

106-26R  
OAL Dkt. No. EDU 00767-26  
Agency Dkt. No. 011-01-26

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

J.T., on behalf of minor children, E.E.-T. and E.T.,

Petitioner,

v.

Rahway Board of Education, Union County,

Respondent.

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

Petitioner challenged the Board's determination that she and her children do not reside in Rahway and that the children are therefore not entitled to a free public education in the Board's schools. The Administrative Law Judge (ALJ) concluded that the petition was untimely because it was filed more than 21 days after the Board's ineligibility notice and dismissed the case.

In her exceptions, petitioner argues that the Board's December 18, 2025 ineligibility notice did not specify a removal date, and that she filed her petition on January 13, 2026, the same day that that she was notified that her child was being removed and had to be picked up.

She indicates that she was only informed at that time that correspondence had previously been mailed, and she was not aware until that date that the timeline to appeal had begun.

In response, the Board argues that the right to appeal is triggered when notice of the Board's decision is provided, not when the Board acts to enforce the decision. The Board contends that the 21-day deadline is mandatory, and there is no reason to relax it.

Upon review, the Commissioner concludes that the petition of appeal was not untimely. While *N.J.S.A.* 18A:38-1(b)(2) provides that a parent may contest a board of education's ineligibility decision within 21 days of the date of the decision, this provision must be read in combination with *N.J.A.C.* 6A:3-8.1(f), which states,

Where the petition of appeal is filed within 21 days following a notice of ineligibility, the student may continue to attend school while the appeal is pending. After the 21-day period, the petitioner shall file a petition in accordance with *N.J.A.C.* 6A:3-1.3 and a motion for emergent relief pursuant to *N.J.A.C.* 6A:3-1.6. The petitioner must prevail on the motion for emergent relief in order for the student to continue to attend school while the appeal is pending.

Here, while the petition of appeal was filed more than 21 days after the ineligibility notice, petitioner complied with the regulatory requirement by filing both a petition and a motion for emergent relief. The Commissioner has previously held that the merits of a residency appeal are not barred by failure to file within 21 days of the board of education's adverse notice. *T.K. o/b/o D.K., Y.K., and A.K. v. Bd. of Educ. of the Twp. of W. Orange*, Commissioner Decision No. 4-12 (Jan. 5, 2012).<sup>1</sup> As such, the Commissioner concludes that the petition in this matter is not time-barred.

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<sup>1</sup> The Commissioner notes that the Board's briefing relies on the Initial Decision in the *T.K.* matter, in which the ALJ dismissed the petition as untimely because it was not filed within 21 days. The Board fails to

Accordingly, the Initial Decision is rejected. This matter is hereby remanded to the OAL for further proceedings consistent with this decision.<sup>2</sup>

IT IS SO ORDERED.



COMMISSIONER OF EDUCATION

Date of Decision: March 25, 2026

Date of Mailing: March 25, 2026

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address the subsequent Commissioner decision rejecting the ALJ's conclusion. The Commissioner also notes that in another case cited by the Board, *W.G. o/b/o C.G. and L.G. v. Bd. of Educ. of the City of Vineland*, Commissioner Decision No. 96-06 (Mar. 13, 2006), while the Commissioner did dismiss a residency appeal as untimely, the Commissioner also indicated that petitioner could have perfected his appeal with a motion for emergent relief, but did not do so.

<sup>2</sup> The motion for emergent relief was not addressed by the ALJ because the Board agreed to allow petitioner's children to continue attending school while the case was pending. As no emergent hearing was held, the Commissioner cannot determine at this time whether petitioner would have prevailed on her motion. Accordingly, the remand transmittal in this matter will indicate that the motion for emergent relief should be addressed, unless the Board agrees prior to transmittal to continue to allow the children to remain in school during the proceedings. If the Board does not agree to continued enrollment and it is necessary to proceed with the motion for emergent relief, the children shall remain enrolled while the motion is pending, until the Commissioner issues her decision on emergent relief.



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**DISMISSAL**

OAL DKT. NO. EDU 00767-26

AGENCY DKT. NO. 011-01-26

**J.T. O/B/O E.E.-T. AND E.T.,**

Petitioner,

v.

**RAHWAY BOARD OF**

**EDUCATION, UNION COUNTY**

Respondent.

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**J.T.**, appearing pro se for minor children E.E.-T. and E.T.

