

New Jersey Commissioner of Education

Final Decision

M.B. and B.B., on behalf of minor child, T.B.,

Petitioners,

v.

Board of Education of the Township of Cranford,
Union County,

Respondent.

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

Upon review, the Commissioner concurs with the Administrative Law Judge that the respondent did not act in an arbitrary, capricious, or unreasonable manner in determining that petitioners' child had committed 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.¹



COMMISSIONER OF EDUCATION

Date of Decision: August 12, 2026
Date of Mailing: August 12, 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

SUMMARY DECISION

OAL DKT. NO. EDU 15704-25

AGENCY DKT. NO. 278-8/25

M.B. AND B.B. ON BEHALF OF MINOR CHILD T.B.,

Petitioners,

v.

**BOARD OF EDUCATION OF THE TOWNSHIP
OF CRANFORD, UNION COUNTY,**

Respondent.

M.B. and B.B., petitioners, for minor child T.B., appearing pro se

Christina Michelson, Esq., for respondent (Methfessel & Werbel, attorneys)

Record Closed: May 15, 2026

Decided: June 15, 2026

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

STATEMENT OF THE CASE

The petitioners challenge the Cranford Board of Education's determination that T.B. engaged in Harassment, Intimidation, and Bullying (HIB) against an autistic student when he mockingly chewed on a pencil and repeatedly questioned and involved the victim in activities, while reasonably knowing that it upset him. Was the HIB conclusion

supported, even though T.B.'s conduct was less severe than that of others? Yes. A single incident can be an HIB violation, and a Board of Education's decision will stand unless it is arbitrary, capricious, or unreasonable.

PROCEDURAL HISTORY

On August 18, 2025, M.B. and B.B. filed a Petition of Appeal with the Commissioner of Education on behalf of their minor son, T.B., challenging the Cranford Board of Education's HIB determination against him. See Exhibit J-1, Petition of Appeal dated August 18, 2025. The petitioners assert that the Board's decision does not meet the criteria for an HIB incident and is therefore arbitrary, capricious, and unreasonable. They request that the Board's decision be overturned and the HIB finding removed from T.B.'s record. Alternatively, they seek T.B.'s conduct to be changed to a violation of the Student Code of Conduct.

On September 8, 2025, the Board answered the petition, denying the petitioners' allegations and maintaining that it followed all required procedures and that its decision met the HIB criteria. The Board requests that this tribunal dismiss the petition. See Exhibit J-2, Board's Answer dated September 8, 2025.

The Department of Education (DOE) 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 -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On September 9, 2025, the OAL received and filed the transmittal.

The parties engaged in discovery and agreed that no disputed material facts exist. On April 15, 2026, the Board filed a motion for a summary decision with a joint stipulation of facts and exhibits prepared by the parties. On April 16, 2026, the Board also submitted the certification of the Anti-Bullying Specialist (ABS), Alyssa Willner.

On April 30, 2026, the petitioners filed their response to the motion.

On May 15, 2026, the Board submitted its reply and counsel's certification, and I closed the record.

FINDINGS OF FACT

The parties presented a joint stipulation of facts and exhibits. Some stipulations address the procedural history of this case, and I included them under that section of this decision. Based upon the parties' submission, I **FIND** the following as **FACT**:

1. On March 13, 2025, an HIB report was made by Principal Lourdes Murphy, and the investigation was initiated by ABS Alyssa Willner. See Exhibit J-3, HIBster Report dated March 13, 2025.
2. On March 13, 2025, the victim, a black sixth-grade special-needs student, complained that a group of students made him uncomfortable before school and during recess. Ibid.
3. The victim and the three alleged offenders were waiting for the doors to open before school. Id. at 4. The alleged offenders approached the victim and began playing tag with him. Ibid. The victim did not want to play with them, but they kept trying to tag him. Ibid. Offender Two touched the victim's shoulder to tag him, and the victim was "bothered" by all three of them. Ibid.
4. The victim went and hid behind the basketball hoop to avoid the offenders and wait for the door to open for school. Ibid. He also complained that all three alleged offenders bother him in the hallway, and he is constantly asking them to stop. Ibid.
5. The victim was interviewed on March 17, 2025. Id. at 7–8. He stated that he was not allowed to play tag with the three offenders, and they were trying to tag him. Ibid. They would ask him in recess and in the hallway, "Can I play with you?" and he would respond, "No thank you." Ibid. One of the boys touched his shoulder, and it bothered him. Ibid. He complained to his teacher about it, and he explained that he was

