

175-26
OAL Dkt. No. EDU 01598-26
Agency Dkt. No. 447-12/25

New Jersey Commissioner of Education
Final Decision

A.G.F. and N.F., on behalf of minor child, O.G.F.,

Petitioners,

v.

Board of Education of the Borough of Mountain
Lakes, Morris County,

Respondent.

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

On September 10, 2025, the Board suspended petitioners’ child, O.G.F., for two days. A second suspension of one day was imposed on September 17, 2025, and served on September 22, 2025. On December 19, 2025, petitioners appealed both suspensions. The Administrative Law Judge (ALJ) granted the Board’s motion to dismiss, concluding that the petition was not timely because it was not filed within 90 days as required by *N.J.A.C. 6A:3-1.3(i)*.

¹ Petitioners’ sur-reply was not considered, as sur-replies are not permitted by *N.J.A.C. 1:1-18.4*. Petitioners were notified of same. Thereafter, they submitted a letter in which they indicate that they “understand that formal replies to opposition to exceptions are not permitted, and therefore submit this letter solely to clarify that they maintain the arguments set forth in their Exceptions and to briefly highlight key issues for the Commissioner’s consideration.” The content of this letter was not considered; regardless of the title or petitioner’s characterization of their submission, *N.J.A.C. 1:1-18.4* allows only for exceptions and a reply, with no further submissions, and petitioner’s letter was therefore improper.

In their exceptions, petitioners argue that the Initial Decision incorrectly treats an administrative notice from the school principal as the triggering event for the 90-day limitations period without identifying a final order, ruling, or other action of the Board. Petitioners also note that the investigation regarding the September 17 incident was ongoing when the principal emailed them. Petitioners contend that the Board failed to respond to their questions adequately, and that they did not receive evidence regarding the incidents that led to the suspension until later in the proceedings. Finally, petitioners argue that O.G.F. experienced a medical emergency that led to his hospitalization during the time when the allegations and consequences were developing, limiting his ability to respond meaningfully.²

In response, the Board argues that the ALJ correctly dismissed the appeal as untimely, and that petitioners have failed to offer a basis to disturb the ALJ's factual findings or legal conclusions.

Upon review, the Commissioner adopts the Initial Decision as the final decision in this matter for the reasons stated therein. The threshold procedural issue in this case is whether the petition should be dismissed as untimely pursuant to the 90-day rule, which requires petitions to be filed "no later than the 90th day" following notice of the order, ruling, or action being contested. *N.J.A.C. 6A:3-1.3(i)*; *Kaprow v. Bd. of Educ. of Berkeley Twp.*, 131 N.J. 572, 582 (1993). "Adequate notice must be sufficient to inform an individual of some fact that he or she has a right to know and that the communicating party has a duty to communicate." *Id.* at 587.

² Petitioners' exceptions include multiple documents that were not part of the record before the ALJ. Pursuant to *N.J.A.C. 1:1-18.4(c)*, evidence not presented at the hearing shall not be submitted as part of an exception. Accordingly, documents not part of the record before the ALJ were not considered by the Commissioner: Exhibit B, Exhibit C, Exhibit D, Exhibit F (email chain beginning with October 3, 2025 email), Exhibit H, and Exhibit I.

The 90-day limitation period “represents a fair and reasonably-necessary requirement for the proper and efficient resolution of disputes under the school laws.” *Id.* at 582. “While the Commissioner has the discretion to relax the [90-day] rule . . . this extraordinary relief has been reserved only for those situations where a substantial constitutional issue is presented or where a matter of significant public interest is involved, beyond that of concern only to the parties.” *Smith v. State-Operated Sch. Dist. of Paterson*, OAL Dkt. No. EDU 06076-14, Initial Decision at 6 (Nov. 6, 2014), *adopted*, Commissioner Decision No. 491-14 (Dec. 18, 2014).

The Commissioner concurs with the ALJ that the petition was untimely. The principal of O.G.F.’s school emailed petitioners to notify them of the suspensions on September 10 and September 17, but they did not file their appeal until December 29 – one hundred days and 93 days later, respectively. *N.J.A.C. 6A:16-7.2* requires that parents be notified of a suspension, but it does not require that the Board be the entity providing that notice, nor does it require a formal Board resolution or vote, or even a written notice, as the regulation allows for oral notification. The emails from the principal put petitioners on notice that their child was being suspended, and therefore the 90-day timeline began to run. Any other issues raised by petitioners regarding the content of the notice, the investigation and decision-making process, details about the incidents acquired later in the proceedings, or the involvement of law enforcement are substantive issues that can only be reviewed if the petition was timely in the first instance; they do not provide an excuse for a late filing or any basis for tolling the limitations period. Furthermore, petitioners’ emails to the principal and superintendent regarding the discipline do not toll the 90-day limitations period. *Giannetta v. Bd. of Educ. of Egg Harbor*, Commissioner Decision 147-05 (April 25, 2005).

