whether they are

supported. As such, the Commissioner concludes that the ALJ's credibility determination regarding Sosnovick has no bearing on the ultimate conclusion in this matter. Even if it did, and the Commissioner disregarded all of Sosnovick's testimony, there is sufficient other evidence in the record, based on the testimony that the ALJ did find credible, as well as the documentary evidence, to affirm the Board's HIB determination, as explained below.

Regarding the testimony of Assistant Principal and Anti-Bullying Specialist Michael Morgan, who conducted the HIB investigation, the ALJ found that the "impression given by Mr. Morgan's testimony was his investigation was completed quickly with a predetermined outcome and lacked due process for J.M." Initial Decision at 4. The ALJ noted that Morgan interviewed three witnesses out of a class of 15, and did not interview the teacher, who "would have known about prior discussions and interruptions by the alleged victim." *Ibid.*

"The Act neither instructs boards how they must question those interviewed during HIB investigations nor defines acceptable sources of information for boards to consider when investigating HIB allegations." *Cerchio v. Bd. of Educ. of the Scotch Plains-Fanwood Regional Sch. Dist.*, Commissioner Decision No. 137-24 (Mr. 15, 2024). Furthermore, while the Act sets a maximum timeline for a HIB investigation, it does not set a minimum timeline, other than stating that investigations should be completed as soon as possible. *N.J.S.A. 18A:37-15(b)(6)(a)*. Here, the ALJ's concerns regarding the speed of the district's investigation and the number of witnesses interviewed are misplaced. Morgan testified that he chose witnesses to interview based on their proximity to the conversation, and that he was unaware of which students in the class were

friends with each other. Tr. 1, 35:10-25.¹ Of the three students interviewed in addition to J.M. and A.A., Morgan identified two of the students as Caucasian and one as African-American. Tr. 1, 71:15-16. These steps appear to the Commissioner to be reasonable given the circumstances surrounding the incident. More significantly, in both his interview with Morgan and his written statement, J.M. admitted to using the term “chicken bones.” Given that J.M. did not dispute that the comment had been made, any additional student or teacher interviews would have only served to duplicate the information J.M. provided. The Commissioner cannot hold that the district would be required to engage in such unnecessary activity, further disrupting the school’s operations.

With regard to Morgan’s investigation, the ALJ did not find “that he conducted a fair and open-minded investigation that might have led to an alternate determination or modified penalty . . . in conducting what seemed like a ‘rush to judgment,’ with what appeared to be a predetermined outcome, Mr. Morgan acted in an arbitrary and capricious manner in violation of J.M.’s due process rights.” Initial Decision at 8. The ALJ further noted that the Board’s witnesses could not say “if any alternate means of outcome were explored specifically getting both parties, J.M. and the victim, in the same room to discuss what the dialogue between them actually meant.” Initial Decision at 9. Once again, by concluding that the district should have explored alternate penalties or facilitated a discussion between J.M. and A.A. about the conversation, the ALJ has written requirements into the Act that do not exist. That the district did not do either of these things is not a failure, nor does it render the Board’s decision arbitrary, capricious, or

¹ Tr. 1 refers to the transcript of the hearing held on March 10, 2024. Tr. 2 refers to the hearing on March 14, 2024, and Tr. 3 refers to the hearing on March 19, 2024.

unreasonable. The Commissioner also disagrees with the ALJ's comments regarding A.A.'s alleged disruptiveness in class that suggest that A.A. was in some way responsible for the comment directed at her by J.M. or that the district was remiss in not investigating A.A.'s behavior. The Commissioner has previously affirmed HIB determinations even when the aggressor's comments were made in response to negative conduct of the victim. *See, e.g., H.P. v. Bd. of Educ. of Tenafly*, Commissioner Decision No. 144-24 (Mar. 26, 2024).

Here, the Commissioner finds that the record contains substantial credible evidence providing a reasonable basis to support the Board's HIB determination. Substantial evidence has been defined as "such evidence as a reasonable mind might accept as adequate to support a conclusion." *In re Pub. Serv. Elec. & Gas Co.*, 35 N.J. 358, 376 (1961) (quoting *In re Hackensack Water Co.*, 41 N.J. Super. 408, 418 (App. Div. 1956)). The term has also been defined as "evidence furnishing a reasonable basis for the agency's action." *McGowan v. N.J. State Parole Bd.*, 347 N.J. Super. 544, 562 (App. Div. 2002).

There is no dispute in this matter that J.M. made a comment to A.A. that included the phrase "chicken bones." J.M. admitted to Morgan during his interview that he said "chicken bones," admitted it again in his written statement, and admitted it a third time in his testimony. Tr. 2, 22:18. As such, the question of whether the conduct at issue occurred, which is often raised as a preliminary inquiry in HIB matters, is definitely answered in the affirmative. The analysis then shifts to a determination of whether the conduct meets the statutory criteria for an act of HIB.