“[u]nhappy because they kept playing and tagging me but then I wanted to stop playing with them. I will never be able to do this.” Id. at 8.

6. On March 17, 2025, Offender Two (sixth-grade white male) was interviewed by the ABS. Id. at 12–14. On the day of the incident, Offender Two was trying to play tag with the victim, and the victim told him to stop, so he stopped. Id. at 12–13. The victim then walked away and went inside the building. Ibid. He also stated that Offender One has mocked the victim in Spanish class. Id. at 14. Offender Two denied joining in and stated that Offender One was a bully in general. Ibid. Offender Two had tried to get Offender One to stop. Ibid.
7. On March 17, 2025, T.B. (sixth-grade male) was interviewed and reported that Offender One was teasing the victim on the way to lunch in the hallway. Id. at 15–17. Offender One asked the victim, “how’s it going?” in a mocking manner because the victim always says, “yeah, it’s going good, right?” and Offender One replied, “yes.” Id. at 15. T.B. stated that Offender One asked the victim this question to mock him because the victim always replies the same. Ibid. T.B. stated that he knew Offender One’s conduct was wrong. Id. at 16. T.B. also said that the victim gets mad at recess when people try to play tag with him. Ibid. He did not report this incident to a teacher. Id. at 17.
8. On March 18, 2025, Offender One (sixth-grade white male) was interviewed and stated that he saw T.B. go up to the victim and say “hi” in the same voice. Id. at 9–11. Offender One said he was not sure if it bothered the victim because he knew that the victim has special needs. Ibid.
9. Offender One also stated in his interview that on the day of the incident, he tried to get the victim to play tag with the boys, Offender Two tapped him on the shoulders, and the victim said he did not want to play. Ibid. Then the victim walked away from them. Offender One also said there was a separate incident in Spanish where the victim was upset with Offender One for chewing on his own sweatshirt while they were talking. Id. at 11. He said he stopped once he realized it bothered the victim. Ibid. Offender

One denied any ill intent in his interactions with the victim because the victim has special needs. Ibid.

10. On March 17, 2025, Student Witness One was interviewed and stated that he saw Offender One, Offender Two, and Student Witness Two trying to talk to the victim, and one boy touched the victim's shoulder. Id. at 22–23. The victim asked them to stop and they didn't, and then the victim ran away from them. Ibid. They also made fun of the way he talks. The victim has autism and speaks differently. Ibid.

11. On March 18, 2025, Student Witness Two was interviewed and stated that the victim is special, and people tend to make fun of him. Id. at 24–25. Student Witness Two admitted to touching his shoulder to play tag with him but did not mean to harass him. Ibid. He said that Offender One had bullied the victim. Ibid. He said that the victim has autism and his mom posted on Facebook that three boys bullied him in school. Id. at 24.

12. On March 18, 2025, Student Witness Three was interviewed and reported that the victim has autism, and he saw a few of his friends asking the victim stupid questions. Id. at 26–27. He also saw Offender One, Offender Two, and T.B. ask the victim, “Are you my best friend?” in school. Id. at 26. He knew the victim was annoyed because he kept asking them to stop. Id. at 27.

13. On March 18, 2025, Student Witness Four was interviewed and stated that the victim was being teased by Offender Two, Offender One, and Student Witness Three. Id. at 28. She said that at one point, the victim hid behind a tree because he was scared. Ibid. She also said that after Spanish class, the victim told them to stop multiple times in a day, and he told Offender One to go away, and Offender One pretended to cry. Ibid.

