

112-26
OAL Dkt. No. EDU 09171-25
Agency Dkt. No. 160-5/25

New Jersey Commissioner of Education
Final Decision

E.B., on behalf of minor child, A.B.,

Petitioner,

v.

Board of Education of the Township of Hainesport,
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 petitioner failed to establish by a preponderance of evidence that respondent's decision to suspend A.B. for two days and exclude him from attending a field trip was arbitrary, capricious, or unreasonable.

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: March 30, 2026
Date of Mailing: March 30, 2026

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

OAL DKT. NO. EDU 09171-25

AGENCY DKT. NO. 160-5/25

E.B. ON BEHALF OF A.B.,

Petitioner,

v.

HAINESPORT TOWNSHIP

BOARD OF EDUCATION

Respondent.

E.B., petitioner, pro se

Audra A. Pondish, Esq., for respondents (Adams, Lattiboudere, Croot & Herman,
LLC, attorneys)

Record Closed: December 22, 2025

Decided: January 30, 2026

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

STATEMENT OF THE CASE

E.B. (petitioner) brings an action against the Board of Education of the Township of Hainesport (respondent or district) challenging the imposition of a penalty imposed on her minor child, A.B., because of A.B.'s involvement in an incident with two other students that occurred on May 20, 2025. A.B. served a two-day suspension from school on May

21, 2025, and May 22, 2025, and was barred from attending a class field trip to the Franklin Institute in Philadelphia on May 30, 2025.

ISSUE: Should the penalty imposed by the respondent be vacated because it was arbitrary, capricious, or unreasonable? No, although stringent, respondent adequately explained its reasoning for imposing the penalty on A.B., and the petitioner failed to establish by a preponderance of the evidence that the respondent acted in an arbitrary, capricious or unreasonable manner.

PROCEDURAL HISTORY

On May 21, 2025, the petitioner was verbally advised of the penalty and the reason it was being imposed. On May 22, 2025, the petitioner appealed to the school superintendent, arguing that the imposition of a two-day suspension and the ban from the class field trip were unfair. The superintendent upheld the penalty imposed, finding that it was consistent with school policy.

On May 23, 2025, the petitioner filed a request for emergent relief at the Department of Education, Office of Controversies and Disputes, challenging the discipline imposed. The matter was transmitted to the Office of Administrative Law (OAL), where, on May 23, 2025, it was filed as a contested case seeking emergent relief. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

Oral arguments regarding the application for emergent relief were conducted on May 29, 2025, and on May 30, 2025, an order denying emergent relief was issued by this Tribunal.

A plenary hearing was conducted on November 18, 2025. The record remained open for the submission of post-hearing submissions. On December 22, 2025, the record closed.

FACTUAL DISCUSSION

Testimony

Kimberly Hughes: Ms. Hughes, the classroom teacher, testified that a student informed her that three students, including A.B., were throwing small beads while they were at a small table during a math group session. Hughes further testified that the three students informed her that they had eaten the beads. She testified that A.B. initially told her that he licked and ate the beads but later said he only licked them.

Ms. Hughes testified that the children were escorted to the principal's office by a school counselor, who presented Mr. Fisher with a bag in the possession of the children, which contained an unknown substance.

Ms. Hughes' email describing the incident to Principal Fisher is consistent with her testimony. (See Exh. R-10.)

N.J. State Trooper Michael Morano: Trooper Michael Morano testified that he was present in the building at that time for a prior shelter in place in the district requested by the State Police for an unrelated reason.

Trooper Morano testified that the students did not initially identify the substance when asked. He asked the children if they ingested any of the substances. (See Exh. R-4.) The children were reluctant to respond, but Trooper Morano advised that he was seeking honest answers to ensure their safety. (Id.) The children, including A.B., admitted to him that they ingested the substance. (Id.) The children also acknowledged that they knew the substance was not candy. (Id.)

At that point, Trooper Morano called the Emergency Squad and Poison Control pursuant to NJ State Police Protocol due to the possible health risk. (Id.) Upon arrival of the emergency personnel, a shelter-in-place level two was initiated, which meant that no one could be in the hallways, and no one could enter or leave the building

without express permission from administration or Trooper Morano. A short letter was sent out to the community to advise them of the incident. (See Exhs. R-4; R-2.)

All three students were evaluated and medically cleared. (See Exhs. R-1; R-3; R-4; R-9.) Trooper Morano testified that L.R.'s mother came in and identified the substance as laundry detergent scent booster beads. However, Trooper Morano testified that it took at least thirty minutes from the time of the incident for the substance to be identified. (See Exhs. R-3; R-4.)