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.]

In sum, a finding of HIB requires three elements under the Act.² First, the 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. Third, one of the three conditions set forth in subsections (a), (b), and (c) must be satisfied. *Wehbeh v. Bd. of Educ. of the Twp. of Verona, Essex Cnty.*, Commissioner Decision No. 510-20 (Feb. 4, 2020).

Regarding the first element, the Commissioner concludes that it was not arbitrary, capricious, or unreasonable for the Board to find that a comment made about using chicken

² As the parties do not dispute that J.M.'s comment was made on school property, this element of the Act is deemed satisfied and it is not necessary to further address it herein.

bones instead of currency was reasonably perceived by A.A. as being based on the distinguishing characteristic of race. The Board's witnesses all testified to being aware of existing stereotypes about the relationship between African-American people and chicken.³ The Commissioner rejects the ALJ's conclusion that J.M.'s comments "by no means were used to bully A.A. even if she perceived them that way." Initial Decision at 16. Prior Commissioner decisions have been clear that a HIB finding does not depend on the actual motivation of the actor. "In defining HIB as an action "that is *reasonably perceived* as being motivated either by any actual or perceived characteristic . . .", N.J.S.A. 18A:37-14 (emphasis added), the statute requires an analysis of how the actor's motivation is perceived and whether that perception is reasonable. It does not require an analysis of the actual motivation of the actor." *Wehbeh, supra*.

The Commissioner further rejects petitioner's argument that the inability of the witnesses to provide a precise explanation of this stereotype renders the Board's decision arbitrary, capricious, or unreasonable. Stereotypes often defy delineation in the way that petitioner suggests is necessary, because they are based on oversimplified, uncritical attitudes held by large groups of people. There is no question that chicken is frequently associated with Black people in popular American culture, and it was not arbitrary, capricious, or unreasonable for the Board to conclude that J.M.'s "chicken bones" comment was related to this stereotype.

³ Indeed, the record demonstrates that J.M. was also aware of this stereotype. Morgan testified that when J.M. was asked if he understood why people were upset by that comment, J.M. responded that it was because of the relationship between the stereotype of chicken and African-Americans. Tr. 1, 40-7-17. Assistant Principal Jennifer Spuckes also testified that J.M. indicated during the interview that he knew a comment about chicken made to an African-American student could be seen as bad. Tr. 3, 20:7-15. While petitioner disputes this testimony, the Commissioner notes that the ALJ found both Morgan and Spuckes to be credible and, as such, the Commissioner accepts their testimony that J.M. initially indicated to them that he was aware of the stereotype.

Regarding the second element, the Commissioner concludes that it was not arbitrary, capricious, or unreasonable for the Board to find that J.M.'s comment substantially disrupted or interfered with A.A.'s rights or the orderly operation of the school. Morgan testified that A.A. reported that she was embarrassed and hurt and that the whole class laughed at J.M.'s comment; he also testified that A.A. was very upset. Tr. 1:47:4-12. J.M. confirmed that students in the class were laughing after the comment and that A.A. "started yelling and screaming and telling the teacher that he needs to write me up or report me." Tr. 2, 25:7-11. Sosnovick testified that when he saw A.A. in the hallway after the comment, her demeanor was visibly different than usual and that she was on the verge of tears.⁴ Tr. 1, 159:3-17. "Upset and embarrassed students are not fully available for learning." *G.H. o/b/o K.H. v. Bd. of Educ. of Franklin Lakes*, Initial Decision, OAL Dkt. No. EDU 13204-13 (Feb. 24, 2014), *aff'd*, Commissioner Decision No. 157-14 (Apr. 10, 2014).

Finally, regarding the third element, an act of HIB is one that "a reasonable person *should* know, under the circumstances, will have the effect of physically or emotionally harming a student," "*has the effect* of insulting or demeaning a student," or "*creates* a hostile educational environment . . .". *N.J.S.A. 18A:37-14(a)* (emphasis added). None of these criteria require the actor to have actual knowledge of the effect that his actions will have, or to specifically intend to bring about that effect. The first requires only that a reasonable person should know there would be a harmful effect, not that the actor knows there would be such an effect. The second two

⁴ The ALJ's credibility finding regarding Sosnovick's "bias" does not appear to extend to this testimony. However, to the extent that it may, the Commissioner finds that the information provided by A.A., Morgan, and J.M. provides a sufficient basis for the Board's finding on this element.

criteria address only the actual effect of the act, without any reference to what either the actor or a reasonable person does or should know.