**Margaret A. Miller**, Esq., appearing for respondent (Weiner Law Group, LLP,  
attorneys)

Record Closed: February 9, 2026

Decided: February 13, 2026

BEFORE **NANCI G. STOKES**, ALJ:

**STATEMENT OF THE CASE**

Twenty-six days after the Rahway Board of Education's (Board) December 18, 2025, determination that she was not domiciled in Rahway and her children were being

disenrolled from the school district, the petitioner challenged the Board's conclusion. Is the claim time-barred? Yes. Under N.J.S.A. 18A:38-1(b)(2), a parent must appeal the Board's disenrollment of their child based on a lack of domicile in the district within twenty-one days of receiving notice. Ibid.

### **PROCEDURAL HISTORY**

By email dated January 13, 2026, J.T. filed a Petition and application for emergent relief on behalf of her minor children, E.E.-T. and E.T., with the Commissioner of the Department of Education (DOE), contesting the Board's conclusion received on December 18, 2025, that J.T. was not domiciled in Rahway and the Rahway School District (District) was disenrolling her children from its public schools. Petitioner asserts that she resides in Rahway and that the Board's determination was incorrect, having not contacted her to discuss its concerns or to schedule a home visit, provide advance notice of its determination, or surveil her Rahway residence at other times.

On January 13, 2026, the DOE transmitted this case to the OAL for resolution of the emergent application and to file the contested case under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -13, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On January 21, 2026, the parties agreed to resolve the emergent relief application, whereby the minor children would continue their education in the District pending the final resolution in this case. I granted leave to the Board to file a Motion to Dismiss in place of an Answer, which I received on January 30, 2026, arguing that J.T. filed her petition out of time.

Petitioner filed her opposition on February 2, 2026. On February 9, 2026, the Board replied, and I closed the record.

### **DISCUSSION AND FINDINGS OF FACT**

Based on the petition and its supporting documents, as well as arguments presented in support and in opposition to this motion, I **FIND** the following as **FACT** for purposes of this motion only:

E.E.-T. is a student at Grover Cleaveland Elementary School, and E.T. is a student at Rahway Academy within the Rahway public school system. On December 3, 2025, the District's attendance officer advised J.T. that the District was disenrolling her children from the District because they were domiciled in Colonia, New Jersey, not Rahway. In other words, the petitioner received advance notice, contrary to her assertion that she received none.

This determination followed surveillance of the Rahway address on file with the District, which purportedly revealed that her children did not leave that location on five occasions between November 17, 2025, and December 3, 2025, but were in school. The petitioner's assertion that the District should have conducted surveillance at different times does not dispute the investigation results, and the District is not required to conduct a scheduled home visit as she suggests.

J.T. requested a hearing, which the Board conducted on December 16, 2025.

On December 18, 2025, the Board's attorney advised J.T. that following the hearing, the Board determined that neither she nor her children were domiciled in Rahway and that it would be disenrolling the children from the District.

The letter attached to her petition advised J.T. of her right to file an appeal with the DOE Commissioner "within twenty-one (21) days of the date of this notice." Further, if the Board did not receive an appeal within twenty-one days following the date of this letter, the petitioner's "children would be removed from the District's rolls." Id.

Since the Board did not receive notice of an appeal within twenty-one days of the letter or by January 8, 2026, the District contacted the children's father on January 13, 2026, and asked him to pick the children up because the District disenrolled them.

The petitioner opposes this motion by suggesting that her obligation to appeal commenced when the District implemented the disenrollment, not when the Board notified her of its residency determination and disenrollment from the District. To be sure, the District sent the notice to J.T. via email on December 18, 2026, and mailed it to her residence on file in Rahway and the reported address in Colonia. Still, she filed her appeal only when the District took steps to disenroll her daughter on January 13, 2026.

Indeed, I **FIND** that the petitioner filed her challenge to the residency ineligibility determination more than twenty-one days after receiving notification of the Board's findings.

### **DISCUSSION AND CONCLUSIONS OF LAW**

Under N.J.A.C. 6A:3-1.10, upon motion to dismiss filed instead of answer, "the Commissioner may dismiss the petition because the petitioner has advanced no cause of action even if the petitioner's factual allegations are accepted as true." See Sloan v. Klagholtz, 342 N.J. Super. 385, 394 (App. Div. 2001). Our courts recognize that "[t]he test for determining the adequacy of a pleading" is whether the facts suggest a cause of action. Velantzas v. Colgate-Palmolive Co., 109 N.J. 189, 192 (1988). The "inquiry is limited to examining the legal sufficiency of the facts alleged on the face of the complaint," Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989), and "the legal requisites for [the petitioner's] claim must be apparent from the complaint itself." Edwards v. Prudential Prop. & Cas. Co., 357 N.J. Super. 196, 202 (App Div.), certif. denied, 176 N.J. 278 (2003).