Anthony Procopio: Assistant Principal Anthony Procopio testified that he contacted the parents of the three students regarding the incident. A.B. was picked up by his grandfather. Mr. Procopio testified that A.B. appeared to believe the situation was comical by making jokes and laughing during the process.

Mr. Procopio also testified that the incident caused a significant disruption to the school environment. The shelter-in-place required the school's schedule for the day to be significantly readjusted. Lunches were pushed back, and classes were rearranged. The incident spanned approximately an hour to an hour and a half from the initial call from Ms. Hughes to when the students were picked up by their parents and grandparents.

Mr. Procopio testified that he authored an incident report describing the incident and actions taken, reflecting an administrative conference with the student, a conference with the parent (grandfather), police notification, and discipline. (See Exh. R-1.)

Alex Fisher: Principal Alex Fisher also testified to the shelter-in-place and its impact on the district's operations on the day of the incident. He explained that it is the district's operating procedure when paramedics are called in order to protect the privacy of the person(s) needing medical attention and for safety if they need to transport someone through the hallways. When a shelter-in-place is called, classes and lunches cannot switch until the incident is over.

Both Mr. Procopio and Mr. Fisher testified that, in light of the gravity of the incident, A.B. was issued appropriate discipline consistent with the Student Code of Conduct. (See

Exhs. R-6; R-7.) They further testified that discipline was issued to A.B. under the parameters memorialized in the student handbook relating to possession and/or use of exploding or chemical devices. After reviewing the specific circumstances with the building administrators, the administration determined to impose a penalty less than the most stringent penalty of four days' suspension and psychological assessment discussed under that offense. (See Exh. R-7.)

Mr. Fisher referred to the Code of Student Conduct, which specifically states, "This Code of Student Conduct does not address every potential form of inappropriate student behavior. Infractions not specifically cited in this document will be addressed on a case-by-case basis, subject to administrative discretion." (See Exhs. R-6; R-7).

Both Mr. Fisher and Mr. Procopio testified that A.B. was issued a two-day suspension, which he served, and was not allowed to attend the school trip to the Franklin Institute on May 30, 2025. The incident was classified as a level IV infraction. (See Exh. R-5.)

Mr. Fisher testified that he spoke to E.B., parent of A.B., on May 21, 2025, and expressed the school's position and policy, the fact that her son thought the situation was a joke, and the incident caused substantial disruption. As such, he testified that the discipline was warranted. Mr. Fisher also testified that he advised E.B. that even though it is the policy and practice that if a student is out for the day (including when suspended), he cannot attend night events, however, due to the short notice and the student's hard work with the choir, A.B. was afforded the opportunity to participate in the concert as the parent would be present.

Mr. Fisher testified that parents are required to review and acknowledge receipt of the Student Code of Conduct every year, which A.B.'s parents complied with. (See Exh. R-8.)

Since October of 2024, A.B. has been disciplined on six other occasions for actions such as profanity/obscene language, class disruption, destruction of school property, and cafeteria and playground misconduct. (See Exh. R-5.) However, Mr. Fisher testified that

the incident in question would have been categorized as a level IV infraction for any student, regardless of disciplinary history, due to its severity. He explained that the incident would warrant a level IV infraction for anyone, but in A.B.'s case, because he has served numerous lower-level punishments, they also felt that an out-of-school suspension would be most effective in teaching A.B. not to put unknown things into his body. (Id.)

A.B.: A.B. testified that he is currently ten years old and is in the fifth grade. At the time of the incident, he was in the fourth grade. A.B. testified that his friend (L.R.) had the substance on his desk during the math session. A.B. could smell it from his desk and asked L.R. what it was. L.R. allegedly told him that it helped his desk smell good and that he found the substance in his house. A.B. asked L.R. if he could have one of the pieces, and L.R. said yes. A.B. also stated that L.R. told him that the substance is edible, and his brother had eaten twenty of them. A.B. stated that he thought the substance looked like Nerds candy. A.B. testified that he licked two pieces and put a third in his mouth, but he spat it out because it didn't taste good.

A.B. asserted that he only ate the substance because L.R. told him it was edible and that his brother had eaten it and was fine. A.B. clarified that L.R. did not tell him explicitly that it was candy; rather, A.B. asserted that he *thought* it was candy.

A.B. testified that as a result of the incident and subsequent discipline he received, he learned not to eat things if he doesn't know what they are and not to take things that aren't labeled. He also testified that he knew that eating in class and throwing things in class were both wrong.

FINDINGS

Credibility

For testimony to be believed, it must not only come from the mouth of a credible witness, but it must also be credible. It must elicit evidence that is from such common experience and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div.