Here, while Morgan and Spuckes testified that J.M. indicated during his interview that he knew his comment could be seen as offensive to A.A., J.M. disputed that testimony. However, it is irrelevant whether J.M. knew the comment was offensive, because none of the criteria require him to know that.⁵ As such, any argument made by petitioner about J.M.'s intent is irrelevant. Furthermore, in listing the criteria of the Act that had been met for this incident, the HIB report does not indicate that a reasonable person should know that J.M.'s comment would have the effect of emotionally harming A.A.. Accordingly, any arguments made by petitioner questioning how a student should know that this comment was offensive are also irrelevant. Instead, the HIB report, and the Board in affirming it, found that J.M.'s comment had the effect of insulting or demeaning A.A. Because A.A. reported being embarrassed and hurt, it is clear that this element has been met, and it was not arbitrary, capricious, or unreasonable for the Board to find the same.

Finally, the Commissioner disagrees with the ALJ's conclusion that J.M.'s due process rights were violated. The ALJ does not identify any specific due process right – either under the Act and its implementing regulations or under *N.J.A.C. 6A:16-7.2* regarding short-term suspensions – that the district violated. In its most general sense, due process refers to notice and an opportunity to be heard. There is no dispute that J.M. was aware of the allegation made

⁵ If J.M.'s actual knowledge were relevant, it would not be arbitrary, capricious, or unreasonable for the Board to determine, based on information provided by Morgan and Spuckes, that J.M. did know his statement could be seen as emotionally harmful.

by A.A. and was heard – during his interview with Morgan⁶ – prior to the suspension and Morgan’s finding that J.M. had committed an act of HIB. The fact that that interview was brief does not make it violative of J.M.’s due process rights, particularly when J.M. admitted to making the “chicken bones” comment. Furthermore, the record reflects that petitioner received all notices to which she was entitled under the Act and the provisions related to student discipline. She was further afforded the opportunity to appeal the HIB decision to the Board as provided for by the Act, and an opportunity to appeal both the suspension and the HIB decision through the administrative process by filing a petition of appeal. As such, the process in its entirety did not violate either J.M. or petitioner’s general due process rights or any specific procedural protections prescribed for HIB or student disciplinary matters by statute or regulation.

Accordingly, the Initial Decision is rejected, and the petition of appeal is hereby dismissed.

IT IS SO ORDERED.⁷



COMMISSIONER OF EDUCATION

Date of Decision: December 22, 2025

Date of Mailing: December 22, 2025

⁶ This interview meets the requirement of *N.J.A.C. 6A:16-7.2(a)(2)* for an “informal hearing” with a school administrator or designee where the student is given the opportunity to present his version of events.

⁷ 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 07255-24

AGENCY DKT. NO. 158-5/24

L.M. ON BEHALF OF J.M.,

Petitioner,

v.

HACKETTSTOWN TOWNSHIP

BOARD OF EDUCATION,

Respondent.

L.M., petitioner appearing pro se on behalf of self and J.M.

Caitlin W. Lundquist, Esq. for respondent (Busch Law Group LLC, attorneys)

Record Closed: October 7, 2025

Decided: October 9, 2025

BEFORE **ANDREW M. BARON**, ALJ

STATEMENT OF THE CASE

Petitioner L.M. challenges a harassment, intimidation, and bullying (HIB) decision issued by respondent, the Hackettstown Township Board of Education (the Board), affirming a HIB finding imposed against her son, J.M., by the Hackettstown School District (the District). L.M. also challenges a five-day suspension imposed for a Code of Conduct violation based on the same behavior. The HIB finding and five-day suspension resulted

from an incident that occurred at Hackettstown High School on May 13, 2024, when J.M. made comments towards fellow student A.A. The parties mostly agree about what happened between the two students on May 13, 2024, but they disagree about whether it was sufficient to support the HIB finding and suspension. Must the HIB finding and discipline stand? No. Petitioner has met her burden of showing that both the HIB finding and the suspension were arbitrary, capricious, and unreasonable.

PROCEDURAL HISTORY

On or about May 24, 2024, L.M. filed for emergent relief, seeking to overturn J.M.'s HIB violation and five-day suspension which both resulted from the same incident. The District maintained that suspensions shorter than ten days do not require an internal appeal prior to being served, so J.M. served the five-day suspension immediately following the March 13, 2024, incident. The Department of Education transmitted the case to the Office of Administrative Law (OAL) for a hearing. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23; N.J.A.C. 1:1-1.1 to -21.6; N.J.A.C. 6A:3-1.1 to -1.17. The case was filed at the OAL on May 24, 2024. I denied L.M.'s motion for emergent relief and scheduled a full plenary hearing, which was held on March 10, March 14, and March 19, 2025. The matter then went to hearing.

FACTUAL DISCUSSION

The parties agree that on May 13, 2024, J.M. and A.A. were in chemistry class together at Hackettstown High School. A.A. is African American. During lab time, A.A. was having a conversation about non-chemistry topics, specifically money and currency. When she questioned why our society uses money as currency, J.M. made a comment along the lines of "what are we going to use" or "what are you going to change it to" and then said either "chicken bones" or "fried chicken."

