

225-26  
OAL Dkt. No. EDU 02697-26  
Agency Dkt. No. 018-01-26

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

M.D. and W.J., on behalf of minor child, B.D.,  Petitioners,  v.  Mahwah Township Public Schools, Bergen County,  Respondent.
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The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by petitioners pursuant to *N.J.A.C. 1:1-18.4*, and the Mahwah Township Public Schools Board of Education's (Board) reply thereto, have been reviewed and considered.<sup>1</sup>

The threshold procedural issue in this case is whether the petition should be dismissed pursuant to the 90-day rule, *N.J.A.C. 6A:3-1.3(i)*. See also *Kaprow v. Bd. of Educ. of Berkeley Twp.*, 131 *N.J.* 572, 582 (1993). On January 20, 2026, petitioners filed an appeal alleging that their child, B.D., was wrongfully disciplined and subject to discrimination and other misconduct at school between November 2022 and October 2025.<sup>2</sup> The Board filed a motion to dismiss the petition pursuant to the 90-day rule and on mootness grounds, which petitioners opposed.

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<sup>1</sup> The Commissioner did not consider petitioners' sur-reply as such submissions are not permitted under *N.J.A.C. 1:1-18.4*.

<sup>2</sup> Due to their continuing dissatisfaction with the district, petitioners withdrew B.D. from Mahwah Township Public Schools on October 9, 2025.

After considering the papers and conducting oral argument, the Administrative Law Judge (ALJ) concluded that the petition was time-barred pursuant to the 90-day rule. Citing *N.J.A.C. 6A:3-1.3(i)* and *Kaprow*, the ALJ determined that petitioners documented various disagreements over disciplinary determinations made by the district between November 2022 and October 2025 but did not file their petition until January 20, 2026, which was beyond the 90-day window. For instance, the ALJ found that the most recent disciplinary action imposed upon B.D. was on May 26, 2025, which meant that the petition should have been filed by August 24, 2025. The ALJ further found that even if October 9, 2025—the date petitioners withdrew B.D. from the district—is used as a starting point, the petition was due by January 7, 2026, and is still untimely.

In their exceptions, petitioners do not challenge the ALJ's factual findings. Rather, they argue multiple reasons why the 90-day rule should not preclude their requests for relief, including: (1) they were subject to a continuing course of conduct by the Board between November 30, 2022, and October 16, 2025; (2) they delayed litigation in good faith while attempting to work cooperatively with the Board; (3) equitable considerations, specifically that the matter involves the well-being of a child whose parents are self-represented litigants, weigh in favor of adjudication on the merits; (4) proceedings initiated by the Department of Child Protection and Permanency (DCPP) during this timeframe limited their ability to proceed; and (5) they filed complaints in other venues against the Board between October 2025 and January 2026, which shows that the conflict was ongoing. Petitioners also supplied multiple exhibits that are not part of the record below and were not considered by the ALJ.

In response, the Board argues that the Commissioner should adopt the ALJ's Initial Decision and dismiss the petition. They contend that the ALJ properly applied the 90-day rule

and has already considered and rejected the equitable arguments made by petitioners. Furthermore, the Board asserts that petitioners have improperly attempted to expand the record via the submission of new exhibits with their exceptions. The Board also argues that the matter can be dismissed on mootness grounds since B.D. is no longer a student in the district and does not intend to return.

Upon review, the Commissioner adopts the Initial Decision as the final decision in this matter. The Commissioner concurs with the ALJ's factual findings and conclusion that the petition was untimely filed. *N.J.A.C. 6A:3-1.3(i)* mandates that petitions shall be filed "no later than the 90<sup>th</sup> day from the date of receipt of the notice of a final . . . action by the district board of education." The 90-day limitation period "represents a fair and reasonably-necessary requirement for the proper and efficient resolution of disputes under the school laws." *Kaprow*, 131 *N.J.* at 582. It "provides a measure of repose" and "gives school districts the security of knowing that administrative decisions regarding the operation of the school cannot be challenged after ninety days." *Ibid.*

As noted by the ALJ, the most recent disciplinary determination regarding B.D. occurred on May 26, 2025, and the petition was not filed until January 20, 2026—well beyond the 90-day timeframe. The fact that petitioners continued communicating with the district after May 26, 2025, and expressing their displeasure does not extend their time to appeal. *See Giannetta v. Bd. of Educ. of Egg Harbor*, Commissioner Decision 147-05 (April 25, 2005). Furthermore, contrary to the claims made in petitioners' exceptions, the filing deadline is not subject to change based upon a petitioner's legal strategy or a decision to pursue lawsuits in a different forum; that would defeat the measure of repose to which school districts are entitled. *See generally Nissman*