The fact that the September 17 email indicates that additional consequences could be imposed once the investigation was completed does not change this conclusion. The email clearly indicates that O.G.F. would be suspended for one day; it is that decision that petitioners are challenging. Had additional consequence been imposed, the September 17 email would not have constituted sufficient notice to trigger the start of the limitations period to appeal those additional consequences. However, no additional consequences were imposed, and the principal's later email indicating same does not change the notice date or re-start the timeline for appealing the one-day suspension about which petitioners were notified on September 17.

Finally, the Commissioner finds that petitioners have not presented any exceptional circumstances that would justify a waiver of the 90-day filing limitation. *Kaprow, supra*, 131 N.J. at 590-91.

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.³


COMMISSIONER OF EDUCATION

Date of Decision: May 26, 2026
Date of Mailing: May 26, 2026

³ 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

MOTION TO DISMISS

OAL DKT. NO. EDU 01598-26

AGENCY DKT. NO. 447-12/25

**A.G.F. AND N.F. ON BEHALF OF
MINOR CHILD O.G.F.**

Petitioners,

v.

**BOARD OF EDUCATION OF MOUNTAIN
LAKES, MORRIS COUNTY,**
Respondent.

A.G.F. and N.F., petitioners, pro se

Vittorio S. LaPira, Esq., for respondent (Fogarty, Hara, LaPira & Cherry,
attorneys)

Record Closed: February 13, 2026

Decided: March 12, 2026

BEFORE **KIMBERLY K. HOLMES**, ALJ:

STATEMENT OF THE CASE

A.G.F.'s and N.F.'s ("petitioners") minor child was suspended two times by Mountain Lakes Board of Education ("respondent"). Respondent notified petitioners of

the first suspension on September 10, 2025 and of the second suspension on September 17, 2025. The District only issued two suspensions to petitioners minor child. Petitioners appealed both suspensions on December 19, 2025, which was well after the ninety-day requirement under N.J.A.C. 6A:3-1.3(i). Should the petitioners' appeal stand? No. Petitioners did not timely file their appeal within the applicable regulatory time. N.J.A.C. 6A:3-1.3(i)

PROCEDURAL HISTORY

1. On September 10, 2025, the respondent issued a two-day suspension to O.G.F., the minor child of petitioners based on a finding of a Code of Conduct violation and notified petitioners on the same day. In the notification to the petitioners, the respondent also told them that their minor child needed medical clearance in order to return to school on September 15, 2025.
2. On September 17, 2025, the respondent issued a one-day suspension to O.G.F. based on a finding of a Code of Conduct violation and notified petitioners on the same day.
3. On December 19, 2025, petitioners filed a petition of appeal with the Commissioner of Education, Office of Controversies and Disputes.
4. On January 23, 2026, respondent filed its answer and motion to dismiss on procedural grounds along with a certification of Erik Carlson, the principal.
5. On January 25, 2026, petitioners submitted a Reply to respondents motion to dismiss.
6. On January 28, 2026, the case was transmitted to the Office of Administrative Law as a contested case under N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

7. On February 13, 2026, respondent filed a Response to petitioners Reply to their motion to dismiss.
8. On February 13, 2026, petitioners submitted a Reply to respondent's supplemental Certification and further Opposition to the motion to dismiss.
9. On February 13, 2026, I closed the record.

FINDINGS OF FACT

Based upon the documents the parties submitted, and my assessment of their sufficiency, I **FIND** the following **FACTS**:

- a. The respondent, Mountain Lakes Board of Education, is the public school district for the Borough of Mountain Lakes, New Jersey.
- b. Erik Carlson is employed as the Principal of the Briarcliff Middle School under the District.
- c. The petitioners minor child, O.G.F., is a student at Briarcliff Middle School where Erik Carlson is the principal.
- d. On September 10, 2025, the respondent issued a two-day out-of-school suspension to O.G.F., for a substantiated Code of Conduct violation and notified petitioners the same day. (R-3.)
- e. The respondent's determination to issue the two-day out-of-school suspension to O.G.F. was based on a complete investigation of the incident that occurred on September 10, 2025. (R-3)
- f. The Mountain Lakes Police Department came to Briarcliff Middle School to discuss how O.G.F. would be released to petitioners based on the incident of September 10, 2025. The Mountain Lake Police Department did not

determine nor were they involved with the respondent's decision to issue O.G.F. the two-day out-of-school suspension.