14. On March 24, 2025, Student Witness Five was interviewed and stated that Offender One was mean to the victim and the other boys follow. Id. at 18–19. She stated that the victim does not understand that they are mean and is “confused.” Id. at 18. If the

boys are playing tag, the victim will hide behind a tree to avoid them. Ibid. She also said that Offender One mimics the way victim speaks and is not nice to him. Student Witness Five stated that Offender Two and T.B. are part of Offender One's crew. Id. at 19.

15. On March 24, 2025, Student Witness Six was interviewed and stated that Offender One, Student Witness Three, and T.B. go up to the victim sometimes and ask him questions that make the victim uncomfortable. Id. at 20–21. She also said the boys bother him outside, and the victim asks them to stop and runs away from them. Ibid.

16. On March 24, 2025, Teacher Witness One stated that the victim had an issue when others chew on their sweatshirt, and the students purposefully chew their sweatshirts to upset the victim. Id. at 29. She stated that T.B. chewed on his pencil and believed it was intended to upset the victim. Ibid. The boys are constantly saying hello to the victim and giving him high fives knowing that he cannot help but reply to them. Ibid. Student Witness Two and Offender One have mocked the victim's speech and voice. Ibid. She also stated that students "look to [Offender One]" in Spanish class, identifying Offender One as the leader whom "other boys start following." Ibid.

17. On March 19, 2025, Teacher Witness Two stated that Offender Two, T.B., and Offender One are aware that Teacher Witness One is "around and they usually stop." Id. at 30. The issues typically happen while the students are transitioning to another class. Ibid. She is unaware of the other allegations of mocking and stated that she did "not observe anything blatantly disrespectful" regarding all the students' conduct in class. Ibid.

18. Upon completion of the HIB investigation, an HIB violation was found against Offender One, Offender Two, and T.B. Id. at 2–3. The ABS determined that their actions "substantially disrupted or interfered with orderly operation of school or rights of other students," and the offenders knew that their actions would physically or emotionally cause harm. Ibid. She also concluded that the victim was in fear of physical or emotional harm and that the offenders insulted or demeaned him and created a hostile

educational environment. Ibid. T.B. was directed to attend counseling check-ins and serve a lunch detention with the guidance counselor. Ibid. The investigator also determined that a fourth alleged offender was mentioned; however, there was not enough corroborating evidence by other witnesses. Id. at 5.

19. On March 30, 2025, the Superintendent, Dr. Rubin, reviewed the HIB findings. Id. at 4–6. He subsequently submitted them to the Board on April 28, 2025.

20. On April 28, 2025, the Board received information regarding the investigation of a HIB incident involving T.B. and was advised that the Superintendent recommended sustaining the HIB findings based on the investigation. See Exhibit J-4, correspondence from Dr. Rubin to petitioners dated April 30, 2025.

21. On April 30, 2025, the Superintendent sent correspondence to the petitioner regarding the HIB finding and his appeal rights. Ibid.

22. On May 8, 2025, the petitioners submitted a written request for information regarding the HIB investigation and requested that a hearing be scheduled with the Board. See Exhibit J-5, email exchange between M.B. and Dr. Rubin dated May 8–12, 2025.

23. During the Board meeting of May 12, 2025, the Board voted to affirm the Superintendent's recommendation and substantiated HIB in this matter.

24. On May 12, 2025, the petitioners requested via email to appeal their Board determination. See Exhibit J-5.

25. On or about May 15, 2025, M.B. forwarded a packet for the Board to review in support of his appeal, which was reviewed by the Board. See Exhibit J-6, email from M.B. to Dr. Rubin dated May 15, 2025.

26. On May 19, 2025, the petitioner appeared before the Board and various administrators in a closed session to appeal the HIB finding.

