

369-26R
OAL Dkt. No. EDU 10869-25 (EDU 05928-23 on remand)
Agency Dkt. No. 125-5/23

New Jersey Commissioner of Education

Decision

Cathleen Cahn,

Petitioner,

v.

Board of Education of the Ramapo Indian Hills
Regional High School District, Bergen County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL) following the Commissioner's 2025 remand, the exceptions filed by petitioner pursuant to *N.J.A.C. 1:1-18.4*, and the Ramapo Indian Hills Regional High School District Board of Education's (Board) reply thereto, have been reviewed and considered.

Petitioner challenges the Board's denial of her application for a substitute teacher position, alleging that she was denied employment due to her social media posts concerning the Board's operations. In an Initial Decision dated March 12, 2025, the Administrative Law Judge (ALJ) concluded that petitioner was not employed by the Board and was therefore not entitled to the protections related to the non-renewal of school district employment; the Board took no action to prevent petitioner's free expression; and petitioner had not shown that the Board's action was the result of a discriminatory action based upon a protected class. The ALJ also found that petitioner had not put forward facts that would allow a reasonable inference that

petitioner's online activity formed the basis for the Board's decision, and that there was nothing to objectively establish that but for petitioner's social media posts, the Board would have appointed her to the position of substitute teacher. Accordingly, the ALJ granted the Board's motion for summary decision and dismissed the petition.

On June 12, 2025, the Commissioner issued a written decision concurring with the ALJ that petitioner had not demonstrated that the Board's decision was in violation of her constitutional rights. However, the Commissioner remanded the matter for further factfinding, explaining that the petition of appeal "alleges that the Board's decision not to appoint petitioner to the position of substitute teacher was arbitrary, capricious, and unreasonable, in violation of *N.J.S.A. 18A:27-4.1*." That statute requires the Commissioner to examine whether the Board exceeded its power to withhold approval of petitioner's appointment. *See also Truncellito v. Bd. of Educ. of the Twp. of Lyndhurst, Bergen Co.*, 2022 N.J. Super. Unpub. LEXIS 92, at *8 (App. Div. Jan. 24, 2022) (holding that under *N.J.S.A. 18A:27-4.1*, the Commissioner must review whether the Board's conduct was arbitrary and capricious). The Commissioner explained that "the absence of any explanation whatsoever by the Board for its action here creates a genuine issue of material fact as to what the Board's reason was, sufficient to preclude summary decision at this stage." Accordingly, the matter was remanded to the OAL for further proceedings.

Following the remand, the Board moved for summary decision again. It provided additional discovery to petitioner, including certifications from Board members expressing numerous reasons why they did not vote in favor of her appointment, including negative public opinion, emails written by petitioner, and personal interactions with petitioner. Petitioner opposed summary decision on the grounds that the Board's proffered reasons not to appoint her

necessarily touch upon issues regarding the Board members' intent and credibility, which are not appropriate for summary decision. The ALJ made findings of fact based upon the expanded record before him and granted the Board's motion for summary decision over petitioner's objection.

Upon review, the Commissioner disagrees with the ALJ that summary decision was appropriate in this matter, because the additional discovery and certifications contained in the record demonstrate that the reasons for petitioner's non-appointment are contested. As noted above, *N.J.S.A. 18A:27-4.1* requires the Commissioner to examine whether the Board exceeded its power to withhold approval of petitioner's appointment. The Commissioner remains unable to make that determination because the material facts are contested. Further factfinding is needed to determine the reason or reasons for petitioner's non-appointment, which warrants consideration of the Board members' credibility to determine whether the Board acted arbitrarily, capriciously, or unreasonably, in violation of *N.J.S.A. 18A:27-4.1*. Petitioner bears the burden of establishing that the Board violated *N.J.S.A. 18A:27-4.1*.

Accordingly, the Initial Decision is rejected, the Board's motion for summary decision is denied, and the matter is remanded to the OAL for a contested hearing.

IT IS SO ORDERED.



COMMISSIONER OF EDUCATION

Date of Decision: September 16, 2026
Date of Mailing: September 17, 2026



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 10869-25

(On Remand EDU 05928-23)

AGENCY DKT. NO. 125-5/23

CATHLEEN CAHN,

Petitioner,

v.