A.A. reported the comment to the classroom teacher, who reported it to building administration. An investigation began immediately. Assistant Principal Michael Morgan interviewed J.M., A.A., and three student witnesses. In his written HIB statement report, J.M. said that A.A. had "been going on for a couple days about how apparently everything

should be free and how we don't need money." (J-3). A.A. made comments about how "we don't need taxes, because the government can just print money" which J.M. found "kind of annoying because that's not really how that works." (J-3). When she said she was going to get rid of the dollar, he said "what are we going to use," then "something stupid" like "a chicken bone, or cracker, or chips." (J-3). He reported that this was "just said by chance, as I was just as likely to say that as anything else, such as a cow, or lizard, or cat, or dog." (J-3).

A.A. said that she had been "making an ongoing joke" about money. (J-4). She reported that when she said that she was going to change the currency in the world, J.M. said "something along the lines of 'What are you going to change it to? Fried chicken?'" (J-4). "Everyone got a laugh at it" and she "kind of just felt embarrassed." (J-4). One student witness reported that J.M. said, "chicken bones," another reported "fried chicken" or "chicken," and another reported that he said, "chicken bone." (J-4).

It was determined that J.M. had engaged in conduct that constituted HIB and a Code of Conduct violation. Because of the Code of Conduct violation, he received a five-day, out-of-school suspension, which he immediately served. There was a re-entry meeting on May 20, 2024, to discuss and prepare J.M. for returning to class and he resumed in-person attendance on May 21, 2024. L.M. requested a hearing before the Board in order to challenge the HIB finding. On June 12, 2024, there was a hearing in a closed executive session before the Board, which L.M. attended. The Board issued a written decision affirming the HIB finding.

TESTIMONY

L.M. called four witnesses: Michael Morgan, Kyle Sosnovik, J.M., and herself. The Board called four witnesses: Michael Morgan, Jennifer Spuckes, Kyle Sosnovik¹, and Debra Grigoletti. Though Zoom was available, the alleged victim A.A. was not called by the District.

¹ Mr. Sosnovik was called by both parties and testified on March 10 and March 19, 2025.

Michael Morgan

Michael Morgan is the Assistant Principal at Hackettstown High School who conducted the HIB investigation on May 13, 2024. He testified that his role in HIB investigations is to determine what impact the statement or action had on the victim and what any witnesses saw and recalled. Mr. Morgan does not make findings based on his own perceptions of what happened and limited his investigation to interviewing three witnesses out of a class of fifteen students. He also failed to interview the teacher in detail, who, while he claimed ignorance of the incident, would have known about prior discussions and interruptions by the alleged victim. The impression given by Mr. Morgan's testimony was his investigation was completed quickly with a predetermined outcome and lacked due process for J.M.

On May 13, 2024, in response to J.M.'s comment to A.A., Morgan interviewed J.M., A.A, and three witnesses. He chose these witnesses based on their proximity to the conversation. Morgan also spoke with the teacher, who submitted the HIB report but had not personally heard the conversation. The witnesses to the event told Morgan that when the comment was made the class started laughing. A.A. told Morgan that the comments left her very embarrassed and hurt.

While he was interviewing J.M. on the day of the incident, Morgan said that he asked J.M. why he thought people were upset by his comment and J.M. said that there is a stereotype about African Americans and chickens. On the stand, Morgan was unable to articulate what that stereotype is.

Kyle Sosnovik

Kyle Sosnovik is the Principal at Hackettstown High School. On May 13, 2024, he received a report that a student of color felt humiliated and upset because of a comment made to her about chicken. "Not knowing anything more than that or who was involved I sought out the help of my Anti-Bullying Specialist." (Tr. 3/10/25 107:10-12). Accordingly, he forwarded the complaint to Morgan, who he trusted to complete a thorough and effective investigation. He did not speak with J.M. about the incident until the re-entry

meeting on May 20, 2024. Sosnovik testified that “chicken” is not an offensive term on its own, but that, based on his life experience, he knows that there are negative stereotypes associated with chicken and people of color.

Sosnovik testified that he interacted with A.A. often and that she is usually very upbeat and bubbly. But on May 13, 2024, after the incident, she was “100 percent different” and he could “visually see that there was something wrong with her, she was on the verge of tears in my opinion.” (Tr. 3/10/25 159:11-15).