27. On May 22, 2025, the Board served the petitioner with a correspondence advising the petitioner that his appeal was denied. See Exhibit J-7, correspondence from Robert Carfagno to the petitioners dated May 21 and 22, 2025.

28. District Policy 5512 sets forth the HIB Policy for the school district. See Exhibit J-8, Policy #5512.

29. District Policy 5600 sets forth the District's Student Discipline/Code of Conduct for the school district. See Exhibit J-9, Policy #5600.

30. The Orange Avenue School provided its students and families with a Handbook each school year. See Exhibit J-10, Student Handbook.

31. In response to petitioners' discovery request for T.B.'s remediation records, the Board responded: "There are none." See Board's Discovery Response dated December 23, 2025.

Subsequently, the Board supplied documentation supporting that T.B. completed the required check-ins and remediation lessons.

DISCUSSION AND CONCLUSIONS OF LAW

Summary Decision Standard

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. N.J.A.C. 1:1-12.5(b). "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).

An issue is “genuine” if, considering the burden of persuasion at trial, the evidence submitted on the motion and all legitimate inferences could sustain a decision in favor of the non-moving party. Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 530 (1995). A fact is “material” if it will “affect the outcome of the suit under the governing law.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). Significantly, “bare conclusions in the pleadings, without factual support in tendered affidavits, will not defeat a meritor[i]ous application for summary judgment.” U.S. Pipe & Foundry Co. v. Am. Arb. Ass’n, 67 N.J. Super. 384, 399–400 (App. Div. 1961) (citations omitted); see R. 4:46-5(a) (non-movants “may not rest upon the mere allegations or denials” to create a genuine issue of material fact.).

When a party moves for summary decision, supported by affidavit, the burden shifts to the adverse party to identify specific facts showing there is a genuine issue resolvable only by an evidentiary proceeding. N.J.A.C. 1:1-12.5(b). Given this burden shift, a party opposing the motion “who offers no substantial or material facts in opposition to the motion cannot complain if the court takes as true the uncontradicted facts in the movant’s papers.” Burlington Cnty. Welfare Bd. v. Stanley, 214 N.J. Super. 615, 622 (App. Div. 1987). An opponent’s failure to make such a showing entitles the moving party to summary judgment. Brill, 142 N.J. at 529. The Brill Court advised that such a liberalized standard allows for summary judgment in more cases in “a time of great increase in litigation and one in which many meritless cases are filed.” Id. at 539 (citation omitted.)

Here, the petitioners stipulated the material facts at issue but now suggest that certain facts cannot be resolved through this motion. To be sure, petitioners point to the stipulated facts, largely the witnesses’ and victim’s statements, to minimize T.B.’s conduct. Undeniably, the HIB report does not attribute all improper conduct to T.B., and not all eight witnesses address conduct by T.B. Further, multiple witnesses identify Offender One as the ringleader of the group of boys that were unkind to the victim. Thus, petitioners argue that Offender One’s reported accusation may be biased, and the credibility of that accusation is an issue that cannot be resolved through this motion. However, that argument goes to the weight of evidence supporting the Board’s HIB

determination regarding T.B., which this decision can address. To be sure, Offender One's accusation is not the only conduct attributed to T.B. In other words, I can afford a legitimate inference to the petitioners' assertion that Offender One's accusation was biased for purposes of this motion.

The petitioners generally claim that T.B.'s limited conduct, as compared to others, lacked the statutory motive and the severity required for an HIB designation. Yet, under the Anti-Bullying Bill of Rights Act (ABRA), a single act can be an HIB violation, and they acknowledge some actions by T.B. N.J.S.A. 18A:37-14(a). Indeed, the question is whether T.B.'s conduct constitutes an HIB violation and whether the Board's conclusion that he committed an HIB violation was arbitrary, capricious, or unreasonable. Significantly, the petitioners acknowledged that T.B. played tag with the victim, said hello to the victim, asked the victim questions, and chewed on a pencil in front of the victim. See petitioners' opposition at 3.