**RAMAPO INDIAN HILLS REGIONAL
HIGH SCHOOL DISTRICT, BOARD OF
EDUCATION, BERGEN COUNTY,**

Respondent.

Edward A. Cridge, Esq., for petitioner (Mellk Cridge, LLC, attorneys)

Matthew J. Giacobbe, Esq., and **Anthony LoBrace, Esq.,** for respondent (Cleary,
Giacobbe, Alferi, Jacobs, LLC, attorneys)

BEFORE **JOSEPH A. ASCIONE**, ALJ (Ret., on Recall):

Record Closed: April 8, 2026

Decided: June 29, 2026

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On July 6, 2023, petitioner Cathleen Cahn filed a Verified Petition of Appeal with the Commissioner of Education. On July 6, 2023, the New Jersey State Department of Education, Bureau of Controversies and Disputes, transmitted the case to the Office of Administrative Law (OAL) under N.J.A.C. 1:1-8.2. On March 13, 2025, I issued an Initial Decision granting the motion of respondent, the Ramapo Indian Hills Regional High School District Board of Education, for summary decision in EDU 05928-23. Petitioner appealed that Initial Decision, and the Civil Service Commission remanded the case for further proceedings. On February 6, 2026, respondent again filed a motion for summary decision. On March 20, 2026, petitioner filed answering papers. On April 2, 2026, respondent filed reply papers. No oral argument was held. The record on the motion closed on April 8, 2026.

FACTUAL DISCUSSION

Petitioner possesses teacher of elementary school and teacher of the handicapped certificates. (Verified Petition Paragraph 1). On or about January 26, 2023, petitioner submitted an application for employment as a substitute teacher with the respondent pursuant to a request posted by respondent. On March 13, 2023, at the Board's meeting, Dr. Riu Dionisio, the Board Superintendent, recommended the appointment of petitioner to the position of substitute teacher. The matter was tabled at that meeting but considered at the March 27, 2023, meeting, where the appointment did not receive sufficient votes for approval. The petitioner is not an employee of the Board, nor was she at the time the application was submitted for consideration. The petition maintains she was denied employment due to the Board's influence arising from petitioner's speech published on social media, specifically Facebook, addressed to the operation of the Board. Petitioner maintains the Board violated the 1st and 14th Amendments to the United States Constitution; the New Jersey Constitution, Article 1, Paragraph 6; and the New Jersey Civil Rights Act, N.J.S.A. 10:6.1 et. seq.

Respondent proffers that the petitioner is not an employee of the Board, the respondent here is the Board, not its individual members, and the deliberative process

privilege generally exempts public officials from being required to explain their reasons for voting for or against any action. Petitioner here did not receive an affirmative vote of a majority of the members of the Board to be offered a position as a substitute teacher.

On remand, respondent provided additional discovery. Specifically, additional interrogatories were requested of the then-serving Board members. Their answers reflected that one member had seen the alleged posts; however, a sufficient number of members maintain that their votes were the result of negative public opinions regarding the petitioner conveyed to the Board members.

One of those items was Exhibit G, a certification by Judith Sullivan, a former member of the Board of Education, expressing her concerns about the appointment of petitioner as a substitute teacher. Specifically stating:

“Sometime prior to my election to respondent, I witnessed petitioner publicly attack and destroy a special education parent who asked an innocent question on a private Facebook group. The question asked, as I recall it, was regarding where Project Graduation was going to be held, with the parent explaining that she needed to be near her child in the event a medical emergency arose. I viewed the parent’s inquiry as a request for assistance and, in response, petitioner publicly destroyed this parent. I was horrified to see how petitioner treated this parent, who was clearly anxious about her child. I never forgot this incident and it has left an indelible mark on me to present. Based on this incident, I did not believe that petitioner should ever be in a position in which she has authority over children or parents.”