1961). A credibility determination requires an overall assessment of the witnesses' story, considering its rationality or internal consistency and the way it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). Also, "the interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony." State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted).

A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super 282, 287 (App. Div. 1958).

As to the credibility of respondent's witness, I accept the testimony of Hughes, Morano, Procopio and Fischer as credible. They each easily recounted the actions taken by themselves and other staff members concerning the events of May 20, 2025.

Trooper Morano testified that it took approximately thirty minutes from the onset of the incident for the substance to be identified. Since the toxicity of the substance was unknown, when Trooper Morano arrived at the incident, he contacted emergency personnel and poison control. (See Exhs. R-1; R-3; R-9.) To prepare for the arrival of emergency personnel, a shelter-in-place level two was initiated, which meant that no one could be in the hallways, and no one could enter or leave the building without express permission from administration or Trooper Morano, in order to assure direct access by emergency personnel and to protect the privacy of anyone in need of medical attention.

The need to have shelter in place and call in emergency personnel due to the actions of the students was extremely disruptive to school operations. Mr. Fisher and Mr. Procopio both testified as to the level of disruption the incident caused to the school day. As they explained in their testimony, when a shelter-in-place is called, classes and lunches cannot switch. This caused a significant disruption in that lunches had to be pushed back, and class schedules needed to be adjusted. Though the incident lasted

less than two hours from its onset through when the students' parents and grandparents picked them up, the impact affected the school's operations for the entire day.

As a result of A.B.'s involvement in this matter, he was given a level IV infraction and issued a two-day suspension, which he served, and was prohibited from attending the fourth-grade class trip to the Franklin Institute. Generally, when a student is not in school due to a suspension, he/she is prohibited from attending student activities in the evening on the day of absence. Notwithstanding this fact, the administration evaluated the circumstances and determined that, due to the short notice and the students' hard work for the musical activity, he was afforded the opportunity to participate in the choir because his parents(s) would be present. The Student Code of Conduct allows for administrative discretion in issuing discipline. (See Exhs. R-6; R-7.)

A.B. was an eager, polite and cooperative witness. I did not detect any malice or overt attempts to mislead this Tribunal. However, I did not find him entirely credible, as he testified that he did not consume any of the substance brought into school by L.R. The adult witnesses indicated that he had admitted to consuming some of the substance, and A.B. acknowledged that he admitted this to the adults; however, during his testimony, he indicated that that wasn't true. A.B. claims he only licked one bead and did not enjoy the taste.

Findings

Based upon the testimony of the witnesses, documentary evidence, and written summations, I **FIND** as follows:

1. A.B. was a fourth-grade student, currently in fifth grade, who attends the Hainesport Township Public Schools.
2. On Tuesday, May 20, 2025, an incident arose wherein a student brought in an unknown substance to the classroom and shared it with friends, including A.B.

3. A.B. and the other students admitted to consuming some of the unknown substance. A.B. also admitted he threw some of the substance at other classmates.
4. Pursuant to State Police protocol, the school resource officer, Trooper Morano, initiated a shelter-in-place while he and the administrative staff attempted to identify the substance consumed by the students.
5. Paramedics were also called to the school in case the students suffered ill effects from the substance they swallowed.
6. The students involved had refused to identify what the substance was.
7. The incident caused substantial disruption in that lunch periods had to be pushed back, and class schedules had to be adjusted due to the shelter-in-place. Further, the Superintendent had to issue a letter to the community explaining why paramedics were at the school. (See Exh. R-2.)
8. Based upon the severity of the incident, Fischer and Procopio determined that the students involved, including A.B., would be punished with a level four infraction, which carried a maximum penalty of four-day suspension and psychological assessment.
9. A.B. issued discipline that was consistent with the Student Code of Conduct but short of the maximum penalty; he received a two-day suspension and was not allowed to attend the school class trip to the Franklin Institute in Philadelphia.
10. Between October 2024 and June 2025, A.B. has been disciplined on seven other occasions for actions such as profanity/obscene language, class disruption, destruction of school property, and cafeteria and playground misconduct. (See Exh. R-5.) As discussed in A.B.'s testimony, A.B.'s

disciplinary report clearly shows a pattern of progressive discipline as his behavioral issues continue to escalate throughout the 2024–2025 school year.

LEGAL DISCUSSION

In matters involving the exercise of a local board of education's discretion, the scope of the Commissioner's review is “not to substitute his judgment for that of those who made the evaluation but to determine whether they had a reasonable basis for their conclusions.” Kopera v. W. Orange Bd. of Educ., 60 N.J. Super. 288, 296 (App. Div. 1960). “Where there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion has been reached.” Bayshore Sewage Co. v. Dept. of Env't'l. Prot., 122 N.J. Super. 184, 199–200 (Ch. Div. 1973), aff'd., 131 N.J. Super. 37 (App. Div. 1974). Therefore, petitioners must demonstrate much more than simply a difference of opinion over the action taken by respondent. In order to satisfy the arbitrary and capricious standard, petitioner must prove that respondent acted in either bad faith or in disregard of the circumstances.