*v. Bd. of Educ. of Twp. of Long Beach Island, Ocean Cnty.*, 272 N.J. Super. 373, 382 (App. Div. 1994) (affirming State Board decision to dismiss petition as time barred and explaining that while petitioner may have opted not to file a petition earlier for tactical reasons, the Board “was entitled to know within 90 days of its action whether its [decision] was going to be challenged”). Additionally, petitioners acknowledge that the DCPD restrictions were substantially reduced by May 6, 2025, and there is no basis upon which to conclude that those proceedings prevented them from filing a petition.

“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 City of Paterson*, OAL Dkt. No. EDU 06076-14, Initial Decision at 6 (Nov. 6, 2014), *adopted*, Commissioner Decision No. 491-14 (Dec. 18, 2014). Here, petitioners’ claims are based upon the treatment of their child, B.D., and while those claims are undoubtedly of importance to them as parents, they do not concern broad constitutional issues or matters of significant public interest. Petitioners have not cited any legal authority which supports relaxation of the strict 90-day timeframe for self-represented litigants, or in matters involving children; both of those circumstances are regularly present in matters before the Commissioner, but they do not meet the high standard of a constitutional issue or significant public interest. Therefore, the Commissioner holds that relaxation of the 90-day rule is unwarranted in this case.

Finally, as for petitioners’ submission of exhibits in support of their exceptions that are not part of the record below, the Commissioner has not considered them. *See N.J.A.C. 1:1-18.4(c)*

("Evidence not presented at the hearing shall not be submitted as part of an exception, nor shall it be incorporated or referred to within exceptions.").

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.<sup>3</sup>



COMMISSIONER OF EDUCATION

Date of Decision: June 25, 2026  
Date of Mailing: June 25, 2026

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<sup>3</sup> 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**

**DISMISSAL**

OAL DKT. NO. EDU 02697-26

AGENCY DKT. NO. 018-01-26

**M.D. and W.J. ON BEHALF OF B.D.,**

Petitioners,

v.

**MAHWAH TOWNSHIP PUBLIC SCHOOLS,  
BERGEN COUNTY,**

Respondent.

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**M.D. and W.J.** on behalf of **B.D.**, appearing pro se

**Marc H. Zitomer**, Esq., for respondent (Schenck, Price, Smith, King, LLP,  
attorneys)

Record Closed: April 14, 2026

Decided: May 28, 2026

BEFORE **LUBNA QAZI-CHOWDHRY**, ALJ:

**STATEMENT OF THE CASE**

On May 26, 2025, respondent Mahwah Township Public Schools took disciplinary action against a student, B.D. On January 20, 2026, petitioners M.D. and W.J., B.D.'s

parents, filed a petition of appeal challenging this discipline, and all other prior discipline, taken against their son. Did petitioners file their appeal timely? No. A petitioner must file a petition no later than ninety days from the date of receipt of a final action. See N.J.A.C. 6A:3-1.3(i).

### **PROCEDURAL HISTORY**

On May 26, 2025, respondent, verbally and in writing, notified petitioners of an incident during which B.D. struck another student in the stomach.

On January 20, 2026, petitioners filed a petition of appeal with the Commissioner of the New Jersey Department of Education, Office of Controversies and Disputes, contesting the disciplinary action, as well as all prior disciplinary action taken against their son.

On February 13, 2026, respondent filed a motion to dismiss for failure to file the petition of appeal within the statute of limitations.

On February 18, 2026, the Bureau of Controversies and Disputes transmitted this case to the Office of Administrative Law (OAL) as a 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 February 23, 2026, petitioners filed their opposition to the motion to dismiss.

On March 10, 2026, I held a pre-hearing conference. During the conference, petitioners requested oral argument, which I scheduled for April 14, 2026, and respondent requested time to file a reply to petitioners' opposition. I allowed respondent to file its reply to petitioners' opposition by March 20, 2026.

On March 20, 2026, respondent filed its reply, and on April 14, 2026, I held oral argument and closed the motion record.