Another item, Exhibit H, a certification of Marianna Emmolo, a parent, expresses her concerns about the appointment of petitioner as a substitute teacher, stating:

“In 2021, when I was a parent of a student in the district and petitioner was the Executive Board Secretary for the Ramapo High School Association of Parents, Teachers, and Students, I received an email communication from petitioner in such capacity regarding a matter involving my child. I felt intimidated and bullied by petitioner’s email communication, found such email communication to be factually inaccurate, and found her tone to be condescending and bullying. When

I raised these concerns in responding to petitioner's email, I never received a reply stating otherwise, nor an apology. As a leader of the Association of Parents, Teachers, and Students, which is intended to represent parents' interests, questions, and concerns, I found that, if petitioner could engage in such arrogant and insolent conduct towards a parent, she could easily engage in such conduct towards students. In my opinion, petitioner lacked the discretion, good judgment, professionalism, and temperament to be a substitute teacher in the district that I, as a Board member, was responsible for safeguarding the best interests of its students and families."

Another item, Exhibit O, a certification of Thomas Lambe, states:

"Between March 10, 2023 and March 27, 2023, the district and/or respondent received email communications from concerned constituents, including a former member of respondent, imploring respondent to reject petitioner's appointment as a substitute teacher in the district. At its March 27, 2023 public meeting, a majority of respondent voted against petitioner's appointment as a substitute teacher. These email communications are included in response to these Interrogatories and speak for themselves. See documents bates-stamped Board-001 through Board-030."

FINDINGS OF FACT

As a result of the certifications and documentary evidence provided, I **FIND** the following **FACTS**:

1. The petitioner is not and was never an employee of the respondent prior to the incident in question.
2. On January 6, 2023, the petitioner applied for a substitute teaching position for the 2022–2023 school year at respondent. (See Verified Petition Paragraph 4.)
3. The then superintendent, Dr. Rui Dionisio, recommended the petitioner for the position. (See Verified Petition Paragraph 5.)

4. Prior to respondent's vote on the consideration of the appointment of petitioner, various members of the public expressed concern about the appointment of petitioner. (See Pet'r's Interrogatories, Cahn Responses 7, 11, 13, and Certifications G, H, I, J, K, M, N, and O.)
5. Respondent's duties include consideration of public input.
6. On March 27, 2023, a majority of the members of respondent Board voted against the consideration of hiring petitioner for the position of substitute teacher. (See minutes of Resp't's March 27, 2023, meeting.)
7. The petitioner alleges that submissions by the public in opposition to consideration of the petitioner for the position of substitute teacher, which contained excerpts of online posts by petitioner resulted in a violation of her freedom of expression. There is no support for this position.
8. The excerpt reflects the petitioner's opinion regarding the actions of the public at respondent's meetings. Specifically, related to the public's misimpression that a member of the respondent has any obligation to respond to a public comment. This in no way can be characterized as a criticism of the respondent or its members and does not support any claim of petitioner.
9. The second excerpt reflects petitioner's comment as, "(o)ur school board has been hijacked by an uninformed majority." While critical of a school board, it is insufficient to qualify as language that rises to a "substantial and motivating factor" in the adverse decision made.
10. There is no showing that the action of the Board was motivated by an impermissible motivation, i.e., protected class – age, race, national origin, religion, etc.
11. The petitioner exercised her freedom of expression.

12. The petitioner has failed to show a causal relationship between her Facebook posts and the determinations of respondent.
13. The petitioner has failed to show any violation of a constitutional right.
14. A potential employee has no cause of action for a failure to hire when, as here, there is no claim or showing that petitioner is a member of a protected class.
15. Respondent is within its rights to reject the application of a potential employee based upon negative public input.
16. Here, there is substantial negative public input to the appointment of the petitioner.
17. Here, the members of the Board who voted against petitioner had sufficient reason based upon their personal experiences with petitioner to vote against her appointment, unrelated to her social postings.
18. Respondent is within its rights to reject the application of a potential employee based upon personal or informed information regarding the character of petitioner.
19. Respondent's action can in no way be deemed arbitrary, capricious, or unreasonable.
20. Petitioner's actions have expended substantial resources of the Ramapo educational system in defending this frivolous action, at a time when those resources are considerably challenged.
21. Petitioner should be responsible for the legal costs the district has incurred in defending petitioner's claim.

LEGAL DISCUSSION

Under N.J.A.C. 1:1-12.5, “[a] party may move for summary decision upon all or any of the substantive issues in a contested case.” N.J.A.C. 1:1-12.5(a). Summary decision may be granted if “[t]he 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). And “[w]hen a motion for summary decision is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” Ibid.