- g. On September 17, 2025, the respondent interviewed O.G.F. prior to the student leaving early for medical reasons. (R-5, R-6.)
- h. On September 17, 2025, the respondent issued a one-day out-of-school suspension to O.G.F., for a substantiated Code of Conduct violation and notified petitioners the same day. (R-5.)
- i. The one-day out-of-school suspension was effective on September 22, 2025 but issued on September 17, 2025. (R-5.)
- j. The respondent's determination to issue the one-day out-of-school suspension to O.G.F. was based on a complete investigation of the incident that occurred on September 17, 2025.(R-5)
- k. The petitioners advised the respondent that O.G.F. was sick and would be medically excused from the Briarcliff Middle School on September 18, 2025 and September 19, 2025. The District listed those two days as excused absences.
- l. This year, the respondent issued two suspensions to petitioners minor child. (R-2.)
- m. On December 19, 2025, petitioners filed a petition of appeal which was one hundred days after the respondent notified them of the suspension on September 10, 2025 and ninety-three days after being notified by the respondent of the September 17, 2025 suspension.

CONCLUSIONS OF LAW

Under N.J.A.C. 6A:3-1.3(i), a petitioner must file a petition no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other action by the district board of education, individual party, or agency, that is the subject of the requested contested case hearing. Id. Moreover, the New Jersey Administrative Code require a petitioner to “set forth in as many itemized paragraphs as are necessary the specific allegation(s)” and facts to support them as the “basis of the controversy.” N.J.A.C. 6A:3-1.4.

Having read the briefs and certifications and having reviewed the exhibits, I **CONCLUDE** that the petitioners did not timely file this appeal within the 90-day time period and that the case is ripe for a decision on a motion to dismiss.

Here, the deficiency in the petitioners appeal as well as the late filing provides sufficient cause to grant respondent’s motion to dismiss. In this case, the relevant school year was not provided in the petitioners’ appeal. The dates were missing and the facts were incorrect. O.G.F., their minor child, was issued two not three suspensions. On September 10, 2025, the respondent issued a two-day suspension. Additionally, O.G.F. was issued a one-day suspension on September 17, 2025. Both determinations to suspend O.G.F., by the respondent were based upon complete investigations of both incidents that occurred on September 10, 2025 and September 17, 2025. In both instances, the respondent did notify the petitioners.

Petitioners filed the appeal out-of-time. On December 19, 2025, petitioners filed a petition of appeal which was one hundred days after the respondent notified them of the suspension on September 10, 2025 and ninety-three days after being notified by the respondent of the September 17, 2025 suspension. The late filing date did not comply with the ninety-day requirement under N.J.A.C. 6A:3-1.3(i).

Therefore, I **CONCLUDE** that there was a violation under the specific regulatory provisions referenced. Because the petitioners did not file timely their appeal after having

been notified not once but twice by the respondents, the motion to dismiss must be granted. Id.

ORDER

I **ORDER** that respondent's motion to dismiss is **GRANTED**.

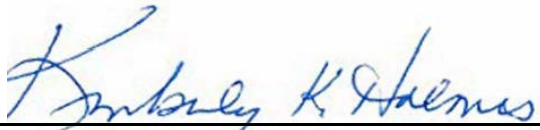
I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**. Exceptions may be filed by email to **ControversiesDisputesFilings@doe.nj.gov** or by mail to **Office of Controversies and Disputes, 100 Riverview Plaza, 4th Floor, PO Box 500, Trenton, New Jersey 08625-0500**. A copy of any exceptions must be sent to the judge and to the other parties.

March 12, 2026

DATE



KIMBERLY K. HOLMES, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

KKH/jb

APPENDIX

Moving Papers for Petitioner:

Cross Motion for Summary Decision dated 1/23/26

Petitioner's Reply dated 2/13/26

Principal's email dated 9/20/25

Hospital Records dated 9/17/25 and 9/18/25

Medical Clearance dated 9/22/25

Screenshot of body camera video dated 12/22/25

Transcript of body camera video of 9/10/25 made available 12/22/25

Moving Papers for Respondent:

Motion for Summary Decision with Brief with Exhibits A-C, dated 1/23/26

Respondent's Reply, dated 2/13/26

August 2025 Attendance Summary of O.G.F. dated 8/27/25

Certification of Principal Erik Carlson

Email from respondent to petitioners dated 9/10/2

Investigation Report of the respondent

Email from respondent to petitioners dated 9/17/25

Investigation Report of the respondent