Petitioners also argue that whether T.B.'s conduct was intentional requires a hearing to resolve. However, whether T.B.'s conduct was intentional does not require a hearing because unintentional actions may be an HIB violation. Wehbeh v. Bd. of Educ. of Verona, Comm'r Decision No. 51-20, 2020 N.J. AGEN LEXIS 50 (Feb. 4, 2020). In other words, petitioners present legal arguments to challenge the Board's conclusion that T.B.'s individual acknowledged conduct was sufficient to support HIB determination. Thus, I **CONCLUDE** that no genuine issue of any material fact exists that requires a hearing in this case, and summary decision is appropriate.

HIB

The Legislature designed the ABRA, N.J.S.A. 18A:37-13 to -37, "to strengthen the standards and procedures for preventing, reporting, investigating, and responding to incidents of harassment, intimidation, and bullying of students that occur in school and off school premises." N.J.S.A. 18A:37-13.1(f). Each school district must adopt a policy that prohibits HIB and provides "a procedure for prompt investigation of reports of violations and complaints." N.J.S.A. 18A:37-15(b)(6). Every student is bound by the District's HIB

policy, and the District is required to investigate HIB complaints and enforce its HIB policies, as it did here. Ibid.

Student confidentiality laws preclude the District and Board from sharing another student's confidential information, including their name, when conducting investigations under the ABRA. See, e.g., New Jersey Pupil Records Act, N.J.S.A. 18A:36-19 (operating in conjunction with the Family and Educational Rights and Privacy Act, 20 U.S.C. § 1232g, to safeguard pupil records.). Accordingly, the report addresses offenders and witnesses, by number, who were involved in the conduct for which the victim complained or observed such actions. Although petitioners question why another offender's conduct did not meet the statutory HIB criteria, the Board cannot share such a determination.

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). In other words, the burden is a heavy one.

Indeed, the Commissioner recognizes that Boards should have "the discretion to operate their schools in a manner that best serves their unique communities," and the Commissioner will not interfere with that discretion concerning HIB matters unless the Board acted arbitrarily, capriciously, or unreasonably. G.H. & E.H. ex rel. K.H. v. Franklin Lakes Bd. of Educ., 2014 N.J. AGEN LEXIS 19, *20 n.4 (Feb. 24, 2014), adopted, Comm'r (Apr. 10, 2014). Further, "[w]here there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration[.]" and the Commissioner will not substitute his judgment for that of the Board. Bayshore Sewerage Co. v. Dep't of Env't Prot., 122 N.J. Super. 184, 199 (Ch. Div. 1973), aff'd, 131 N.J. Super. 37 (App. Div. 1974).

Still, the Board's factual determinations require such deference only when supported by substantial credible evidence, i.e., having a rational basis. Quinlan v. Bd. of Educ. of North Bergen Twp., 73 N.J. Super. 40 (App. Div. 1962); Schinck v. Bd. of Educ. of Westwood Consol. Sch. Dist., 60 N.J. Super. 448 (App. Div. 1960). Additionally,

the reviewing tribunal may reject the findings of fact if the evidentiary record does not support them. In re Suspension of License of Silberman, 169 N.J. Super. 243, 255–56 (App. Div. 1979), aff'd, 84 N.J. 303 (1980).

Under the ABRA, “harassment, intimidation or bullying” (HIB) is defined as:

[A]ny gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function, on a school bus, or off school grounds as provided for in section 16 of P.L.2010, c.122 (C.18A:37-15.3), that substantially disrupts or interferes with the orderly operation of the school or the rights of other students and that:

- a. a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or damaging the student's property, or placing a student in reasonable fear of physical or emotional harm to his person or damage to his property;
- b. has the effect of insulting or demeaning any student or group of students; or
- c. creates a hostile educational environment for the student by interfering with a student's education or by severely or pervasively causing physical or emotional harm to the student.

[N.J.S.A. 18A:37-14.]