In making this determination, a judge is to consider the “[w]hether the competent evidential materials presented, when viewed in a 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 v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995). The relevant inquiry is whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law. Id. at 536 (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 251–52 (1986)).

In this situation, the petitioner is not a public employee; accordingly, non-renewal protections are not applicable here. The petitioner does not allege any protected class; rather, she claims entitlement to a position she did not receive. She maintains that because she expressed her opinion on social media, her 1st Amendment and New Jersey Constitution rights were denied because she had been denied potential employment as a substitute teacher. Petitioner has only offered submissions of excerpts from negative public comments regarding her potential appointment. She has failed to identify the protected speech that she maintains supports her claim. She has offered no evidence of these facts. She attempted to obtain these facts from one or more of the five members of the Board who did not vote to approve her appointment as a potential substitute teacher; however, petitioner did not bring her action against individual Board members. The respondent is the Board. This tribunal does not accept

petitioner's argument that the 1st and 14th Amendments of the United States Constitution, the New Jersey Constitution, or the New Jersey Civil Rights Act, N.J.S.A. 10:6.1 et. seq., provide her with a valid claim when rejected for public employment based upon her freedom of expression. Petitioner has presently offered insufficient evidence to support her position that the Board's actions were based upon impermissible rationales. All of the cases put forth by petitioner involve retaliatory action taken against an employee based upon the exercise of free speech. Even in the case of Smith v. Cent. Dauphin Sch. Dist., 419 F. Supp. 2d 639 (M.D. Pa. Sept. 23, 2005), that petitioner was a teacher at Central Dauphin School District and had previously held a position of assistant coach, which was not renewed after the petitioner had brought to the attention of a State agency a mold problem. Here, the petitioner exercised her rights of free speech, and the respondent took no action to prevent her exercise of free speech. Petitioner must recognize that the use of free speech may result in consequences. To argue that the respondent cannot consider her actions in determining whether to offer her employment has no basis in law. A public body can determine that the employment of a gadfly or opinionated individual does not support its objectives is an acceptable decision. Whether the decision in this matter was made because of the negative public input or the actual content of online postings is not relevant. There is no showing that the action was the result of a discriminatory action based upon a protected class. The current case presents insufficient evidence for a reasonable factfinder to believe a person of ordinary firmness would feel deterred from exercising free speech. Here, it did not deter the petitioner, but to now bring an action that her exercise of free speech formed an actionable basis to compel a public board to provide her employment is not a recognizable claim.

This tribunal's consideration of the line of cases dealing with retaliation for the exercise of free speech requires a finding that the speech was a substantial and motivating factor in the respondent's action. Specifically, supported by an unusually suggestive temporal proximity between the speech and the respondent's retaliatory action; a pattern of antagonism coupled with suspicious timing; or that the record evidence, taken as a whole, compels the trier of fact to infer that causation existed. See Oliver v. Roquet, 858 F.3d 180, 190 (3d Cir. 2017); Lauren W. ex rel. Jean W. v. Deflaminis, 480 F.3d 259, 267 (3d Cir. 2007). This burden is not discharged by simply

showing that the challenged governmental action happened to relate in some way to the protected speech; rather, there must be “particular facts that allow the court to reasonably infer it is the protected activity itself . . . that formed the basis for the defendant’s adverse action.” Oliver, F.3d at 192. Courts must be diligent in enforcing this causation requirement so as to avoid chilling a governmental actor’s appropriate discharge of the responsibilities of their office or position. Lauren W., 480 F.3d at 267–68. Petitioner has not put forward particular facts that allow this tribunal to reasonably infer that it was petitioner’s online activity that formed the basis for the respondent’s decision. Petitioner has put forward ten (10) words she posted online that were marginally critical of the respondent and somehow concludes that it was these ten (10) words that the respondent’s decision was based upon. There is no recorded evidence demonstrating any sort of antagonism or hostility that arose or previously existed between the respondent and petitioner in connection with the content she posted on social media, nor is there record evidence from which an inference could be drawn that it was petitioner’s actual social media content itself that caused the respondent’s decision. Petitioner claims that, but for her Facebook postings, the respondent would have appointed her; however, there is nothing to objectively establish that to have been the case.