Sosnovik testified about the difference between the Code of Conduct and HIB—the Code of Conduct is the school’s policy, but HIB is the law. He explained that when a HIB complaint is filed, it’s not his job to pass judgment, but to investigate through his team and the proper systems. A single act can result in a violation of HIB *and* the Code of Conduct. So, while J.M.’s comment to A.A. was a violation of HIB, it was also, at the same time, a violation of the Code of Conduct. The Code of Conduct is progressive, meaning that if there is more than one incident, progressive consequences are provided, such as a five-day suspension. J.M.’s discipline was progressive because he had a previous Code of Conduct violation. Sosnovik explained that the “Code of Conduct is much swifter and faster, hence the reason why in this case your son received a suspension based on behavior immediately and it was progressive, and the HIB was the follow-up where you had the opportunity to appeal the findings.” (Tr. 3/10/25 150:1-5). He also affirmed Morgan’s determination of HIB because the incident occurred on school grounds, was responsibly perceived as motivated by a characteristic, and a reasonable person could have believed that A.A. experienced emotional harm.

J.M.

J.M. testified that A.A. was “very disruptive” and “constantly rant[ed]” about things that have nothing to do with chemistry. (Tr. 3/14/25 7:2-6). He was often distracted by her and did not agree with her views on issues of government and currency, which he found “somewhat offensive.” (Tr. 3/14/25 15:23).

J.M. testified about a different incident between A.A. and the teacher that occurred about a week before May 13, 2024. At some point, the chemistry teacher told A.A. that he was going to give her a grade deduction for not doing her work, and she “physically got out of her seat and jumped onto the teacher, pinned him against the wall.” (Tr. 3/14/25 19:4-6). J.M. said that on May 13, 2024, he was unable to get his work done during lab time because of A.A.’s disruptive behavior. He was frustrated that she was continually “bashing the government” when he made the comment about chicken bones. (Tr. 3/14/25 22:9-10). He admitted to saying “chicken bones,” but also other things as well. He learned about ancient civilizations using different items to barter in a world history class.

J.M. testified that he was not aware that a comment about chicken bones could be offensive to African Americans. He also said that Morgan never asked him why his words could be offensive or hurtful.

L.M.

L.M. is J.M.’s mother. On May 13, 2024, she received a call from Morgan saying that J.M. had been accused of using racially offensive terms. She asked to speak with J.M. before his suspension or interview took place, but Morgan refused as it had already happened. L.M. got upset and hung up the phone. L.M. had told school administration “numerous times my children are not to be questioned without telling me first.” (Tr. 3/14/25 129:1-3).

L.M. was upset with the HIB investigation into J.M., so she subsequently filed HIBs against Morgan and the chemistry teacher. She was concerned that only A.A.’s friends had been interviewed as witnesses. She also felt that the investigation, which lasted only a few hours, was too short. She felt that the communication from the District was dismissive and rude. These HIB complaints were dismissed.

During his suspension, L.M. grew concerned because of social media activity about J.M. She said that people were calling him racist and that he did not want to go back to school, and that J.M. continued to endure accusations and targeting in school as

a result of the incident and suspension. L.M. feels that the school targeted her son because of her family's known conservative religious and political beliefs.

Jennifer Spuckes

Jennifer Spuckes is an Assistant Principal at Hackettstown High School. She was previously an anti-bullying specialist and while she no longer leads HIB investigations, she is often called in to sit in as a part of questioning students. On May 3, 2024, she was asked by Morgan to sit in on his questioning of J.M. She testified that Morgan had asked J.M. if someone could be upset by his "chicken bones" comment, and that J.M. had said yes because the student was African American it could be seen as bad. She did not sit in on any of the interviews with the student witnesses.

Debra Grigoletti

Debra Grigoletti is the Superintendent of Hackettstown School District. She reviewed and affirmed Vice Principal Morgan and Principal Sosnovik's finding of HIB, the Code of Conduct violation, and the five-day suspension. She explained that HIB findings are appealable to the Board of Education, but that students and parents "are not entitled to an appeal of the Board for Education for a short-term suspension." (Tr. 3/29/25 161:1-4). Short-term suspensions can only be appealed to the Commissioner of Education. (Ibid.). Grigoletti stated that while she doesn't know where it originated, she has long been aware of the negative stereotype of chicken in reference to African Americans.

As to the credibility of the witnesses, with one important exception, **I FIND** that though their accounts of certain aspects of the case understandably varied, L.M., J.M., Dr. Grigoletti, Mr. Morgan and Jennifer Spuckes were all credible witnesses.

That said however, one key witness for Respondent, the school principal Kyle Sosnovick **was not credible** in certain aspects of his testimony, which in my mind made other parts of his testimony suspect.

I wish to emphasize here, that his credentials and experience are impressive, and it is obvious he cares about his job, the school and the students in it and he is dedicated to his job. My assessment here is by no means intended to portray Mr. Sosnovik as a bad guy or worse a liar.

But the impression I got was that throughout most of his testimony he was defensive about the actions he took, the incident itself, often not recalling things or questioning or repeating questions that were asked seemingly to evade full and complete answers to what was being posed in order to get to the truth of the matter. While it is human nature to get defensive when your actions are being questioned, it seemed clear at the conclusion of his testimony that the decision he made in his capacity as principal were biased and one-sided in favor of the alleged victim and the school and were pre-determined even before J.M. could explain his version of the incident.