### **FINDINGS OF FACT**

Based on the documents submitted in support of and in opposition to the motion to dismiss, and assuming that all the factual allegations in the petition of appeal are true, I **FIND** the following as **FACT** for purposes of this motion only:

B.D. is a third-grade student who attended Mahwah Township Public Schools from the start of the 2025–26 school year on September 4, 2025, until his parents withdrew him from school on October 9, 2025.

From November 30, 2022, to May 26, 2025, B.D. engaged in the following behaviors for which he was disciplined:

- On November 30, 2022, B.D. was disciplined for taking toys from his classroom without permission.
- On November 28, 2023, B.D. was disciplined for a physical altercation with other students on a school bus.
- On May 10, 2024, B.D. was disciplined for engaging in sexually inappropriate behavior with another classmate.
- On October 7, 2024, B.D. was disciplined for physically attacking one student and mocking another.
- On October 16, 2024, B.D. was disciplined for negative physical behavior towards a student.
- On October 18, 2024, B.D. was disciplined for inappropriately hugging a teacher around her neck.
- On October 25, 2024, B.D. was disciplined for calling a student names and preventing the student from attending school.
- On May 26, 2025, B.D. was disciplined for striking another student in the stomach.

From November 30, 2022, through October 16, 2025, petitioners engaged in multiple e-mail, in-person, and telephonic communications with respondent regarding the disciplinary actions. Petitioners, however, did not appeal any of the disciplinary actions until this petition, which they filed on January 20, 2026. On October 9, 2025, petitioners withdrew B.D. from Mahwah Township Public Schools.

B.D. is currently attending private, virtual instruction at home, and does not intend to return to Mahwah Township Public Schools.

### **CONCLUSIONS OF LAW**

Under N.J.A.C. 6A:3-1.3(i), a party must file a petition of appeal with the Commissioner of Education no later than the ninetieth 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. This rule provides a measure of repose, an essential element in the proper and efficient administration of the school laws, giving school districts the “security of knowing” that an aggrieved party cannot challenge its actions after ninety days. Kaprow v. Bd. of Educ. of Berkeley Twp., 131 N.J. 572, 582 (1993). Courts strictly construe and consistently apply the ninety-day limitation period. Id. at 588–89; Nissman v. Bd. of Educ., 272 N.J. Super. 373, 380–81 (App. Div. 1994); Riely v. Bd. of Educ., 173 N.J. Super. 109, 112–14 (App. Div. 1980).

The ninety-day period begins when the petitioner “learn[s] from the Local Board the existence of that state of facts that would enable him to file a timely claim.” Kaprow, 131 N.J. at 588–89.

Notably, a petitioner does not need to receive official and formal notification that they may have a valid claim to initiate the ninety days. Id. at 588.

In this case, petitioners list every date with specific detail on which respondent took final action, yet petitioners never filed a petition of appeal until the current petition of appeal; the appeals for each of the incidents are well after the ninety-day period. Petitioners, in their twenty-four-page petition, including the certifications, as well as in their ten-page response to the motion to dismiss, repeat that disagreements regarding the discipline had been ongoing from November 2022 to October 2025, which are further documented in countless emails, telephone calls, and in-person meetings between the petitioners and respondent. As such, petitioners were aware of the final action for all the discipline that is the subject of this appeal within the ninety-day statute of limitations.

If we use May 26, 2025, the last of the discipline, as the latest final action, then petitioners had until August 24, 2025, to file their petition of appeal. Petitioners, however, did not file their petition until January 20, 2026. That is more than ninety days after final action. Even if we use October 9, 2025, the date petitioners withdrew their son from the school district, as the date of final action, then petitioners had until January 7, 2026, to file their petition of appeal. Again, petitioners did not file their petition of appeal until January 20, 2026. Therefore, I **CONCLUDE** that petitioners are outside the statute of limitations and that respondent's motion to dismiss this case for failure to file a petition of appeal within the statute of limitations should be granted.

### **ORDER**

Given my findings of fact and conclusions of law, I **ORDER** that respondent's motion to dismiss for failure to file a petition of appeal within the statute of limitations is **GRANTED** and that this case is **DISMISSED**.

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

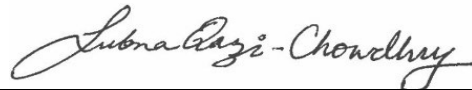
This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized

to make a final decision in this case. 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 becomes 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.

May 28, 2026

DATE



LUBNA QAZI-CHOWDHRY, ALJ

Date Received at Agency:

May 28, 2026

Date Mailed to Parties:

May 28, 2026

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