The record evidence put forward by petitioner in seeking to avoid summary decision in this matter is simply insufficient to create a genuine issue of material fact that the respondent’s decision not to appoint her violated her state or federal free speech rights. Petitioner has not identified any of her own Facebook content that the respondent’s decision was allegedly based upon, and the Facebook content that she has identified, through emails of others that were sent to the Board, is incomplete, without sufficient information for this tribunal to conduct a legitimate First Amendment analysis, and is not of such a quality that any plausible inference could be drawn that the respondent’s decision not to appoint petitioner was premised upon the speech identified in her discovery. Nor has petitioner identified any fact or evidence that ties the respondent’s non-appointment to the content she posted on social media.

A public body has a privilege to protect the process of deliberation. This privilege is designed to provide governmental entities with the freedom to conduct uninhibited

communications so that the best decisions can be reached. See Educ. Law Ctr ex rel. Abbott v. New Jersey Dept. of Educ., 198 N.J. 274, 285 (2000); and McGee v. Twp. of E. Amwell, 416 N.J. Super. 602, 619 (App. Div. 2010).

The Department of Education's position is that there is great latitude in a Board's determination regarding the renewal of a teacher's contract. Such latitude should also apply by analogy to a non-employee, prospective employee. See Truncellito v. Bd. of Educ. of Lyndhurst, Bergen Cnty, 2019 N.J. AGEN LEXIS 643 (Sept. 18, 2019), rev'd, 2019 N.J. AGEN LEXIS 1093 (Dec. 3, 2019), rev'd and remanded, 2022 N.J. Super. Unpub. LEXIS 92 (App. Div. Jan. 24, 2022). This tribunal relies on the positions stated by the Department of Education in the Truncellito matter, despite the reversal by the Appellate Division. This tribunal also relies on Hubbard v. Springfield Bd. of Educ., 80 Fed. Appx. 757 (3d Cir. 2003). The Hubbard case deals with a claim of discrimination. It places the burden of proof on the party claiming the discrimination. This tribunal seriously questions whether a potential employee's 1st Amendment speech rights automatically make a negative vote approving that individual actionable.

The challenging party bears the burden of proving that the agency action was arbitrary, capricious, and unreasonable by the preponderance of the credible evidence. J.P. & M.P. v. Bd. of Educ. of S. Brunswick, Middlesex Cnty., 2002 N.J. AGEN LEXIS 952 at *10-12 (Dec. 17, 2002); New Jersey Soc'y for Prevention of Cruelty to Animals v. New Jersey Dep't of Agric., 196 N.J. 366, 385 (2008); In re Freshwater Wetlands Prot. Act Rules, 180 N.J. 415, 432 (2004); New Jersey State League of Muns. v. Dep't of Cmty. Affs., 158 N.J. 211, 222 (1999).

Every Board member confirmed that they received either e-mails or phone calls from members of the public expressing strong opposition to petitioner's prospective appointment. These are the types of concerns Board members consider when making their employment decisions. Petitioner has not shown that the Board's decision was based on anything other than legitimate concerns.

Petitioner previously argued that the Board's rejection of her appointment was based on "yet-to-be-identified" social media content she posted on Facebook. Now, her

claim seems to be that the Board violated her constitutional rights because one Board member based her decision in part upon emails that petitioner sent to the Board regarding prior actions. Petitioner did not amend her Verified Petition to include this new theory of the Board's liability. Her new theory of liability is at odds with the theory of liability she had pursued previously. Respondent argues that petitioner's free speech analysis is inapplicable because she was never an employee. Her appointment required a majority vote of the full membership of the Board, and even excluding one member's vote, she still lacked sufficient support. Respondent argues that petitioner has not shown that the emails were a "but-for" cause of the Board's decision.

The record reflects that the decision was based on statements received from members of the public regarding petitioner's potential appointment. Additionally, the members of the Board were at all times subject to an ethical obligation to appoint the best-qualified personnel as employees, and the Board can, and sometimes must, consider the concerns of its constituents when deciding these appointments, citing N.J.S.A. 18A: 12-24.1(h).