While **I FIND** Mr. Morgan for the most part to be credible, **I DO NOT FIND** that he conducted a fair and open-minded investigation that might have led to an alternate determination or modified penalty. In fact, **I FIND** the opposite to be the case, that in conducting what seemed like a “rush to judgment,” with what appeared to be a predetermined outcome, Mr. Morgan acted in an arbitrary and capricious manner in violation of J.M.’s due process rights.

By way of example, it is undisputed he only questioned three of the fifteen students in the lab, none of whom were friends of J.M. Mr. Morgan admittedly did not further question the teacher in the lab after he was told the teacher did not hear the incident. It is unclear why the teacher wasn’t questioned further, since there was testimony about laughter by several students and a prior history of A.A. introducing disruptive ideas and comments in the middle of the lab class.

In addition, since there was some history of this victim being disruptive in the lab before over money and other historical implications, Mr. Morgan did not question the teacher further about whether these types of disruptions had happened before and what was done about it.

Thus, it appears that Mr. Morgan also had a preconceived notion of J.M.'s "guilt" both for an alleged violation of the school Code of Conduct, and worse, violating the Anti-Bullying law. By any means, **I FIND** this was not an unbiased investigation, possibly due to the fact that the alleged victim was a popular and respected "person of color" and J.M. and L.M. had a prior history with school officials of speaking out on perceived slights.

Finally, another District witness Jennifer Spuekes, who **I FIND** completely credible, had little or no involvement in the case other than to be asked to sit in on the interview with J.M., but she did indicate she was only in the room for a short period and asked no questions. Indeed, while it is common for law enforcement, employers or school officials to ask another disinterested party to sit in on an interview, **I FURTHER FIND**, her role in doing so served no purpose other than so Mr. Morgan could say there was someone else in the room while he conducted his investigation.

Again here, while she was in the room, there was no discussion about whether other witnesses should be interviewed, including the teacher who claimed not to hear anything.

Finally, with what appeared to be a predetermined outcome both on Code of Conduct violation and Bullying, none of the District officials could say when asked if any alternate means of outcome were explored specifically getting both parties, J.M. and the victim, in the same room to discuss what the dialogue between them actually meant.

FINDINGS OF FACT

Having had an opportunity to consider the evidence and to observe the witnesses and make credibility determinations based on the witnesses' testimony, I make the following **FINDINGS** of critical **FACT**:

- 1) On May 13, 2024, J.M. and A.A. were students in a chemistry class at Hackettstown High School.
- 2) A.A. is African American and J.M. is Caucasian.
- 3) On the day in question, A.A. initiated a conversation while the lab was in progress about why money is necessary in the United States.

- 4) This was not the first time A.A. had initiated this type of conversation during this class, which has no involved, history involved, it is simply a chemistry lab.
- 5) Frustrated that A.A. had again disrupted the class over a topic having nothing to do with a science subject, and also frustrated by the fact that the teacher never intervened, J.M. engaged with A.A. in the conversation, suggesting somewhat sarcastically, “what should we use instead of money, chicken bones?”
- 6) Several students laughed, the teacher did not respond or attempt to stop the conversation, the bell rang, and the lab ended.
- 7) There was no immediate emotional response by A.A., and both students went on their way, without argument or further dialogue.
- 8) Some time after the lunch period, A.A. got emotional in the hallway with the school principal Mr. Sosnovik.
- 9) When he asked her what was wrong, she started crying and recounted the conversation in the lab between herself and J.M. and his use of the words “chicken bones” as an alternate source of monetary exchange.
- 10) Without speaking to J.M. first or considering a meeting between the students to air their grievances, Mr. Sosnovik immediately directed Mr. Morgan to open a bullying investigation.
- 11) Only three out of fifteen students were interviewed, and the lab classroom teacher offered that he did not hear anything, which Mr. Morgan failed to pursue further, so he relied on what he was told by the three students.
- 12) There is no indication that Mr. Morgan asked questions such as: were you offended by J.M.’s response, has A.A. disrupted the class before, and are there others in the class who may be able to provide additional information about whether or not A.A. has disrupted the class before. There is no indication that Mr. Morgan sat down with the teacher to try to get some background on what J.M. shared, which is this type of disruptive conversation initiated by A.A., happened on a regular basis.
- 13) While he was interviewing J.M. briefly, Mr. Morgan asked Assistant Principal Jennifer Sprukes to sit in to observe his interrogation.

