

New Jersey Commissioner of Education
Final Decision

T.C. and D.C., on behalf of minor child, H.C.,

Petitioners,

v.

Board of Education of the Borough of New
Milford, Bergen County,

Respondent.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed and considered.¹

Upon review, the Commissioner concurs with the Administrative Law Judge that the Board did not act in an arbitrary, capricious, or unreasonable manner when it determined that petitioners' child was not the victim of an act of harassment, intimidation, or bullying.

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.²



COMMISSIONER OF EDUCATION

Date of Decision: July 27, 2026
Date of Mailing: July 27, 2026

¹ Petitioners' exceptions were not submitted in the time required by *N.J.A.C. 1:1-18.4* and were therefore not considered.

² 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

SUMMARY DECISION

OAL DKT. NO. EDU 00278-26

AGENCY DKT. NO. 409-12/25

T.C. AND D.C. ON BEHALF OF MINOR CHILD H.C.,

Petitioners,

v.

BOARD OF EDUCATION OF THE

BOROUGH OF NEW MILFORD,

BERGEN COUNTY,

Respondent.

T.C. AND D.C., petitioners, pro se

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

Record Closed: May 1, 2026

Decided: May 6, 2026

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

STATEMENT OF THE CASE

T.C. and D.C. (“petitioners”) appealed the respondent BOE New Milford’s (“Board”) determination that their minor child was not a victim of HIB and the school policy.

Must the decision stand? **Answer.** Yes. When a Board acts within its discretion, its decision must stand unless “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); N.J.A.C. 1:1-12.5(b).

PROCEDURAL HISTORY

On March 26, 2025, petitioners sent an email containing text messages to the Superintendent concerning HIB allegations related to their minor child (H.C.) and another student. The Superintendent requested that the petitioners complete the HIB 338 Form to start an investigation in reference to their allegations. The petitioners refused. Under Board Policy 5512, when a verbal HIB allegation is made and the parents don’t sign the HIB 338 Form, the school district must designate a staff person to complete and submit the form in order for an investigation to commence.

On March 27, 2025, the Superintendent assigned an employee to complete the HIB 338 Form, and the investigation began.

On May 1, 2025, the Superintendent determined that the incidents the petitioners alleged were unfounded under the HIB standards and the school policy. The petitioners were advised of the outcome of the HIB investigation in writing.

On September 10, 2025, the petitioners appealed the Board’s determination that the HIB allegation was unfounded.

On September 17, 2025, the Board affirmed the decision by the Superintendent that the HIB allegation was unfounded.

On October 27, 2025, petitioners filed a petition of appeal with the Department of Education, Board of Controversies and Disputes, challenging the Board’s determination.

On December 22, 2025, the Board filed its Answer and Separate Defenses to the Pro Se Petition of Appeal.

On December 26, 2025, the Board of Controversies and Disputes transmitted the 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 January 16, 2026, I was assigned this matter and held an initial pre-hearing conference on February 19, 2026.

On March 20, 2026, I held a second prehearing conference and the Board advised that it would file a Motion for Summary Decision on or before April 10, 2026.

On April 10, 2026, the Board filed its Motion.

On May 1, 2026, the petitioners filed their Response in Opposition and I closed the record.

My decision on this Motion is due on or before May 15, 2026.

FINDINGS OF FACT

In considering the papers submitted in support of and in opposition to the motion for summary decision, and in viewing the evidence in the light most favorable to petitioner, I **FIND** the following as **FACT** for purposes of this motion only:

On March 26, 2025, petitioners sent an email containing text messages to the Superintendent concerning HIB allegations related to their minor child (H.C.) and another student.

The email communications from the petitioners to the Superintendent contained text messages that the petitioners alleged as proof that H.C. was being bullied in violation of HIB.

The Superintendent requested that the petitioners complete the HIB 338 Form to start an investigation in reference to their allegations.

The petitioners did not complete the HIB 338 Form.

Under Board Policy 5512, when a verbal HIB allegation is made and the parents don't sign the HIB 338 Form, the school district must designate a staff person to complete and submit the Form in order for an investigation to commence.

Board employee, ND was assigned by the Superintendent to fill out the HIB 338 Form and initiate the investigation.

ND listed the behaviors the petitioners referenced in the March 26, 2025, email as "verbal" and "electronic" on a "cell phone."

ND conducted the investigation and interviewed H.C., the alleged offender, six witnesses and three teachers.

After a thorough investigation, the HIB allegation was unfounded, did not have a substantial impact on H.C.'s rights and appeared to be part of a mutual conflict between H.C. and the alleged offender.

On May 1, 2025, the Superintendent determined that the incidents the petitioners alleged were unfounded under the HIB standards and the school policy. The petitioners were advised of the outcome of the HIB investigation in writing.

On September 10, 2025, the petitioners appealed the Superintendent's determination to the Board.

On September 17, 2025, the Board affirmed the decision by the Superintendent that the HIB allegation was unfounded.

CONCLUSIONS OF LAW

Standard of Review

A party may move for summary decision upon any or all substantive issues in a contested case. N.J.A.C. 1:1-12.5(a). The motion for summary decision shall be served with briefs and may be served with supporting affidavits. “The decision sought may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” N.J.A.C. 1:1-12.5(b; Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 530 (1995). Moreover, in determining if a genuine issue of material fact exist, the court must “consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party.” Brill at 523.

In this case, petitioners disagree with the Board’s decision that their HIB allegations were unfounded because of their unsupported allegation that the employee who conducted the investigation had a perceived conflict. Petitioners also allege, absent sufficient proof, that because the mediation between H.C. and the alleged offender failed and that the HIB investigation was procedurally inadequate that there is a genuine issue of material fact. Those assertions do not mean that the Board’s actions were devoid of a rational basis or that there was an improper motive. In short, petitioners have not demonstrated genuine issues of material fact. Therefore, I **CONCLUDE** that no genuine issue of material fact exists and that the Board is entitled to summary decision as a matter of law.

Legal Analysis

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, petitioners must prove by a preponderance of the evidence 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 (February 6, 2008), aff’d, Comm’r (April 25, 2013) (citing Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327, 332 (App. Div. 1965), aff’d, 46 N.J. 581 (1966)). In other words, the burden is a heavy one.

In this case, petitioners did not allege that the Board’s actions were arbitrary, capricious or unreasonable in this appeal. Nevertheless, after a thorough investigation, the Board determined that the HIB allegation was unfounded. Furthermore, petitioners never addressed the substance of the Board’s decision or assert that the elements of HIB were present. Here, the HIB investigation revealed that the alleged offender’s behavior while disrespectful and inappropriate, did not meet the standards of a substantiated act of HIB. Although the petitioners disagree with the results of the HIB investigation, “where there is room for two opinions, [an] action is not arbitrary or capricious when exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion resulted.” Bayshore Sewerage Co. v. Dep’t. of Env’tl. Prot., 122 N.J. Super, 184, 199 (Ch. Div. 1963).

Therefore, I **CONCLUDE** that the Board did not act arbitrarily, without rational basis, or induced by improper motives, and that its HIB determination and Code of Conduct determination must stand.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that respondent’s (Board) motion for summary decision 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 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.

May 6, 2026
DATE



KIMBERLY K. HOLMES, ALJ

Date Received at Agency:

May 6, 2026

Date Mailed to Parties:

May 6, 2026

as