Here, petitioner is not and was never an employee of the respondent school district. She is not considered a public employee for the purposes of free speech retaliation. The cases the petitioner cites in her Opposition involve a public employee who made a statement about their employer or about a matter of public concern. See Pickering v. Bd. of Ed. of Twp. High Sch. Dist. 205, Will County, 391 U.S. 563 (1968); Perry v. Sindermann, 408 U.S. 593 (1972); Marquardt v. Carlton, 971 F.3d 546 (2020). Those employees were afforded First Amendment protection due to their employment, whereas here, petitioner is not and was never an employee of the School District. Further, petitioner argues that the fact that she was "never hired" by the Board is irrelevant because she cannot be deprived of a benefit, a substitute teaching position, due to her engaging in First Amendment-protected speech. The cases she cites are irrelevant to her argument, as they involve public employees, not individuals who are seeking public employment. See Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle, 429 U.S. 274 (1977); Robinson v. City of Pittsburgh, 120 F.3d 1286 (3d Cir. 1997); Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990).

Petitioner maintains that her First Amendment was violated due to the Board's denial of her employment appointment. She previously claimed that she was denied employment due to her Facebook postings. Petitioner now claims that the Board denied her appointment on the basis of her email communications. (See Resp't Bd.-032 and 0-33.) Judith Sullivan, a member of the Board, included several reasons as to why she voted against petitioner's appointment, including the Facebook posts, email communications, feedback from other members of the Board who interacted with petitioner, and concerns of the public. (See Resp't's Exh. G.) The petitioner has not set forth facts that would allow that court to reasonably infer that her Facebook posts are the protected activity that solely formed the basis of the Board's decision. However, the respondent has set forth several reasons as to why the Board came to its decision. Therefore, petitioner's argument of free speech retaliation fails.

Regarding the motion for summary decision, self-serving assertions alone do not create a question of material fact. Martin v. Rutgers Cas. Ins. Co., 346 N.J. Super. 320, 323 (App. Div. 1999), certif. den., 163 N.J. 74 (2000) (questions of law dependent upon the operative facts cannot be decided by summary judgment when those facts are in dispute). When deciding whether or not to grant such a motion, the Court examines the evidence in light most favorable to the non-moving party. Brill, 142 N.J. at 540. Such motions are only defeated when the opposing party establishes the "existence of 'genuine' disputes of material fact." Ninoska L. Lazo v. New Jersey State Dep't of Educ., Crim. Hist. Rev. Unit, 2011 N.J. AGEN LEXIS 431, *4-5 (Aug. 10, 2011). In the present matter with respect to respondent's Motion for Summary Decision, this Court finds it is proper to grant this motion. Petitioner argues that the Board members' Interrogatories are self-serving and that there is an issue of credibility. She does not present any specific facts that would establish the existence of a genuine dispute of material fact. Case law allows for such self-serving assertions to be made, and such assertions do not automatically deny a motion for summary decision. Viewing the facts in the light most favorable to petitioner, there are no genuine issues of material fact, and summary judgment is appropriate as a matter of law.

Petitioner has not satisfied her burden of demonstrating that respondent acted arbitrarily, capriciously, or unreasonably by denying her a position as a substitute teacher.

CONCLUSION

After considering the documents submitted, I **CONCLUDE** that the facts do not support the petitioner's claim. Specifically, the petitioner has made a vague allegation that the respondent's actions are arbitrary, capricious, and unreasonable. No evidence has been put forth to cast any question that the actions fall within that categorization.

ORDER

It is hereby **ORDERED** that respondent's motion for summary disposition dismissing the petitioner is **GRANTED**.

It is hereby **ORDERED** that respondent, if it chooses, should submit an affidavit of services in connection with its representation, for the Department of Education to consider the imposition of attorney's fees in connection with this matter, as a frivolous litigation.

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.

June 29, 2026

DATE



JOSEPH A. ASCIONE, ALJ (Ret., on recall):

Date Received at Agency:

June 29, 2026

Date Mailed to Parties:

June 29, 2026

cc

APPENDIX

LIST OF EXHIBITS

For petitioner:

P-1 Moving papers, dated 2/6/26

P-2 Reply, dated 4/2/26

For respondent:

R-1 Answering papers, dated 3/18/26