- 14) When she testified, Mr. Sprukes candidly admitted that she asked no questions, did not participate in the investigation at all, and she left the meeting early after a short period due to another commitment.
- 15) All of the witnesses for the school confirmed that lesser penalties were not considered, including but not limited to a “sit down” between both parties so they could better understand from J.M.’s perspective why the use of the term “chicken bones” might be offensive and from A.A.’s perspective why he said what he said which was not intended to be racist and why the regular class disruptions were offensive to J.M.
- 16) While J.M. was still completing the written statement he was asked to prepare, Mr. Morgan had all but reached his conclusion and recommended outcome which resulted in a bullying charge against J.M. for his remarks in class.
- 17) There was no indication by any of the witnesses or the people involved in the investigation that J.M. used any slang or derogatory remarks to categorize A.A. as a result of her race.
- 18) In fact, when asked during the proceeding why he used the words “chicken bones,” J.M. testified that he remembered from a prior history class that before the creation of currency, bones, carcasses, hided and other items were used thousands of years ago as a means of trade.
- 19) In addition to the bullying charge, which was confirmed by the principal and ultimately the Board of Education, a five-day out-of-school suspension was assessed and J.M.’s mother was called to pick him up from school even before the school day ended.
- 20) Efforts by L.M. to speak with school officials or present J.M.’s side of the story before both penalties were assessed were denied and J.M. was left without recourse until this appeal was ultimately filed.
- 21) **I FIND** that there was arbitrary and capricious predetermined outcome against J.M. in violation of his due process rights.

LEGAL ANALYSIS AND CONCLUSIONS OF LAW

The Anti-Bullying Bill of Rights Act and HIB

New Jersey first passed anti-bullying legislation in 2002. In response to bullying-related tragedies, the legislature passed the Anti-Bullying Bill of Rights Act (the Act) in 2010. N.J.S.A. 18A:37-13.1(a), (b), (c), and (d), -13.2. The goal of the Act is to promote a “safe and civil environment” in schools by preventing “conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment.” N.J.S.A. 18A:37-13. The Act was passed with the intent to “strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying of students that occur in school and off school premises.” N.J.S.A. 18A:37-13.1(f). Because students learn by example, “school administrators, faculty, staff, and volunteers should be commended for demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment, intimidation or bullying.” N.J.S.A. 18A:37-13.

“Harassment, intimidation, or bullying” is defined as

any 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 . . . that substantially disrupts or interferes with the orderly operation of the school or the rights of other students.

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

An act of HIB is one 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(a), (b), and (c)].

The language of the statute focuses on the experience of the victim student and not the intent of the student who does the harassing, intimidating, or bullying. Ibid.

School districts must adopt policies which prohibit HIB and provide procedures for "prompt" investigations of violations and complaints. N.J.S.A. 18A:37-15(b)(6). Once HIB is reported, schools must initiate an investigation within one school day. N.J.S.A. 18A:37-15(b)(6)(a). The results of this investigation must be reported to the school superintendent within two days of the completion of the investigation and then sent to the school board "no later than the date of the board of education meeting next following the completion of the investigation, along with information on any services provided, training established, discipline imposed, or other action taken or recommended by the superintendent." N.J.S.A. 18A:37-15(b)(6)(b), and (c). The board then must issue a written decision affirming, rejecting, or modifying the superintendent's decision. N.J.S.A. 18A:37-15(b)(6)(e). This decision may be appealed to the Commissioner of Education. Ibid.

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, a petitioner must prove 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 (Feb. 6, 2008), adopted, Comm'r (April 25, 2013), <https://njlaw.rutgers.edu/collections/oal>, (citing Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965), aff'd, 46 N.J. 581 (1966)). A board's decision is not arbitrary or capricious "when exercised honestly and upon due consideration." Bayshore Sewerage Co. v. Dep't. of Env'tl. Prot., 122 N.J. Super. 184, 199 (Ch. Div. 1973), aff'd, 131 N.J. Super. 37 (App. Div. 1974). The arbitrary, capricious,

or unreasonable standard is narrow in scope and “consequently imposes a heavy burden on those who challenge actions of boards of education.” Piccoli v. Bd of Educ. of the Ramapo-Indian Hills Reg’l High Sch. Dist., EDU 1839-98, Final Decision, Comm’r (Mar. 11, 1999), <https://njlaw.rutgers.edu/collections/oal>, at 26.

L.M.’s argues that chicken is an “innocuous term.” (Tr. 3/14/25 129:9-12). The crux of her argument is that the District assigned “something to a child that is not even there” and that to put that on him is “racist in itself.” (Tr. 3/14/25 129:13-19). She argues that if respondent cannot articulate why what J.M. said was offensive, a reasonable person also could not have interpreted it as such. N.J.S.A. 18A:37-14(a). The Board disagrees but argues that it doesn’t matter because only one of the three prongs of N.J.S.A. 18A:37-14 have to be met, and the other two were met when A.A. felt insulted and demeaned by both the comment and her classmate’s laughter in response to the comment. N.J.S.A. 18A:37-14(b), (c).