Moreover, mere disagreement with the penalty imposed by the Board for the incident involving a student does not equate to an abuse of discretion on the part of the Board:

In the law, “arbitrary” and “capricious” means having no rational basis....Arbitrary and capricious action of administrative bodies means willful and unreasoning action, without consideration and in disregard of circumstances. **Where there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion has been reached....**Moreover, the court should not substitute its judgment for that of an administrative or legislative body if there is substantial evidence to support the ruling. (citations omitted) (emphasis added) Bayshore Sew. Co. v. Dep't of Env., N.J. 122 N.J.

Super. 184, 199–200 (Ch. Div. 1973), aff'd, 131 N.J. Super. 37 (App. Div. 1974).

[Quoted in A.F. obo J.H. v. Bd. of Educ. of Monmouth Reg. Sch. Dist., Comm. Dec. 284-09 (2009) at 5.]

The arguments outlined in the petitioner's written summation in support of her position that the penalty issued herein was excessive and that the level IV designation given to the incident was inappropriate are unpersuasive. Fischer and Procopio explained that due to the severity of the incident and the disruption it caused to the entire school, the students involved would be suspended. A suspension required a level IV violation, and after reviewing the student handbook, the closest level IV violation was "Possession/Use of Explosive or Chemical Device." While they admitted this violation did not neatly fit the facts, because the laundry beads were made with chemicals, there was a rational nexus. Fischer and Procopio also pointed out that the student handbook explained that all conceivable disciplinary offenses could not be listed and that each offense would be handled on a case-by-case basis. I agree with the petitioner that the offense cited does not neatly fit the fact pattern presented here; however, Fischer and Procopio adequately explained their reasoning.

The petitioner also argues that the penalty imposed upon A.B. was more appropriate for an offense involving severe safety violations, which did not occur here. Further, she maintains that the decision to impose the two-day suspension lacked reasoned consideration, so that the penalty imposed did not match the conduct that occurred here. Lastly, the petitioner argues that A.B. lacked any malicious intent and that there was no real risk of harm to other students.

Admittedly, no harm occurred to any of the students; however, the petitioner fails to recognize that the potential for harm existed. The children consuming or attempting to consume laundry beads while in class was serious. The children consuming or attempting to consume laundry beads while in class was serious. The fact that none of the students suffered any health issues as a result does not diminish the seriousness of the event. The potential for poisoning was present and justified the penalty imposed. Further, the petitioner fails to recognize that her son admitted to "licking" and throwing the beads at other students

in class. Fischer and Procopio were properly concerned that other students might find the beads and also try to consume them.

Petitioner, who is understandably upset that her son received a stringent penalty, fails to recognize the severity of the incident caused by A.B. and the disruption caused to all of the other students and teachers in the school building on May 20, 2025. Petitioner also ignored her son's prior disciplinary history, which justifies the penalty imposed.

Accordingly, I **CONCLUDE** that the actions of the district in response to this misconduct were reasonable and considered the specific circumstances of the individual student. I further **CONCLUDE** that the petitioner has failed to establish by a preponderance of the evidence that the respondents' actions were arbitrary, capricious or unreasonable.

ORDER

Based on the foregoing, it is hereby **ORDERED** that the petitioner's appeal is **DENIED** and the disciplinary action by the respondent is **AFFIRMED**.

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 on 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.



January 30, 2026 _____

DATE

WILLIAM T. COOPER III, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

WTC/am

APPENDIX

Witnesses

For petitioner:

A.B.

For respondent:

Kimberly Hughes
NJSP Trooper Michael Morano
Anthony Procopio, Jr.
Alex Fischer

Exhibits

For petitioner:

P-1 Email, dated 5/20/25
P-2 Email, dated 5/22/25
P-3 Email, dated 5/22/25

For respondent:

R-1 Incident Report 5/20/25
R-2 Letters issued to the school community by the Superintendent
R-3 NJSP CAD report
R-4 NJSP Body Cam Footage (thumb drive)
R-5 A.B.'s 2024–2025 disciplinary history
R-6 2024–2025 Code of Conduct
R-7 2025–2026 Code of Conduct
R-8 Parent acknowledgement
R-9 NJSP operations report
R-10 Email of K. Hughes re: 5/20/25 incident