Thus, a HIB finding requires demonstrating three elements, assuming the alleged incident or incidents occurs on school property, at a school-sponsored function, on a school bus, or off school grounds as provided for in N.J.S.A. 18A:37-15.3. Undeniably, the incidents took place on school grounds and are subject to HIB statutory directives.

The first HIB element requires that the conduct be reasonably perceived as motivated by any actual or perceived enumerated characteristic or other distinguishing characteristic. Secondly, the conduct must also substantially disrupt or interfere with the rights of other students or the orderly operation of the school. The third condition is that one of the three criteria enumerated in the ABRA regarding the effect of the conduct must also be satisfied. Wehbeh v. Bd. of Educ. of Verona, Comm'r Decision No. 51-20, 2020 N.J. AGEN LEXIS 50 (Feb. 4, 2020).

Here, the stipulated facts, including various statements obtained during the investigation, identify Offender One as the ringleader of a group of boys that interacted with the victim, a student known to have a disability, during recess and in transitioning to other areas of the school. Undeniably, these statements support that Offender One had more interaction with the victim that upset him. Still, T.B. was part of the group with Offender One. During his interview, T.B. acknowledged that Offender One teased the victim on the way to lunch in the hallway by asking the victim, "How's it going?" in a mocking manner because the victim always says, "Yeah, it's going good, right?" J-3 at 15. T.B. acknowledged that Offender One asked the victim this question to mock him because the victim always replies the same, and that he knew Offender One's conduct was wrong. Id. at 16. T.B. also said that the victim gets mad at recess when people try to play tag with him. Ibid. However, the victim, student witnesses three, five, and six, and teacher witness one, all identify T.B. as acting in a mocking way that T.B. acknowledges was wrong on the part of Offender One and in a way that upset the victim. In other words, I need not consider Offender One's accusation to find support that T.B. also mocked the victim or tried to get the victim to play tag when he knew such actions upset the victim. To be sure, T.B. need not admit to committing an HIB violation to determine that an HIB violation occurred.

For the first HIB element, the statute requires an analysis of the victim's perception of the actor's motivation and whether that perception is reasonable. Yet, an analysis of the actual motivation of the actor is not required. Wehbeh, at *8. Here, I **CONCLUDE** it was not arbitrary, capricious, or unreasonable for the Board to conclude that the victim, who has a known disability, could reasonably perceive that T.B.'s actions, which included pencil chewing, asking the victim whether T.B. was his best friend, and attempting to play

tag with the victim, were motivated by his disability. Indeed, a reasonable person would perceive that T.B.'s conduct, limited as it may be compared to the other students involved, was motivated by the victim's disability.

The second element requires that the incident created a "substantial interruption in the ordinary operation of the school or in the disruption of the victim's education or the rights of other students." Wehbeh, at *8.

In D.D.K. ex rel. D.K v. Board of Education of the Township of Readington, Hunterdon County, 2016 N.J. AGEN LEXIS 835 (October 6, 2016), adopted, 2016 N.J. AGEN LEXIS 1348 (November 11, 2016), the Commissioner discussed those situations where the Board's HIB determination satisfied the second prong, explaining that:

[C]onduct has been determined to substantially disrupt the orderly operation of the school when students are so upset or embarrassed that they are "not fully available for learning." G.H. and E.H. on behalf of K.H. v. Board of Education of the Borough of Franklin Lakes, Bergen County, OAL Dkt. No. EDU 13204-13, decided February 24, 2014, adopted Commissioner Decision No. 157-14, April 10, 2014. Additionally, when other students are "so affected" by behavior that they report it, the orderly operation of the school may be substantially disrupted. T.R. and T.R. on behalf of E.R. v. Bridgewater-Raritan Regional Board of Education, OAL Dkt. No. EDU 10208-13, decided September 25, 2014, adopted Commissioner Decision No. 450-14, November 10, 2014.

[D.D.K., 2016 N.J. AGEN LEXIS 1348, at *6.]