Having heard all the testimony and reviewed the submissions and the statute, I **CANNOT CONCLUDE** J.M. violated the Anti-Bullying law with his comments to the effect of “what do you want us to use, “chicken bones.” While taken at its worst this might have been insensitive or impolitic, the Anti-Bullying law is not absolute and before taking this case down that path, school officials failed to explore whether the victim’s tearful reaction was an overreaction to a dialogue that apparently had been ongoing several times before which the teacher in the lab failed to control or step in.

In fact, there was no testimony at all by school officials whether prior to imposing this draconian sentence against J.M., they looked into whether this victim had instigated and disrupted the class several times before and on the day of the incident which gave rise to J.M.’s response. I was left with the impression towards the conclusion of the case that school officials felt they were obligated to file a bullying charge against J.M. to avoid accusations that could have been brought by A.A.’s family.

Code of Conduct and Progressive Discipline

Teachers and school administration “shall hold every pupil accountable for disorderly conduct in school and during recess and on the playgrounds of the school and on the way to and from school.” N.J.S.A. 18A:25-2. Students must comply with school rules, and boards of education must develop and implement a code of student conduct that establishes clear standards, policies, and procedures for student development and student behavior expectations. N.J.S.A. 18A:37-1, N.J.A.C. 6A:16-7.1(a).

Short-term suspensions are any suspension “not more than 10 consecutive school days.” N.J.A.C. 6A:16-7.2(a). Prior to the suspension, and as long as the student does not pose an ongoing threat, students must be given an “informal hearing” where they are given the opportunity present their version of events. N.J.A.C. 6A:16-7.2(a)(2). This hearing is informal, and prior notice is not required. “The informal hearing and the notice given may take place at the same time.” N.J.A.C. 6A:16-7.2(a)(2)(iv). Short-term suspensions must be appealed to the Commissioner of Education. N.J.A.C. 6A:16-7.2(c). Short-term suspensions are reviewable by the OAL under the arbitrary and capricious standard.

The Board argues that the District’s imposition of a 5-day suspension was not arbitrary and capricious. It alleges that the District carefully reviewed and considered J.M.’s past disciplinary record and because the May 13, 2024, incident was his second offense, serious disciplinary consequences were warranted.

Just as I am unable to **CONCLUDE** that the use of the term “chicken bones” in the context of a dialogue about alternate means of monetary exchange gave rise to a bullying charge, **I AM ALSO UNABLE TO CONCLUDE** that the use of those words should have resulted in a five (5) day out of school suspension, for the reasons set forth herein.

Accordingly, having now heard the entire case over a period of days, and considered the context in which the use of the term “chicken bones” was made in class during a dialogue about why money is needed and alternate means of monetary exchange, **I CONCLUDE** that while the District officials who appeared before me may have been well intentioned in protecting A.A.’s rights, in doing so they failed to honor and respect J.M.’s due process rights thus proceeded to judgment in an arbitrary and

capricious manner. In and of itself, the use of the words “chicken bones,” in the context they were used by J.M. were not racist and by no means were used to bully A.A. even if she perceived them that way.

Therefore, **I HEREBY CONCLUDE** both findings as to a HIB violation, bullying and violation of the school Code of Conduct are hereby **REVERSED**.

ORDER

In light of my factual findings along with the legal analysis above, I **HEREBY ORDER** that the finding of a HIB violation, bullying and violation of the school Code of Conduct should be **REVERSED**.

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, ATTN: BUREAU OF CONTROVERSIES AND DISPUTES, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

October 9, 2025



ANDREW M. BARON, ALJ

Date Received at Agency:

October 9, 2025

Date E-Mailed to Parties:

October 9, 2025

APPENDIX

Witnesses

For Petitioner

Michael Morgan

Kyle Sosnovik

J.M.

L.M.

For Respondent

Jennifer Spuckes

Kyle Sosnovik

Debra Grigoletti

Exhibits

Joint Exhibits

- J-1 Petition of Appeal
- J-2 Answer to Petition of Appeal
- J-3 J.M.'s handwritten witness statement dated May 13, 2024
- J-4 Four student statements dated May 13, 2024
- J-5 HIB report dated May 14, 2024
- J-6 J.M.'s disciplinary record
- J-7 HIB Report Executive Summary
- J-8 Board Policy and Regulation 5600 "Student Discipline/Code of Conduct"
- J-9 2023-2024 Hackettstown High School Student/Parent Handbook
- J-10 Email correspondence dated May 14, 2024, through May 21, 2024
- J-11 Respondent's HIB Decision dated June 14, 2024
- J-12 Respondent's Request for Admissions
- J-13 Petitioner's response to Request for Admissions
- J-14 Email correspondence dated October 6, 2024, through October 9, 2024
- J-15 Board Policy and Regulation 5512 "Harassment, Intimidation, and Bullying"