### Timeliness

Under N.J.S.A. 18A:38-1(b)(2), a board of education may order the removal of a child from school if the board determines that the parent is not domiciled within the school district. Under N.J.A.C. 6A:22-3.1(a)(1), a student is eligible to attend a school district if they are domiciled within the school district, and a student is domiciled in the school district when they are the child of a parent or guardian whose domicile is located within the school district. Ibid.

N.J.S.A. 18A:38-1(b)(2) requires that the Board notify the parent or guardian in writing of their right to contest the residency decision. Id. Further, a parent or guardian wishing to appeal the Board's action in its denial of admission, the parent or guardian's appeal must file the appeal within twenty-one days of receiving notice of the determination. Id.; N.J.A.C. 6A:22-5.1. Notably, the DOE Commissioner will dismiss cases when a residency appeal is not timely filed. See, e.g., W.G. o/b/o C.G. and L.G. v. Bd. of Educ. of the City of Vineland, Cumberland Cty., OAL Dkt. No. EDU-8922-05, 2006 WL 407660, affd., Commissioner of Education Decision #96-06 (March 13, 2006). Further, under N.J.S.A. 18A:38-1(b)(2), a parent or guardian has the burden of proof by a preponderance of the evidence that their child is eligible for a free education. Id.

Even accepting the petitioner's position that the Board improperly determined she was not domiciled in Rahway, she needed to file a petition challenging that determination in a timely manner. The petitioner mistakenly maintains that her obligation to file this challenge was only when the District removed her children. The District does not dispute that her children remained in its schools after it notified her of the disenrollment. Indeed, the Board advised the petitioner that it would remove her children if it did not receive notice of an appeal; it did not. Although the petition suggests J.T. only learned of the Board's determination on January 13, 2026, her motion opposition acknowledges receiving the December 18, 2025, letter. Indeed, I found that J.T. received the letter dated December 18, 2025. Her only excuse for not filing this challenge earlier was that her

children remained in school. Yet the letter's filing time requirements were clear, as it was clear that the District would remove the children from school should she not timely file.

Still, the Commissioner may exercise her authority under N.J.A.C. 6A:3-1.16 to relax the application of a rule "where strict adherence . . . may be deemed inappropriate or unnecessary or may result in injustice." Ibid. However, exceptions to filing timelines are generally appropriate where compelling circumstances exist to justify the enlargement or relaxation of the time limit. See, Kaprow v. Bd. of Educ. of Berkeley Twp., 131 N.J. 572 (1993) (addressing the ninety-day limitation period applicable to certain Board decisions.)

The Kaprow court explained the dual purposes of a filing limitations period:

A limitations period has two purposes. The first is to stimulate litigants to pursue a right of action within a reasonable time so that the opposing party may have a fair opportunity to defend, thus preventing the litigation of stale claims. The second purpose is "to penalize dilatoriness and serve as a measure of repose" by giving security and stability to human affairs. (Internal citations omitted.)

[Id. at 587]

Here, I **CONCLUDE** that the petitioner does not present a compelling reason that warrants relaxation of the twenty-one-day filing period. Indeed, I **CONCLUDE** that the evidence, even when viewed in the most favorable light to the petitioner, demonstrates that she filed her petition beyond the twenty-one-day limitation period after receiving the Board's notice, warranting its dismissal.

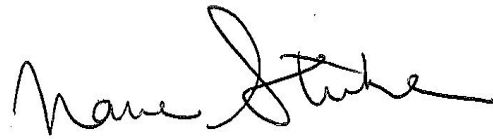
### **ORDER**

Given my findings of fact and conclusions of law, I **ORDER** that the Board's motion to dismiss be **GRANTED**. I further **ORDER** that the Petition of Appeal be **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, 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.



February 13, 2026

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DATE

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**NANCI G. STOKES, ALJ**

Date Received at Agency:

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February 13, 2026

Date Mailed to Parties:

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February 13, 2026

ljb