The events reported by the victim spanned over a two-week period and involved multiple students. On March 13, 2025, the victim and the three alleged offenders, including T.B., were waiting for the doors to open before school. The alleged offenders approached the victim and began playing tag with him, even though he told them to stop. The victim hid behind a basketball hoop to get away from them. The principal reported this event, which led to the HIB investigation that revealed more inappropriate conduct. Multiple witnesses and the victim reported that T.B. and the other offenders often asked the victim questions that distressed him, and the victim asked them to stop, but the

behavior continued. T.B. also mockingly chewed a pencil in front of the victim. Indeed, several events involving T.B. upset the victim, and multiple individuals witnessed these incidents. Thus, the victim was not fully available for his education on more than one occasion. Thus, I **CONCLUDE** that these events, even though T.B. did not participate in **all** inappropriate conduct, caused a substantial disruption in the school's operation. T.B. did not commit one inappropriate act, but several. Therefore, I also **CONCLUDE** that the Board satisfies the second requirement necessary to conclude that T.B. committed an HIB violation.

The third element under N.J.S.A. 18A:37-14 requires a conclusion that the HIB act is one that "a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student," "has the effect of insulting or demeaning any student," or "creates a hostile educational environment." In Wehbeh, the Commissioner highlighted that "[n]one of these criteria require the actor to have actual knowledge of the effect that their actions will have, or to specifically intend to bring about that effect." Id. at *8. Further, any one of the three criteria satisfies the third element. Here, the Board found that T.B.'s actions made the victim fearful and avoidant. T.B. acknowledged that behavior like his own caused the victim to be upset. Indeed, a reasonable person would know their conduct in these circumstances was causing the victim distress. Hence, I **CONCLUDE** the Board was not arbitrary, capricious, or unreasonable in reaching that conclusion, meeting the third prong of the analysis.

Here, the petitioners presented no credible evidence that the Board acted arbitrarily or that its decision did not have a rational basis. M.B. and B.B. assert that a comparison of conduct is necessary to sustain an HIB finding, given Offender One's more egregious conduct. However, a single event that meets the elements of an HIB violation remains an HIB violation. More than one witness observed inappropriate conduct by T.B. as the victim reported. Thus, I **CONCLUDE** that the Board's decision that T.B. committed an HIB violation was appropriate, had a rational basis, and had sufficient evidentiary support.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the petitioners' appeal be and is hereby **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.

June 15, 2026



DATE

NANCI G. STOKES, ALJ

Date Received at Agency:

June 15, 2026

Date Mailed to Parties:

June 15, 2026

ljb

APPENDIX

Submissions Considered

Joint

Joint stipulation of facts

Joint Exhibits

- J-1 Petitioners appeal dated August 8, 2025, HIB Packet, Meeting Minutes, Statements, etc
- J-2 Respondent's Answer to pro se petition of appeal with affirmative defenses
- J-3 Hibster Report 2024-2025-24, Incident and Transcript of Statements
- J-4 Letter to parents of T.B. dated April 30, 2025
- J-5 Email chain re: FERPA Records & hearing Request between M.B. and Dr. Scott Rubin, dated May 12, 2025
- J-6 Email chain re: FERPA Records & hearing Request between Dr. Scott Rubin and M.B., dated May 16, 2025
- J-7 Letter to parents of T.B. dated May 12, 2025 re: April 28, 2025 Board Meeting and letter dated May 22, 2025, re: District Report 2024-2025-24
- J-8 District Policy on Harassment, Intimidation and Bullying, created June 2023, edited March 2025
- J-9 District Policy of Student discipline/Code of Conduct
- J-10 Orange Avenue Student/Family handbook 2023-2024

For Petitioner

Petition

Opposition brief dated April 30, 2026

For Respondent

Board's Discovery Response dated December 23, 2025.

Motion, brief, and supporting certification with exhibits

Reply brief dated May 15, 2026